

PROOF OF EVIDENCE OF DAVID ROLINSON

PLANNING MATTERS

EXTRA MSA

WARRINGTON MOTORWAY SERVICE AREA, J11 M62

LOCAL PLANNING AUTHORITY APPLICATION REFERENCE:

2019/35726

PLANNING INSPECTORATE REFERENCE:

APP/M0655/W/21/3288180

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78

**TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

**TOWN AND COUNTRY PLANNING (INQUIRIES
PROCEDURE) (ENGLAND) RULES 2000**

Revision Record

Revision Reference	Date of Revision	Nature of Revision	Author	Checked By
C	21-02-2-22	Final	DR	SC

Report Author	David Rolinson
Report Date	Feb 2022
Project No.	4151
Document Ref.	P0-TP-SPA-RP-P4151-0031-C
Revision	C

Contents

1.	Qualifications and Experience	4
2.	Factual Background	5
	Site location, context and characteristics	5
	The Appellant.....	5
	The Appeal proposal	6
	Consideration of the Application by the Local Planning Authority.....	8
3.	The Policy Context	10
	Statutory Development Plan	10
	National Planning Policy Framework (NPPF 21), July 2021	11
	National Planning Policy Guidance (NPPG).....	14
	National Transport Policy.....	14
	Other Policy Statements	16
4.	Approach of my Evidence to the evaluation of the planning issues	17
5.	Main Considerations in respect of the Appeal proposals	19
	Consideration of the Council's position	19
	Green Belt Assessment	20
	Other Harms resulting from the Appeal proposal.....	35
	Assessment of very special circumstances – considerations that weigh in favour of the Appeal proposals	51
	Conclusions on whether very special circumstances exist in favour of the Appeal proposals	92
	Consideration of mitigation by planning conditions and obligations.....	94
	Consideration of whether the Appeal proposals comply with the Development Plan.	96
	Whether there are other material considerations (including any raised by Third Party Objectors) to weigh in the planning balance.....	98
6.	Conclusions	103
7.	Appendices.....	105

I. Qualifications and Experience

- I.1. I am David Rolinson and I am a Chartered Town Planner. I hold a BA Honours Degree in Town and Country Planning from Newcastle University and I am a Member of the Royal Town Planning Institute. I have also been awarded a Diploma in Planning and Environmental Law from Leeds University. I have over 35 years' experience in the planning profession. I have worked for the Public sector and in 1988, I joined Spawforths who are a multi-disciplinary consultancy (planning, architecture and masterplanning) and where I am now the Chairman and in charge of the Planning function of the Company.
- I.2. My experience relevant to the Appeal proposals includes working as lead consultant on behalf of many commercial developers in pursuing planning applications and appeals including in Yorkshire, Greater Manchester, North Wales, and the North Midlands. I have extensive experience of working in Warrington including leading large scale employment and residential schemes. I have also appeared as an Expert Witness in over 140 Development Plan, Section 78 Inquiries / Hearings and Compulsory Purchase Order Inquiries.
- I.3. I have been instructed by Extra MSA (the Appellant) with regard to the Appeal Site since 2018. I was lead Planning Consultant for the Appeal planning application (application reference: 2019/35726). I have visited the Appeal Site on numerous occasions since my instruction and have become familiar with the locality since that time.
- I.4. I understand my duty to the Inquiry and have complied with, and will continue to comply with, that duty. I confirm that this evidence identifies all the facts which I regard as being relevant to the opinions that I have expressed and that the Inspector's attention has been drawn to any matter which would affect the validity of those opinions. I believe that the facts stated within this evidence to be true and that the opinions expressed are correct.

2. Factual Background

- 2.1. The Factual Background is principally covered within the General Statement of Common Ground between the Appellant and the Local Planning Authority (CD2.4.4). I set out below the key elements that I wish to draw to the attention of the Inspector.

Site location, context and characteristics

- 2.2. The Appeal Site is located to the north of the M62 Motorway at Junction 11, has direct access to Junction 11 via a spur and hence is therefore extremely well located in respect of its proximity and accessibility to/from the Strategic Road Network.
- 2.3. Immediately to the west of the Appeal Site is the former Risley landfill site which began in 1979, but which has now ceased and is restored and planted. It rises above the Appeal Site, doming to a high point. To the east and north of the Appeal Site is arable farmland and further to the north lies an elevated disused railway line approximately 0.6km (0.4 miles) from the Site boundary. These existing features add to the containment of the Appeal Site.
- 2.4. The main part of the Appeal Site relates to an area of land of approximately 15.41ha in extent, whilst the total land within the redline boundary (including highway works to M62 J11 Motorway Roundabout) is 16.81 ha. The main part of the Appeal Site is set down from the motorway junction, slip roads and the spur from the roundabout, but higher than the motorway itself. It comprises agricultural land (approx. 11.7ha) and rough grassland (approx. 1.0 ha) with the remainder of the Appeal Site being classed as non-agricultural or hard standing. Boundaries are marked by trees to the eastern and part of the southern and south-western boundaries.

The Appellant

- 2.5. The Appellant is the Extra MSA Group (Extra MSA) who are a leading developer, investor and experienced operator of MSA properties across the Strategic Road Network. Since deregulation of MSAs in 1992, Extra MSA has directly or indirectly

successfully delivered eleven MSAs. I am informed that Extra MSA is the largest freehold investment owner of MSAs in the UK and operates 19 of the UK's 109 MSAs. Extra MSA have developed three recent MSAs on the Strategic Road Network at Cobham (M25 J9-J10), Beaconsfield (M40 J2) and Leeds Services (M1 J45).

The Appeal proposal

2.6. The Appeal proposals are made in outline form with all matters, except for the Means of Access, reserved for consideration at a later date. The extent of the Means of Access being considered relates to the point of access from Junction 11 of the M62 Motorway via the existing roundabout at Junction 11 and 75m into the Appeal Site.

2.7. The Appeal proposal description of development is set out as follows:

'Environmental Assessment Application, Outline Planning Permission (Major) including details of access - Proposed Erection of a Motorway Service Area including Facilities Building, up to 100-bedroom Hotel, service yard, Fuel Filling Station, Electric Charging Station, parking facilities landscaping and amenity areas and associated infrastructure, all other details (Appearance, Landscaping, Layout and scale) reserved for subsequent applications'

2.8. The Appeal proposals are to be controlled by a series of "parameters" (CD1.1.5) which set the context in which the detailed design will be developed. These 'parameters' have been tested as part of the Environmental Assessment (and its Addendum). These 'parameters' control the uses; disposition of the uses and vehicle circulation through a series of zoned areas; maximum building heights; finished floor levels; green infrastructure areas, including a corridor for the diverted Silver Lane Brook; and a zone for the diverted Public Right of Way.

2.9. The disposition of uses 'parameter' controls where new buildings will be located. An area of land is identified for the "Zone of Facilities and Hotel Buildings". It is some 1.87 ha in extent and comprises 12.1% of the main body of the Appeal Site. Within this area will be a Facilities Building and a hotel. The hotel will provide up to 100 bedrooms and will be of a budget nature with no business or ancillary facilities. The Facilities Building will be a maximum of 5,000m² and principally provide:

- A food court and ancillary retail, incorporating facilities for the sale and consumption of hot and cold food and beverages on and off the premises.
- Free toilet, hand washing facilities for all drivers and disabled visitors.
- Free showers and washing facilities for all HGV drivers.
- Staff areas including kitchen, catering storage, staff rooms, retail storage, refuse areas and office space. Some of these areas will be accommodated at first floor level.

2.10. Within the south west of the Appeal Site, an area is identified as the “*Zone of fuel filling station and internal vehicular circulation*”. It is some 0.90ha in extent and comprises 5.8% of the main body of the Appeal Site. Within this area will be an Electric Charging Station (ECS) and a Fuel Filling Station. The Fuel Filling Station will include a domestic forecourt and a HGV forecourt and a forecourt shop of a maximum of 500m².

2.11. The disposition of uses ‘parameter’ also sets out an area of land which is identified as “*Landscaped vehicle parking and circulation zone including drainage and ecological features*”. It is some 8.97ha in extent and comprises 58.2% of the main body of the Appeal Site. This area overlaps with the “*Zone of Facilities and Hotel Buildings*” and the “*Zone of fuel filling station and internal vehicular circulation*”. The General Statement of Common Ground sets out the parking facilities within this zone.

2.12. The ‘parameters’ plans also include large areas of proposed Green Infrastructure which include zones for “*existing and proposed landscaping, including ecological habitats and drainage*”; “*diverted footpath zone and associate ecological habitat and landscaping*”; and “*corridor for Silver Lane Brook Diversion and associated ecological habitat and landscaping*”. These areas are some 6.44ha in extent and comprise 41.8% of the main body of the Appeal Site.

2.13. Illustrative details have been produced which show how the Appeal proposals could be developed in the context of the ‘parameters’. These plans remain illustrative and would not be approved plans if this Appeal were allowed. These comprise the

Indicative Site Plan (CD1.1.10), Indicative Landscape Masterplan (CD1.1.16), Indicative Site Sections and Elevations (CD 1.1.9 - 14) and details of the Peat Habitat Zone within the Peatland Ecological and Construction Management Plan (January 2020) (CD1.2.9(f)).

Consideration of the Application by the Local Planning Authority

- 2.14. The Outline Planning Application (OPA) was submitted to Warrington Borough Council on 29th August 2019. It was assessed by Warrington Borough Council and its consultees, and scheme amendments and ‘*other information*’ were submitted in line with Regulation 25 (2) of the EIA Regulation 2017 on 20th January 2020 and 20th March 2020 to address issues raised. The General SoCG confirms the Council’s agreement that the OPA, including all plans and supporting documents, fulfilled the requirements of the various regulations and validation checklists, applicable at the time of submission. It is agreed within the General SoCG that the Environmental Statement that accompanied the OPA was appropriate in its scope and included the necessary environmental information to be able to properly assess the OPA.
- 2.15. The OPA was presented to Warrington Borough Planning Committee on 9th June 2021 with a recommendation to grant planning permission subject to planning conditions; the completion of an agreement under Section 106 of the Town and Country Planning Act 1990; and the OPA not being called in by the Secretary of State.
- 2.16. Despite this Officer recommendation to grant planning permission, Members refused planning permission with a single reason for refusal set out in the Decision Notice dated 17th June 2021 as follows:

“The proposed development would constitute inappropriate development in the Green Belt and by definition would be harmful to the green belt. The applicant’s case for Very Special Circumstances is not considered to outweigh the harm to the Green Belt, by way of functionality and loss of openness, and any other harm resulting from the development. As such the proposed development is contrary to

guidance within the NPPF section 13 and policies CS5, CC2 and QE7 of the Warrington Local Plan Core Strategy”.

- 2.17. On 3rd February 2022, the Council resolved (CD1.2.11 (d)) not to continue to defend the Appeal. This means that the reason for refusal initially put forward by the Council has been withdrawn and the Council now endorses the approach and conclusions set out in the Officer Reports to Committee of 9th June 2021 (CD1.2.11 (a) and (b)) as their position at the Inquiry.

3. The Policy Context

- 3.1. The Development Plan policies relevant to the Appeal proposals are identified in the General SoCG.

Statutory Development Plan

- 3.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for the consideration of the Appeal proposals comprises the adopted Local Plan Core Strategy (July 2014) (CD3.2.1) which was adopted in July 2014 to provide the spatial context from which more detailed policies and site allocations would follow. In October 2016 Warrington Council agreed to carry out a comprehensive review of the Local Plan Core Strategy in response to the outcome of a High Court Challenge made in relation to the Core Strategy and also in response to emerging evidence at that time which set out the Borough's growth ambitions as well as its housing and employment needs to reflect these aspirations.

- 3.3. As agreed in the General SoCG on General Matters, the Core Strategy spatial policies of relevance to the Appeal proposals comprise the following:

- Policy CS1: Overall Spatial Strategy – Delivering Sustainable Development
- Policy CS2: Overall Spatial Strategy – Quantity and Distribution of Development
- Policy CS 4: Overall Spatial Strategy – Transport.
- Policy CS 5: Overall Spatial Strategy – Green Belt
- Policy CS 6: Overall Spatial Strategy – Strategic Green Links

- 3.4. The Core Strategy also contains various general policies that relate to a range of general planning issues, these include:

- Policy PV I Development in Existing Employment Areas.

- Policy PV 3 Strengthening the Borough's Workforce.
- Policy PV 4 Retail Development within the Town Centre and Primary Shopping Area.
- Policy PV 5 Enhancing the Town Centre Economy.
- Policy SN 4 Hierarchy of Centres
- Policy SN 5 New Retail and Leisure Development Within Defined Centres.
- Policy SN6 Sustaining the Local Economy and Services
- Policy SN 7 Enhancing Health and Well-being.
- Policy QE 1 Decentralised Energy Networks and Low Carbon Development.
- Policy QE 3 Green Infrastructure.
- Policy QE 4 Flood Risk.
- Policy QE 5 Biodiversity and Geodiversity.
- Policy QE 6 Environment and Amenity Protection.
- Policy QE 7 Ensuring a High Quality Place.
- Policy QE 8 Historic Environment.
- Policy MP 1 General Transport Principles.
- Policy MP 3 Active Travel.
- Policy MP 4 Public Transport.
- Policy MP 5 Freight Transport.
- Policy MP6 Transport Infrastructure
- Policy MP 7 Transport Assessments and Travel Plans.
- Policy MPI0 Infrastructure
- Policy CC 2 Protecting the Countryside

National Planning Policy Framework (NPPF 21), July 2021

- 3.5. I consider that the main NPPF (21) policies of relevance to the Appeal proposals are those in contained in Section 13 '*Protecting Green Belt land*' and Section 9: '*Promoting sustainable transport.*' (CD3.1.1).

3.6. In relation to Green Belt (Section 13: *Protecting Green Belt Land*) I consider that the most relevant paragraphs are:-

- Paragraph 137 in relation to the fundamental aim of Green Belt policy.
- Paragraph 138 which outlines the five purposes which the Green Belt serves.
- Paragraph 147 which states that by definition, *'inappropriate'* development is harmful to the Green Belt and should *"not be approved except in very special circumstances"*; and
- Paragraph 148 which advises that local planning authorities should give substantial weight to any harm to the Green Belt. It notes that *"'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations"*.

3.7. In relation to Transport (Section 9: *Promoting Sustainable Transport*) I consider that the most relevant paragraphs are:-

- Paragraph 104 which requires that *"transport issues should be considered from the earliest stages of development proposals"*, including the environmental impacts of traffic and transport infrastructure, and opportunities to promote walking, cycling and public transport use.
- Paragraph 106 (e) which requires planning policies to *"provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion, and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements"*.

- Footnote 44 which confirms that “*The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be nationally significant infrastructure projects)*”; and
- Paragraph 109 which requires that planning decisions “*should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance*”.

3.8. The NPPF (21) sets out the presumption in favour of sustainable development and that the Government’s key objective is to help build a strong, responsive and competitive economy. In this regard I consider that the key paragraphs are:-

- Paragraph 8 which sets out the three dimensions of sustainable development.
- Paragraph 9 which explains that “*planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.*”
- Paragraph 10 which states that “*at the heart of the Framework is a presumption in favour of sustainable development*”, and
- Paragraph 11 which sets out what this means in relation to decision taking.

3.9. The NPPF (21) also sets out relevant guidance on the approach to decision making:-

- Paragraph 38 which states that “*Local planning authorities should approach decisions on proposed development in a positive and creative way*”, and that “*decision makers at every level should seek to approve applications for sustainable development where possible*”. This includes working proactively with Applicants to “*secure developments that improve the economic, social, and environmental conditions of the area*”.

- Paragraph 47 which requires that “*applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise*” and
- Paragraph 11 which confirms that in assessing and determining development proposals, “*Plans and decisions should apply a presumption in favour of sustainable development*”.

National Planning Policy Guidance (NPPG)

3.10. I consider that the most relevant element of the NPPG to the Appeal proposals relates to Green Belt ‘openness’ and I refer to this in detail in Section 5 of my evidence.

National Transport Policy

3.11. Of particular relevance to the Appeal proposals in my opinion, is the guidance contained within Department for Transport (DfT) Circular 02/2013 ‘*The Strategic Road Network and the Delivery of Sustainable Development*’ (CD3.1.3 (dd)). The key paragraphs of that guidance are:-

- Paragraph 7 which outlines that the Strategic Road Network plays a key role in enabling and sustaining economic prosperity and productivity, whilst also helping to support environmental and social aims and contributing to wider sustainability objectives and improved accessibility to key economic and social services.
- Paragraph 8 which confirms that a well-functioning Strategic Road Network enables growth by providing for safe and reliable journeys.

3.12. Annex B of the Circular specifically relates to roadside facilities for road users on Motorways in England and sets out policy on the provision, standards and signage of roadside facilities on the Strategic Road Network. The Circular confirms that all such proposals will be considered in the context of the National Planning Policy

Framework and, in particular, the statement that the primary function of roadside facilities is to support the safety and welfare of the road user (NPPF paragraph 106(e) and Footnote 44).

- Paragraph B4 outlines in relation to spacing that MSAs perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey. Paragraph B4 also confirms that motorists should stop and take a break of at least 15 minutes every two hours. Commercial and public service drivers are also required to take statutory breaks and are subject to working time limits and that MSA facilities assist in compliance with such requirements.
- Paragraph B5 provides that opportunities to stop on the SRN are provided at intervals of approximately every half an hour. Paragraph B6 makes it clear that for motorways (and therefore MSAs) the maximum recommended interval distance is 28 miles. The distance between MSAs can be shorted (subject to compliance with the requirements of the DMRB for safety reasons) and on busy and congested sections of the Strategic Road Network, is an average of 15 to 20 miles.
- Paragraph B8 confirms that in determining applications for new MSAs, Local Planning Authorities should not need to consider the merits of spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons. Nor should they seek to prevent competition between operators; rather they should determine applications on their own specific planning merits.
- Paragraph B13 sets out in terms of location, that locations between junctions (On-line) should be considered first, followed by sites sharing a common boundary with the highway at a junction with the Strategic Road Network (Off-line).

- 3.13. The Circular also contains detailed guidance on signing, parking charges, picnic areas, parking provision, access to the Strategic Road Network, retail activities, hotels, conference centres and business centres, coach interchanges, park and ride and park and share, facilities for low emission vehicles, driver and tourist information and on-site power generation and other sustainability measures. Schedule I sets out parking requirements.

Other Policy Statements

- 3.14. I refer to other relevant policy statements in Section 5 of my evidence when I evaluate specific issues in more detail. Similarly Mr Jones (Transport), Mr Baxter (Ecology and Bio-diversity) and Mr Holliday (Landscape) also evaluate within their evidence, other policy statements relevant to their discipline. A full list is included within the Appellant's Statement of Case (CD2.2.1).

4. Approach of my Evidence to the evaluation of the planning issues

4.1. Within Section 5, I have structured my evidence as follows:-

- Consideration of the Council’s position.
- Consideration of Green Belt harm.
- Consideration of other harms arising from the Appeal proposals.
- ‘*Very special circumstances*’ – considerations that weigh in favour of the Appeal proposals.
- Conclusions on whether ‘*very special circumstances*’ exist in favour of the Appeal proposal.
- Consideration of mitigation through planning conditions and obligations.
- Consideration of compliance with the Development Plan.
- Consideration of whether any other material considerations weigh against the Appeal proposal.
- Conclusions

4.2. Throughout my evidence I use the following calibration for “*harms*” and “*benefits*”:-

“Harm”	My understanding of meaning	“Benefit”
None / No	To no extent	None / No
Negligible	Of no consequence or significance	Negligible
Limited / slight	Small or modest	Limited / slight

“Harm”	My understanding of meaning	“Benefit”
Moderate	More than small / modest but less than considerable	Moderate
Substantial / significant	Considerable, material, consequential or weighty	Substantial / significant
Severe / exceptional	Very considerable, highly material, particularly consequential, compelling or very weighty	Very substantial / significant

4.3. I also use the following calibration for “weight”:-

Weight	My understanding meaning
None / neutral	To no extent
Limited / slight	Small or modest
Moderate	More than small / modest but less than considerable
Substantial / significant	Considerable, material, consequential or weighty
Very substantial / significant	Very considerable, highly material, particularly consequential, compelling or very weighty

5. Main Considerations in respect of the Appeal proposals

Consideration of the Council's position

- 5.1. The Officer Report to the Council's Development Management Committee meeting on 9 June 2021 included a recommendation that the OPA should be approved and in respect of 'very special circumstances' it commented as follows:-

"Taking account of the above, the harms caused by the proposal and the established need for an MSA and the substantive public safety benefit as well as the economic benefits arising from the proposals, and other benefits as discussed in this report, together with the contributions secured through s106 agreement, officers are satisfied that the benefits put forward clearly and demonstrably outweigh the harm identified and as such it is considered that the case for very special circumstances has been demonstrated."

- 5.2. In light of this, in the "Conclusions" section, the Officer Report to Committee confirmed:-

"On balance, it is considered that other considerations clearly outweigh the harm to Green Belt in this case and that compelling very special circumstances exist which justify approval of the proposed development subject to the completion of a s106 agreement and referral to the Secretary of State".

- 5.3. I attended the Committee meeting and I heard the debate by Members who were not minded to follow the recommendation of the Chief Planning Officer and refused the OPA for the reason I set out in in paragraph 2.18 of my evidence. The Appeal Application was referred back to Committee on the 3rd February 2022 with a further Update Officer Report and recommendation (CD1.1.11 (d)). At this Committee, the Council resolved that they did not wish to continue to defend the appeal and that the reason for refusal has been withdrawn. I further understand that the Council now endorses the approach and conclusions set out in the Officer Reports to Committee of 9th June 2021 (CD1.1.11 (a) and (b)) as their position at the Inquiry. I therefore

understand that the position of the Local Planning Authority is now one of support for the Appeal application, subject to conditions and the completion of a Section 106 Agreement.

- 5.4. In this context, I will evaluate the compliance of the Appeal proposals with NPPF (2021) Section 13 (Green Belt) and in so doing, I will demonstrate that ‘*very special circumstances*’ are established in this case as the potential harm to Green Belt by reason of ‘*inappropriateness*’ and any other Green Belt and non-Green Belt harms are clearly outweighed by ‘*other considerations*’ in accord with paragraph 148 of the NPPF (2021) and Core Strategy Policy CS5.

Green Belt Assessment

- 5.5. The Warrington Green Belt is contiguous with the Green Belt in Merseyside, Greater Manchester and North Cheshire. Warrington was designated a New Town in 1968 and the Green Belt around Warrington was introduced in the Cheshire Structure Plan 1977 (adopted 1979). I understand that the Cheshire Structure Plan 1985 and Cheshire Replacement Structure Plan 2011 did not change the extent of Green Belt and hence that the current Warrington Green Belt boundaries are still largely based upon the designation established in 1979. The Warrington Unitary Development Plan (2006) formally defined the Green Belt which included some minor changes to it and the Warrington Local Plan Core Strategy (2014) designated some additional areas to the south and south east of Warrington as Green Belt. The Warrington Green Belt is therefore long established and has not been the subject of a fundamental review since it was established in 1979. The Warrington Local Plan Submission Version 2021 proposes large areas of Green Belt release to meet Objectively Assessed Needs. Supporting the emerging Local Plan is an evidence base which analyses the current Green Belt which I draw upon in the next sections of my evidence.

‘Inappropriate’ development

- 5.6. I acknowledge that the Appeal proposals represent ‘*inappropriate development*’ within the Green Belt. In line with paragraph 148 of the NPPF (21) (CD3.1.1), I acknowledge

that the Appeal proposals are “*by definition, harmful to the Green Belt*”, and that they should not be approved “*except in very special circumstances*”. Paragraph 148 of the NPPF (21) states that “*substantial weight is given to any harm to the Green Belt*” and I accept this.

The effect of the Appeal proposals on the ‘openness’ of the Green Belt

- 5.7. Paragraph 137 of the NPPF (21) sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and it identifies the essential characteristics as ‘*openness*’ and ‘*permanence*’. The NPPF (21) does not specify a precise definition of ‘*openness*’. From my experience, I consider ‘*openness*’ to mean the absence and/or the degree of absence of built development.
- 5.8. An extract of the NPPG (Paragraph: 001 Reference ID: 64-001-20190722) is included in CD3.1.2. This sets out that an assessment of the impact of a proposal on the ‘*openness*’ of the Green Belt requires a judgement based upon the circumstances of the case. It references that the courts have identified a number of matters which may need to be taken into account in making an assessment of ‘*openness*’ which include:-
- Both spatial and visual aspects;
 - The duration of the development and its remediability; and
 - The degree of activity likely to be generated, such as traffic generation.
- 5.9. I am aware that in *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3 (CD5.1)* the Supreme Court held that visual impact was not a necessary part of the analysis of ‘*openness*’ but reinforced the view that matters relevant to ‘*openness*’ – including visual impacts - were ultimately a matter of planning judgment, and not law. I therefore consider that an analysis of the impact on “*openness*” is a matter of professional judgement and hence in reaching my conclusions on Green Belt ‘*openness*’ I have had regard to the above and also the views of Mr Holliday who provides expert opinion on the visual dimension of the Green Belt.

5.10. My starting point in assessing 'openness' is a consideration of the 'openness' of the Appeal Site itself and also its wider context. The Appeal Site is currently free from any built form. Mr Holliday has described and evaluated the context of the Appeal Site in visual terms in his evidence. He has indicated that the Appeal Site forms part of an area of land enclosed by the rising land of the former tip to the west, the M6 motorway to the south, and by the raised landform of the wooded former rail line to the north and east. He has concluded that this area of land has an unusual lack of public access and within the area contained by the former tip, the motorway and the former rail line, there are few features to limit views, but there are also few visual receptors (people) to perceive any visual openness.

5.11. Within this context, the Appeal proposals would introduce new built form onto the Appeal Site along with associated infrastructure, car and lorry parking. The Appeal scheme sets out a series of 'parameters' which control the scale and disposition of uses within the Appeal Site. The key controls on the scale and disposition of uses is follows:-

- No more than 0.72ha hectares of the Appeal Site would accommodate built form in the illustrative layout scheme (Facilities Building, Hotel Building and Fuel Filling Station) and the maximum building heights within these areas range from 15m – 6.5m. This equates to approx. 4.7% of the main Appeal Site area. The total floor area of the Facilities Building is restricted by condition to 4,500m² and the hotel is restricted to a maximum of 100 bedrooms.
- No more than 8.97 ha of the Appeal Site will accommodate car or lorry parking but this will include some limited buildings as well as landscaping (approx. 53% of the total Appeal Site area).
- Approximately 6.44 ha of the Appeal Site will comprise Green Infrastructure (approx. 38% of the Appeal Site).

- 5.12. I accept that the introduction of these built and parking elements will inevitably have an adverse impact upon the ‘openness’ of the Green Belt through the introduction of new development and activity where there was previously none. Over the part of the Appeal Site that is proposed to be developed by buildings and parking elements (as shown within the ‘parameters’ plan), I therefore accept that the introduction and operation of these elements would comprise significant harm to the spatial ‘openness’ of the Appeal Site. My conclusion aligns with that of Mr Holliday who concludes that that there would be significant harm to the visual ‘openness’ of the Appeal Site on this part of the Appeal Site.
- 5.13. Mr Holliday also confirms that by “tucking” the built elements of the Appeal proposal against the rising land form of the former tip, the visual effects are much reduced.
- 5.14. The vehicle parking and circulation zones cover just over half of the Appeal Site but Mr Holliday confirms that these areas have a more restricted visual effect than new buildings do. He notes that longer distance views are across a flat landscape and that vehicles can be easily screened by the proposed landscape scheme. These vehicle parking areas (and the Facilities Building, Hotel and Fuel Filling Station activities) will be lit and open 24 hours per day for 365 days per year and Mr Holliday takes account of this in his analysis of the viewpoints.
- 5.15. The vehicle parking areas and the Facilities Building, Hotel and Fuel Filling Station activities are spatially ‘contained’ by the proposed Green Infrastructure which wraps around the built and parking areas. This Green Infrastructure area acts as a transition to the wider landscape. This area acts as a ‘collar’ to the Appeal proposals and comprises 38% of the Appeal Site that will be free from built form, lighting or activity. Generally this area is to be maintained for bio-diversity and hence it will have limited human activity within it other than for occasional walkers associated with the MSA. This area will also include significant additional tree planting which Mr Holliday confirms reinforces the containment of the built form and the transition of the Appeal Site into the wider landscape.

- 5.16. In light of the above, I accept that there would be significant harm to the ‘openness’ of the area of the Appeal Site that is proposed to be developed (as shown within the ‘parameters’ plan) and I also accept Mr Holliday’s conclusion that this significant harm will also extend to some restricted areas close to it, such as along parts of footpath 13 and on routes on the eastern side of the restored tip. I consider that the harm associated with Green Belt ‘openness’ is reduced within the area of land within the Appeal Site referred to as the Green Infrastructure within the ‘parameters’ plan as it will be free from built form.
- 5.17. The OPA establishes ‘parameters’ which create a development ‘envelope’ within which a reserved matters submission must comply. In my experience a reserved matters submission is unlikely to result in a scheme which utilises this maximum built ‘envelope’. These areas are larger than the buildings themselves to allow for flexibility in the location of the buildings. The Appeal proposals include indicative schemes (CD I.2.10(i)) which show how the built form and vehicle parking areas could be developed. Whilst these schemes are indicative, I have been involved in detailed design and technical discussions which give me confidence that a scheme similar to the indicative proposal is likely to be brought forward by the Appellant if this Appeal is allowed. Such an indicative scheme clearly shows that within the areas shown for built form on the ‘parameters’ plans there are also areas that will not accommodate buildings such as external amenity spaces and access / servicing areas, because the maximum area of the Facilities Building is controlled by condition and the maximum number of bed spaces for the hotel is likewise controlled. Similarly the areas shown for vehicular parking in the ‘parameters’ plans will include landscaping, drainage and ecological features in line with the descriptions within the ‘parameters’. This shows that the reserved matters scheme is highly likely to have a lesser impact upon the Green Belt ‘openness’ than the maximum ‘parameters’ currently prescribe.
- 5.18. I note from the Officer Report to Committee (paragraph 8.33) that Officers considered that the Appeal proposals would have ‘significant’ harm to ‘openness’ but in paragraph 8.39 that “*through future reserved matters submissions, the harm to*

‘openness’ in a visual sense of the Appeal proposals can be reduced / mitigated”. I concur with this assessment.

5.19. Mr Holliday also confirms that whilst there will be a significant adverse effect on visual ‘openness’ within the developed part of the Appeal Site itself, and on some restricted areas close to it, the effect on the ‘openness’ of the wider area would be limited. He confirms that this is due to the levels and location of the proposed facilities and screening provided by features such as the former rail line, but also because of the lack of locations where it is possible to experience visual change. Overall, he concludes that the Appeal proposals will have a limited effect on the visual “openness” of the wider Green Belt around the Appeal Site. From a spatial perspective, there will be no loss of openness outside of the Appeal Site itself as it would not contain any built form. I therefore consider that the impact of the Appeal proposals upon the ‘openness’ of the Green Belt is localised and not extensive.

5.20. To set this conclusion in context, I consider that the extent of Green Belt to the north and east of Warrington is significant and extensive. The Green Belt wraps around the Risley / Birchwood urban area and separates them from Greater Manchester to the east and Leigh and Culcheth to the north.

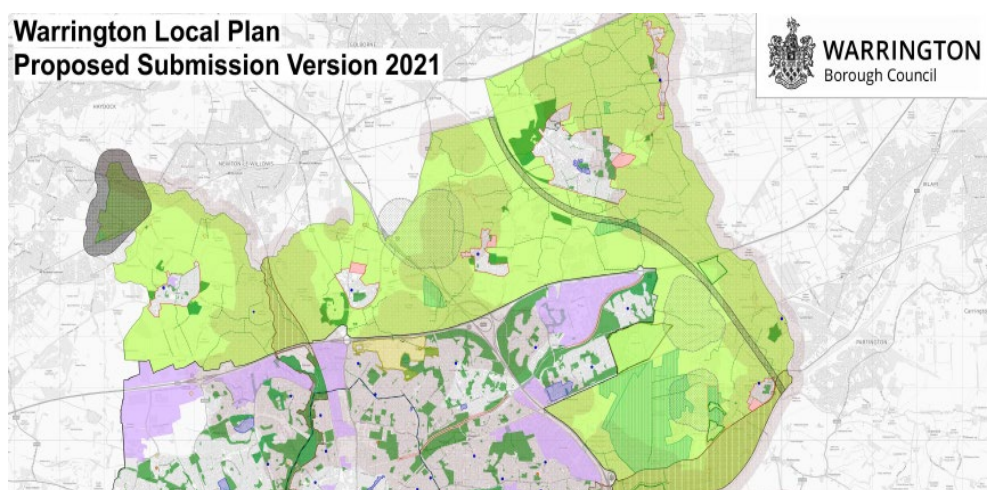


Figure DR01

- 5.21. Whilst this wider swathe of Green Belt is generally flat and open, there are a series of interruptions from major roads (such as the M62 Motorway) and railways which pass through it, often on embankment. There are also former mining and tipping activities that have introduced large mounds within it and several villages, hamlets and farmsteads and associated telecommunication wires within it. To the west of the adjacent Risley landfill mound is HMP Risley and to the north of it, is the extensive Taylor Business Park. All of these urbanising influences lie within the Green Belt. I consider therefore, that it is a characteristic of the Green Belt in this locality that the agricultural fields are interspersed with built form and associated infrastructure.
- 5.22. This context could change further. I am aware that HS2 Ltd are proposing to bring forward the proposed alignment of HS2 to the north of the Appeal Site (CD2.4.1). Mr Holliday has indicated that this new HS2 rail infrastructure, which will be on a raised embankment, would further truncate views from the north and east into the Appeal Site and also truncate views from the Appeal Site when looking north and east. Mr Holliday has already concluded that some longer distance views of the Appeal proposal are restricted from the west and south by the Risley Landfill mound, M62 Motorway and industrial parks and views from the north and east are restricted by the existing elevated rail line but he further concludes that the visual impact of the Appeal proposals will be further restricted if the HS2 alignment is built as is currently proposed. I concur with his assessment.
- 5.23. In light of both mine and Mr Holliday's conclusion above, I consider that there will be 'significant' harm to the 'openness' of the Appeal Site but outside of the Appeal Site, the impact of the Appeal proposals on Green Belt 'openness' is 'limited'. As such, I accept that there would be harm to the 'openness' of the Green Belt and that this should be afforded **substantial / significant weight** against the Appeal proposals in line with paragraph 148 of the NPPF (21) but I also consider that this harm is localised and that this harm may be reduced through reserved matters submissions.

The effect of the Appeal proposals on the ‘purposes’ of the Green Belt.

- 5.24. I will now consider the Appeal proposals against the five “*purposes*” of including land in Green Belt as set out in paragraph 139 of the NPPF (21). For this assessment I draw upon the Warrington Green Belt Review document and apply my own judgements. A Green Belt Assessment Final Report (October 2016) has been produced on behalf of the Council to inform the Local Plan Review (CD3.2.2 (p)). An ‘*Additional Site Assessment of Call for Sites*’ Responses and SHLAA Green Belt sites assessment was undertaken in May 2017 (CD3.2.2(r)). These Assessments were made in the context of the need for significant additional employment and housing land within the Borough.
- 5.25. The Council’s Green Belt Assessment (2016) (CD3.2.2 (p)) divided the Green Belt within the Borough into a number of large parcels of land, defined as ‘*General Areas*’. These ‘*General Areas*’ were then subdivided into a number of small parcels of land, which were then individually assessed against the five ‘*purposes*’ of the Green Belt. The Appeal Site is located within ‘*General Area GA2*’.

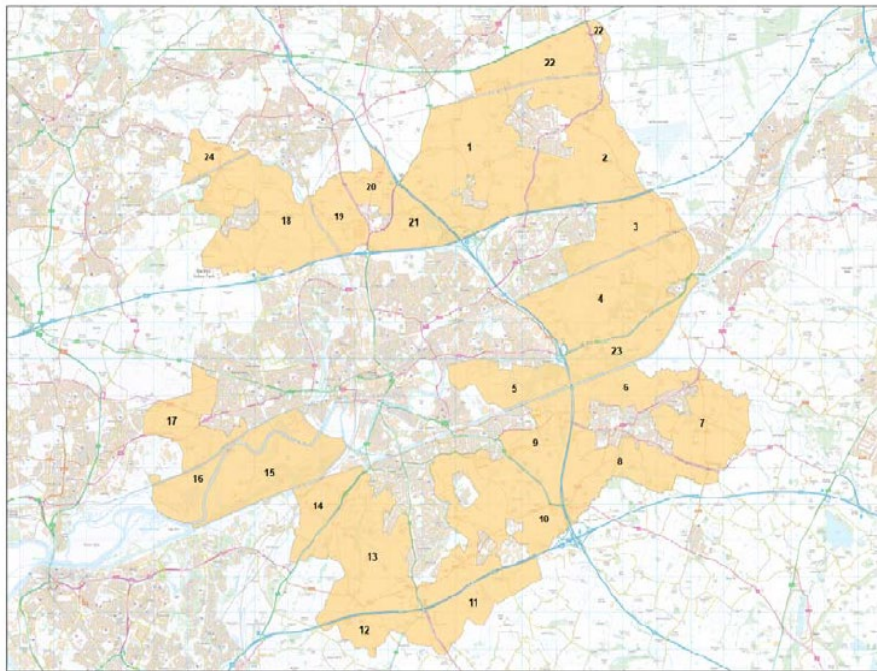


Figure 7: General Area Division (Ref: Map GA2)

5.26. The Green Belt Assessment confirmed that 'GA2' makes a "moderate" contribution to Green Belt 'purposes' which it defines as "on the whole the parcel contributes to a few of the Green Belt purposes however does not fulfil all elements". These findings related to a much larger area of land than just the Appeal Site. The Green Belt Assessment then split the 'General Areas' into a number of potential development parcels based on their proximity to built-up areas. The Appeal Site was identified as falling within 'Parcel WR14' as shown on the extracts below:

155. The choropleth map below illustrates the parcel assessment outcomes:

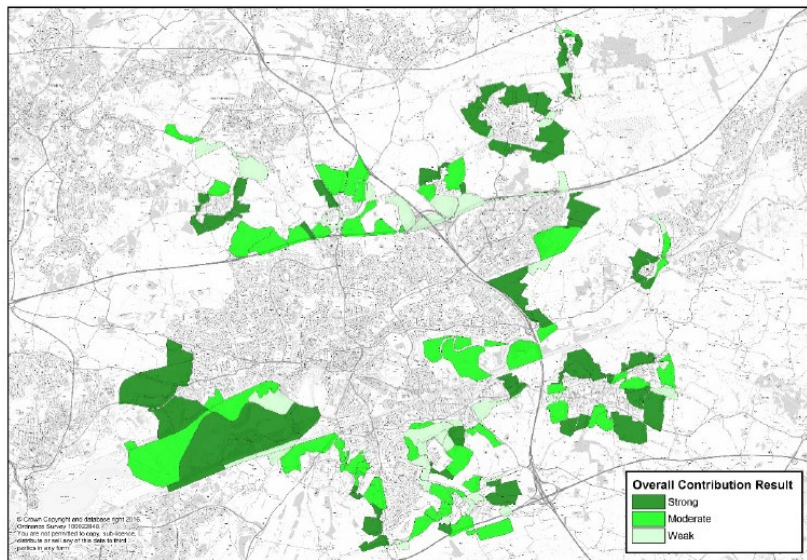


Figure 9. Choropleth mapping showing results of Parcel Assessments

Figure DR03: Extract from Warrington's Green Belt Review

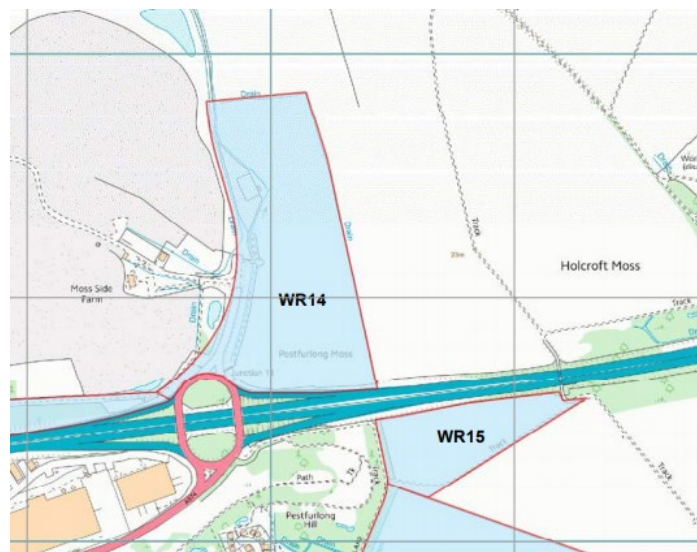


Figure DR04: Extract from Warrington's Green Belt Review

5.27. Within the Green Belt Assessment, the Appeal Site was identified as making an overall **'weak'** contribution to the Green Belt *'purposes'*. The Green Belt Assessment made the following comments in respect to *'Parcel WR14'* (the Appeal Site):

Green Belt Purpose	Review Commentary in respect to Parcel WRI4
a) to check the unrestricted sprawl of large built-up areas	<i>“Weak contribution: The M62 forms a durable boundary between the parcel and the built up area. This is a permanent boundary that is durable enough to prevent sprawl into the parcel in the long term. The parcel is only connected to the urban area along this southern boundary and therefore the parcel is poorly connected to the built up area. Overall the parcel makes a weaker contribution to checking unrestricted sprawl.”</i>
b) to prevent neighbouring towns merging into one another	<i>“Weak contribution: The parcel forms a less essential gap between the Warrington urban area and Culcheth. Development of the parcel would result in both the actual and perceived gap being reduced although it would not result in the towns merging. Overall, the parcel makes a weak contribution to preventing towns from merging.”</i>
c) to assist in safeguarding the countryside from encroachment	<i>“Moderate contribution: The boundary between the parcel and the settlement is durable. The boundary is the M62 which could prevent encroachment into the parcel in the long term. The boundaries between the parcel and the countryside are less durable. To the west is Birchwood Way which is durable however the northern and eastern boundaries are tree lined which are natural, non-durable boundaries that would not prevent encroachment beyond the parcel if the parcel were developed. The existing land use is agricultural. The parcel is well connected to the countryside along three boundaries. The parcel is flat with no built form and no vegetation and there are open long line views thus it supports a strong degree of openness. The parcel has beneficial uses as it provides access to the countryside. Overall, the parcel makes a moderate contribution to safeguarding from encroachment.”</i>
d) to preserve the setting and special character of historic towns	<i>“No contribution: Warrington is a historic town however the parcel is not within 250m of the Warrington Town Centre Conservation Areas. The parcel does not cross an important viewpoint of the Parish Church.”</i>

Green Belt Purpose	Review Commentary in respect to Parcel WRI4
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land	<i>“Moderate contribution: The Mid Mersey Housing Market Area has 2.08% brownfield urban capacity for potential development, therefore the parcel makes a moderate contribution to this purpose.”</i>
Overall Conclusions	<i>“The parcel makes a moderate contribution to two purposes, a weak contribution to two purposes and no contribution to one purpose. In line with the methodology, the parcel has been judged to make a weak overall contribution. The parcel makes a moderate contribution to safeguarding from encroachment as it supports a strong degree of openness and has non-durable boundaries between the parcel and the countryside but has durable boundaries between the parcel and the settlement. The parcel performs weakly in terms of preventing sprawl and preventing neighbouring towns from merging.”</i>

5.28. I have considered this Green Belt Assessment and broadly support its conclusions but I set out below my more detailed views on the impact of the Appeal proposals themselves on the Green Belt ‘purposes’:-

‘Check the unrestricted sprawl of large built-up areas’

5.29. The Appeal Site lies adjacent to the Warrington urban area separated by the M62 which would remain the durable Green Belt boundary. I do not consider that the Appeal proposals comprise “sprawl” which I take to mean irregular or scattered spread, since as Mr Holliday confirms, the existing features of the Risley landfill mound and the M62 that abut the Appeal Site help to ‘contain’ the Appeal proposals to the west and south and the northern and eastern site boundaries are formed by hedgerows / tree lines which would become stronger if the Appeal proposal is developed as the brook will be realigned which will form a distinct boundary in the landscape. Whilst there would be additional development where there is none, I do

not consider that the Appeal proposals constitute “unrestricted” sprawl as the location of the buildings has been carefully chosen to be “tucked” adjacent to the Risley landfill mound and the vehicle parking areas are wrapped around by a “collar” of Green Infrastructure which will be reinforced by boundary tree planting both of which serve to restrict any further outward expansion. In my view, the Appeal proposals would not therefore constitute “unrestricted sprawl” of the Warrington urban area as the M62 will remain the durable boundary and the combination of existing landforms (former Tip) and the proposed Green Infrastructure that wraps around the Appeal proposal’s built form and vehicle parking areas will ‘contain’ the extent of built form within the Appeal proposals. I note that the Warrington Green Belt Assessment considered that “overall the parcel makes a weaker contribution to checking unrestricted sprawl”. I also note that the Council’s Statement of Case does not allege any harm to this ‘purpose’. As the M62 would remain the durable Green Belt boundary and I consider that the Appeal proposals are ‘contained’ by existing features and they would not constitute “unrestricted sprawl” then I consider that the Appeal proposals are not in conflict with this ‘purpose’ and there is **no harm** to this ‘purpose’.

Prevent neighbouring towns from merging into one another

- 5.30. I note that the Warrington Green Belt Assessment confirms that the Appeal Site forms a “less essential gap” between the Warrington urban area and Culcheth, which is a settlement to the northwest. The boundaries of the Appeal Site are a significant distance from Culcheth and the area between the settlements comprises agricultural fields and areas of wetland. The Warrington Green Belt Assessment confirms that “Development of the parcel would result in both the actual and perceived gap being reduced although it would not result in the towns merging. Overall, the parcel makes a weak contribution to preventing towns from merging”. I agree that the gap would be reduced as a result of the Appeal proposals but I consider that the development of the Appeal proposals within the Green Belt would not result in the settlements merging as large areas of land are retained between the two settlements to fulfil that role. Culcheth would remain physically and visually separated from the Appeal Site by the intervening rising landform of the former tip. I also consider that Culcheth is not a “town” for the

purposes of this assessment and rather it is a “village”. The nearest “town” for the purposes of this assessment is Leigh which is located some 8 miles to the north of the Warrington. I therefore conclude that the Appeal proposal would not have any impact upon the Green Belt ‘purpose’ of preventing neighbouring towns merging into one another. I note that the Council in their Statement of Case do not allege any harm against this ‘purpose’. In my view, the Appeal proposal is not in conflict with this policy requirement and there is **no harm** to this ‘purpose’.

‘Assist in safeguarding the countryside from encroachment’

- 5.31. I accept that the Appeal proposal will lead to encroachment into the countryside for the reasons that I have set out in relation to impact on Green Belt “openness”. The Warrington Green Belt Assessment considers that the Appeal Site parcel makes a “moderate contribution to safeguarding from encroachment”. That conclusion relates to the Appeal Site itself rather than assessing the Appeal proposals. Not all of the Appeal Site will be developed and the actual built form is limited as part of the Appeal proposal. The northern and eastern edges of the Appeal Site would remain Green Infrastructure. In my view and that of Mr Holliday, the combination of the existing features that ‘contain’ the Appeal Site and the specific nature of the Appeal proposals as controlled by the ‘parameters’ plans mean that the Appeal proposals do not develop the whole of the Green Belt parcel and indeed the proposed Green Infrastructure helps to ‘contain’ the proposed built form and vehicle parking areas and hence it helps to mitigate the extent of the encroachment into the countryside. In my view therefore, the extent of harm to this ‘purpose’ will be **limited**.

‘Preserve the setting and special character of historic towns’

- 5.32. The Appeal Site lies to the north of the historic town of Warrington but is not within 250m of Warrington Town Centre Conservation Area and does not cross any important view points of the Warrington Parish Church. These are the criteria set out in the Warrington Green Belt Assessment which concludes that the Appeal Site makes “no contribution” to this ‘purpose’. I note that the Council in their Statement of Case do not allege any harm against this ‘purpose’. I concur that the Appeal proposals

have no effect upon the setting and special character of historic towns and hence they are not in conflict with this *'purpose'* and there is **no harm** to this *'purpose'*.

'Assist in urban regeneration, by encouraging the recycling of derelict and other urban land'

5.33. The Warrington Green Belt Assessment highlights that there is no single correct method for assessing *'purpose'* (e) and some other Local Authority Assessments choose to screen this *'purpose'* from their Assessments. The Council's Green Belt Assessment has adopted a uniform approach to the assessment of this *'purpose'* and confirms all parcels assessed make a "moderate" contribution to this *'purpose'*, based on the brownfield urban capacity across the whole Borough as defined in their Strategic Housing Market Assessment. I do not agree with this approach in respect of the Appeal proposals as my evidence demonstrates that there are no alternative sites that could meet the need for an MSA and hence accommodate the Appeal proposals in the urban area or anywhere else outside the Green Belt. Since the Appeal proposals could not be accommodated on "*derelict or other urban land*" then I consider that that the Appeal proposals will not offend this *'purpose'*. I note from the Secretary of State decision in respect of the Former Parkside Colliery in St Helens dated 11th November 2021 (Ref: APP/H4315/V/20/3253194) (CD4.3) at which I gave planning evidence, that the Inspector supported my approach in his paragraph 12.31 and that the Secretary of State endorsed this in his paragraph 24. I also note that the Council in their Statement of Case do not allege any harm against this *'purpose'*. I therefore consider that there is **no harm** to this *'purpose'*.

5.34. I conclude that the Appeal proposals will lead to some encroachment into the countryside which will result in harm to the Green Belt *'purpose'* (c) but that the extent of this harm is **'limited'**. I conclude that there will be **'no harm'** to *'purposes'* (a), (b) or (e) and that *'purpose'* (d) is not engaged and hence there is **'no harm'** to it either. Accordingly in respect of impact on the *'purposes'* of Green Belt, I consider that the Green Belt role and function of the Appeal Site would be maintained and the Appeal proposals will result in only **limited** harm to *'purpose'* (c).

Summary of Green Belt 'harm'.

- 5.35. I accept that the Appeal proposals comprise '*inappropriate*' development in the Green Belt and as such '*substantial*' weight should be given to this definitional harm. I also accept that there will be '*substantial*' harm to the '*openness*' of the Green Belt but that this is localised in extent. I also accept that the Appeal proposals will result in '*limited*' harm to '*purpose*' (c) of the Green Belt. I shall now go onto assess any other (non-Green Belt) harm.

Other Harms resulting from the Appeal proposal.

Landscape Character and Visual Amenity

- 5.36. Mr Holliday has prepared a separate proof of evidence to set out his views on landscape and visual matters. He has concluded that the Appeal Site lies on the edge of a mossland landscape in a location with a variety of influences including that of the adjacent former tip and the M62. He has assessed the landscape value of the Appeal Site and concluded that it does not form part of a "*valued landscape*". His summary of the visual baseline is of a rather featureless landscape with relatively few visual receptors which limits the locations where any visual change can be experienced. He indicates that the visual effects will be largely limited to users of Footpath 13 and the permissive footpaths within the restored landfill site. He considers that the Appeal proposal can deliver opportunities for long term mossland protection and landscape enhancement through the provision of Green Infrastructure. He supports the careful and sensitive solution of "*hugging*" the Appeal buildings close to the rising landform of the former tip. He has shown that the landscape and visual harm of the Appeal proposals has been minimised but he accepts that there will be change to the nature of the Appeal Site and this will result in some landscape and visual harm.
- 5.37. The Officer Report to Committee confirmed (paragraph 8.47) that a suitably designed development could be accommodated on the Appeal Site "*without significant landscape and visual harm*". The Appellant has agreed conditions with the Council to provide additional information to address landscape and visual implications alongside the

submission of reserved matters details of layout and built form. Mr Holliday agrees with the conclusions of the Officer Report to Committee (paragraph 8.58) that although there would be adverse impact to the landscape character and visual amenity, these harms are capable of being reduced via reserved matters details. He therefore judges that the adverse effects on landscape and visual amenity to be moderate at completion, reducing to minor over time.

- 5.38. The Council's Report to Committee sets out the officers' view that the Appeal proposals conflict with Core Strategy policies CC2, QE3 and QE7, although I note that such conflict is not thought sufficient by either officers or the members to justify refusal of the Appeal proposal.
- 5.39. Policy CC2 is a criteria based policy which seeks to protect the countryside and which indicates that development proposals in the countryside which accord with Green Belt policies set out in national planning policy will be supported provided that such development respect and relate to the landscape character and rural setting, are not obtrusive, and have no detrimental impact on agricultural interests. Policy QE3 relates to Green Infrastructure and it seeks an integrated approach to the provision, care and management of the Borough's Green Infrastructure.
- 5.40. Policy QE7 is also a criteria based policy which seeks to ensure a '*high quality place*'. The policy is predicated on the basis that "*the Council will look positively upon proposals that are designed to...*". I consider that this policy wording does not therefore set out a series of criteria or benchmarks to justify a reason for refusal but rather that each of the elements within the bullet point list are policy aspirations. In my experience many development proposals require judgements to be made in relation to such matters and many of these judgements are subjective. Consequently I consider that a development proposal should have regard to these matters but the policy does not require full compliance with these aspirations. Mr Holliday considers that the Appeal proposals comply with Policies CC2, QE3 and QE7 as they are located in an area where the overall character of the landscape is less strong, being influenced by the motorway and restored tip. He notes that the design of the buildings will be for the reserved matters stage but that a distinctive modern design solution could be

provided alongside good quality and well-designed public space and green infrastructure. I concur with his views.

- 5.41. In light of the evidence from Mr Holliday, I accept that there will be **moderate** harm to landscape character and visual amenity. Notwithstanding this harm, I consider that the Appeal proposals comply with NPPF (21) Chapter 15 and Core Strategy Policies CC2, QE3 and QE7.

Effect of the Appeal proposals on the availability of Best and Most Versatile Agricultural Land

- 5.42. The Appellant commissioned Mr Reeve of Land Research Associates Ltd to undertake an agricultural land quality assessment and I include his Report as my Appendix DR01. Mr Reeve confirms that the Appeal Site is owned by Biffa (the former operators of the adjacent landfill); let on an annual rolling basis to a local farmer (C&G Moss) with no security of tenure; and that C&G Moss's main agricultural operation is centred on Hoyles Moss Farm which lies to the south of the M62. He therefore concludes that the loss of the Appeal Site which is to the north of the M62 would not have a significant impact on the main farming business.
- 5.43. Mr Reeve also confirms that the Appeal proposals will lead to the loss of 11.7ha of agricultural land of which 10.3ha (88%) is classed as Best and Most Versatile (BMV). Within this BMV classification, 28% is grade 2, and 60% is poorer subgrade 3a. He concludes that the field is poorer quality than most of the main extent of deep peaty soils to the east of the Appeal Site where the main agricultural quality is grades 1 and 2. Mr Reeve concludes that most of the grade 2 land on the Appeal Site will be retained in situ to protect its important function as a carbon sink, but managed for ecological benefit rather than being available for agricultural use.
- 5.44. In light of Mr Reeve's conclusions, the Environmental Statement Addendum (CD2.5) concludes that the loss of 8.4ha of the subgrade 3a and 3b is not a significant effect in environmental terms. The loss of 3.3ha of grade 2 agricultural land is significant due to it being a regional receptor, however its loss is judged to be offset by the creation

of high ecological value peatland type habitats and long-term protection of the Appeal Site's peat resource from further degradation.

- 5.45. I therefore consider that this loss of BMV is a negative consideration in the planning balance but that it should be considered in the context of the nature of the wider agricultural quality in Warrington and surrounding area and also in the context of the Natural England 20ha consultation threshold. The scale of the loss of BMV is considerably below the Natural England 20ha consultation threshold which I recognise is for consultation and not ascribing harm. I do however consider it to be a useful benchmark for consideration of this matter alongside the “*economic and other benefits*” considerations set out in NPPF (21) paragraph 174 (b).
- 5.46. Mr Reeve has shown that in economic terms, the loss of the Appeal Site will not adversely affect the tenant farmers main agricultural operation and he has also demonstrated the difficulties of farming the Appeal Site and its varied quality of agricultural grade. I consider that whilst there will be the loss of 10.3 ha of BMV, a large element of the best quality soil will be maintained on the Appeal Site and managed for ecological purposes. This means that whilst the area lost to agricultural production is 10.3ha, the soil quality will be maintained. This loss is therefore significantly below the Natural England 20ha consultation threshold and hence I ascribe **limited** weight to this harm in the planning balance.
- 5.47. Policy CC2 requires an assessment of the impact on agricultural interests which Mr Reeve has done. The Officer Report to Committee considers (para ref 8.73) that the Appeal proposals would have a detrimental impact on agricultural interests but that the extent of the loss of BMV is below 20ha which is the Natural England consultation threshold and that the Council note that appeal inspectors have noted this elsewhere as an assessment of significance (para ref 8.79). The Officer Report to Committee (para ref 8.80) considers that there is conflict with policy CC2, which results in minor harm from the loss of BMV but that the loss in itself would not be significant and Natural England do not object to the application. The Council's Statement of Case also re-confirms that the harm is considered to be minor harm (CD2.2.2 - para 5.7).

I accept that since the Appeal proposals result in the loss of BMV then they do not fully comply with Policy CC2 in this regard.

Effect of the Appeal proposals on heritage assets

- 5.48. The ES Technical Paper and its Addendum on Cultural Heritage (CD2.5.11) provided evidence to demonstrate that there will be ‘neutral’ impact to the above ground heritage asset (Grade II* Holcroft Hall) which is located 1.54km to the northeast of the Appeal Site. The Appellant’s heritage expert also demonstrated that the Appeal proposals would have ‘no’ impact on Cawley Farm which is not a designated or locally listed building, or recorded as a non-designated heritage asset. The Officer Report to Committee (paragraphs 8.105 - 6) accepted this conclusion.
- 5.49. An archaeological Desk-Based Assessment (DBA) and a Heritage Statement assessed the known archaeological baseline and confirmed in paragraph 5.5 that the impact upon buried archaeological remains are unknown but “*on balance, it is anticipated that the effect on potential buried archaeological remains would be neutral*” and in paragraph 7.6 that “*these impacts are not considered to be significant*”. Whilst more detailed assessment would be required to confirm the existence (or not) of any archaeological remains, this can be controlled by suitably worded conditions which have been agreed with the Council (CD2.4.4) to secure a programme of archaeological work / investigation.
- 5.50. The ES Technical Paper confirms in paragraph 11.5 that the Appellant’s heritage expert’s opinion is that “*the identified harm to non-designated assets is less than substantial. There is no harm to designated heritage assets*”. As the heritage assets are not designated then paragraphs 200 – 202 of the NPPF (21) are not engaged. Paragraph 203 of the NPPF (21) relates to “*applications that directly or indirectly affect non-designated heritage assets*” and confirms that the effect of an application on their significance requires a balanced judgement “*having regard to the scale of harm or loss and the significance of the heritage asset*”.

5.51. I note that the Officer Report to Committee (paragraphs 8.107 – 8.111) confirms that the Cheshire Archaeological Planning Advisory Service (APAS) are satisfied with the conclusions of the archaeological assessments subject to conditions to secure programme of archaeological work / investigation. The Officer Report confirmed that *“in light of the likelihood of finding archaeological remains being of low to medium importance, in relation to which a condition for archaeological recording is acceptable, there would be neutral impact to both built heritage and archaeological heritage and the preservation by record of the archaeology through the carrying out of appropriate fieldwork would contribute to the archaeological understanding of the area”*. I consider this to be the *“balanced judgement”* which the NPPF (21) requires and I support and concur with the Council’s conclusion.

5.52. The Officer Report to Committee confirmed that the Appeal proposals would have neutral impact on heritage assets and hence they would be acceptable having regard to Policy QE8 of the Core Strategy. I concur with the Council’s conclusion and consider that in respect of heritage impact, the Appeal proposals are **neutral** and hence there is no negative or positive weight in this regard in the planning balance. I therefore consider that Appeal proposals accord with the requirements of NPPF (21) Section 16 and Core Strategy policy QE8.

Effect of the Appeal proposals on residential amenity (noise and outlook)

5.53. The Appellant’s Design and Access Statement shows that the nearest residential property (102 Inglewood Close) is 350m away but that it is separated by M62; and that other properties lie in excess of 500m from the Appeal Site. The Environmental Assessment Part 2 Noise and Vibration Technical Paper 7 assessed both the potential construction and operational noise and vibration impacts upon these sensitive receptors as well as the potential for road traffic noise. These assessments demonstrated that the Appeal proposals could have minor adverse to negligible noise impact during construction. In terms of operational noise from road traffic, the assessments showed that the greatest increase in noise levels will be 0.2dB(A) which would have a negligible effect upon existing sensitive receptors. Further assessments of other potential operational noise sources have been undertaken within the ES

Technical Paper on the proposed hotel occupants and at existing receptors in the vicinity of the Appeal proposals. These cover on site vehicle movements within the car and lorry parks, external fixed plant, and deliveries.

5.54. A combined Lighting Assessment was submitted with the Appeal application (CD2.5.2 – Appendix I6), which assessed the impact of lighting on ecology, views and people. It set out the lighting proposals and their mitigation. Due to the distance from existing residential properties set out above, and the diminishing impact of lighting with distance, the Lighting Assessment concluded that adverse impacts upon sensitive receptors are unlikely to occur and a draft condition has been agreed with the Council to assess this on a phase by phase basis. This will ensure no negative impact from light spill.

5.55. The Officer Report to Committee (para 8.103) concluded that with suitable conditions, a detailed scheme could come forward at reserved matters stage that would be in accord with Policy QE6 and not result in unacceptable impacts upon residential amenity. I therefore conclude that there will no unacceptable impact on residential amenity overall and hence the matter is **neutral** in the planning balance. As such in my opinion, the Appeal proposals accord with the requirements of NPPF (21) Chapter 11 and Core Strategy policy QE6.

Effect of the Appeal proposal on air quality and dust.

5.56. The Appellant's Environmental Assessment Part 2 – Air Quality, Odour and Dust Technical Paper (CD1.1.42) confirmed that an Air Quality and Odour Assessment has been undertaken both for the construction and the operational phase of the Appeal proposals. It considered the potential air quality impact of construction phase traffic as well as a qualitative assessment of the potential dust and PM10 impacts associated with that phase. The Odour Assessment specifically considered the potential odour impacts associated with the restored Risley Landfill Site adjacent to the Appeal Site. The operational phase assessment involved atmospheric dispersion modelling to consider the potential air quality impacts of that phase. The Assessment predicted negligible air quality impacts on sensitive receptors; minor adverse risk of

dust impacts; and negligible effects of odour on construction workers during the construction phase which it concluded to be '*not significant*'. During the operational phase the effect of the Appeal proposals on human health through air quality and odour is concluded to be negligible.

5.57. The Officer Report to Committee confirmed (para 8.168) that the Air Quality Assessment had been reviewed and was acceptable and that no air quality conditions are required (para 8.170). It considered dust impacts to be low and that they could be mitigated through a Construction Environment Management Plan (CEMP) condition; that odour from the adjacent landfill will be negligible (para 8.172); but that the Appeal development itself may emit odours (hot food / catering odour) and hence a condition is agreed with the Appellant to control this. The Council considered that the Appeal proposals comply with Policy QE6 and the NPPF (paragraph 8.174) and I agree.

5.58. In light of the above, I consider that there will be negligible air quality or dust impact and hence the matter is **neutral** in the planning balance and as such the Appeal proposals comply with Policy QE6.

Effect of the Appeal proposal on flood risk, drainage and ground conditions.

5.59. The Appellant's Environmental Assessment (CD2.5.6) Part 2 Water Resources Technical Paper was supplemented with additional information (CD1.2.5 and CD1.2.9). I include a Summary of the Assessments of these matters in my Appendix DR02 which has been prepared by the Appellant's technical experts – Wardell Armstrong. I have drawn from this to reach the following conclusions.

5.60. In relation to ground conditions, this Summary of Assessments confirms that a Phase I Environmental Report and Preliminary Site Investigations (trail pits) were undertaken and that the Appellant has sought to minimise the impact on peat through retention in situ and creation of a peatland type habitat zone to accommodate displaced peat on Site. It further demonstrates the nature of the engagement and scrutiny by the Council and their statutory consultees (Natural England, Environment

Agency and GMEU) and it shows that they all offered no objections to the Appeal proposals, subject to the attachment of conditions which have been agreed with the Council. I therefore conclude that the residual impact on ground conditions of these works would be negligible and hence **neutral** weight should be ascribed to this issue in the planning balance.

5.61. In respect of drainage, the Summary of Assessments evaluates the impact of the diversion of the Sliver Lane Brook; the nature of the Site drainage proposals including SuDs features and pumped discharge; the impact of the fuel filling station (including underground storage of fuel and petrol interceptors); drainage for parking areas; and possible dewatering excavations. The Flood Risk Assessment demonstrated that the Appeal proposals will have no flood risk from tidal, sewer or artificial sources and a low risk of flooding from fluvial, surface water and groundwater sources (which can be mitigated). It demonstrated that the rate of discharge of the surface water into the diverted Silver Lane Brook will be controlled to ensure that greenfield run off rates are maintained and hence that there will be no downstream flooding concerns. This surface water management strategy results in a reduction in the surface water runoff from the existing land thereby reducing flood impacts to the surrounding area. In light of the reduction in surface water runoff and its potential for downstream flooding, I therefore consider that this is a **minor positive** element in the planning balance.

5.62. The Summary of Assessment also demonstrates how groundwater is to be protected through the location of the Fuel Filling Station outside of the current area of deep peat deposits and through the use of double skin tanks with leak detection. Through the use of conditions, the risks to groundwater can be satisfactorily managed. It also demonstrates the extent of engagement with the EA to address matters relating to biodiversity and the work undertaken in relation to the need for a Flood Risk Activity Permit (FRAP) and potential impacts to the Water Framework Directive (WFD). The submitted Water Framework Directive Screening Assessment demonstrated no effects which would be likely to cause deterioration in the WFD status and as such there would be no significant effect on the water environment.

- 5.63. The Officer Report to Committee considered the flood risk, drainage and ground conditions matters in detail in paragraphs 8.130 – 8.177. It confirmed that the Council has no objection to the Appellant's Flood Risk Assessment (FRA) approach subject to a condition requiring detailed water drainage layout and attenuation. The EA confirmed the Appeal Site is within a Source Protection Zone 3 for two public water supply boreholes and hence that risks to groundwater need to be managed. Based upon detailed assessments by the Appellant, the EA confirmed that they do not object based on the approach to ground water matters and conditions are proposed on both ground water and site investigation / potential contamination / remediation. The EA have assessed the Silver Lane Brook diversion which will require a Flood Risk Activity Permit (FRAP). The EA require an 8m wide undeveloped buffer zone from the bank top of the diverted Silver Lane Brook. The EA also considered the Appeal proposals under the Water Framework Directive (WFD) and concluded that the Appeal proposals would have no effects leading to deterioration in WFD status (para 8.161). Suitable conditions have been agreed with the Council and the EA (CD2.4.4).
- 5.64. The Council concluded in paragraph 8.166 of their Officer Report that in relation to flood risk, drainage, and ground conditions (including WFD), the Appeal proposals comply with Policy QE3, QE4, and QE6 and the NPPF. I concur with this conclusion.

Effect of the Appeal proposal on waste, energy and climate change

- 5.65. The Appellant's Environmental Assessment Part 2 – Waste Technical Paper (CD2.5.6) provided an assessment of the likely effects of solid waste generation associated with the construction and operational phases of the Appeal proposal. It considered the potential quantities of construction and excavation waste that is likely to be generated by the Appeal proposal along with the treatment and recovery capacity and landfill capacity in Warrington and the wider sub-region and it concluded that the effect of this is likely to be negligible. It also considered the potential for operational waste from the Hotel, Facility Building and Fuel Filling Station and the waste treatment and disposal capacity in the region. It concluded that the effect of operational waste is negligible.

- 5.66. The Appellant's Environmental Assessment Part 2 – Climate Change Technical Paper (CD1.1.47) considered the impact of the Appeal proposals on climate change. It identified that the potential effect of the Appeal proposals during the construction phase were temporary in nature. It also evaluated the impact upon the peat resources within the Appeal Site and concluded that the carbon loss from the peat is anticipated to be zero or negligible.
- 5.67. Operationally, the Climate Change Technical Paper assessed total energy demand from the Appeal proposal and considered mitigation options relating to carbon management. An Energy Statement addressed aspects of building design to reduce demand, energy efficiency measures to reduce consumption and an assessment of potential viable renewable technologies that could be integrated into the building design. It concluded that potentially viable technologies included solar PV for electricity generation, solar thermal for hot water and ground / air source heat pumps for the provision of space heating and hot water and that it may be feasible to install a ground source heat pump system which could meet up to 48% of the Appeal proposal energy demand requirements and offset 24.7% of Appeal proposal emissions which could be improved further by the use of solar PV.
- 5.68. The Appellant will need to evaluate the feasibility of these technologies at reserved matters stage as the design of the buildings evolve and hence the Appellant can commit to the requirement for the Appeal proposals to meet 10% of its energy requirements from renewable or low carbon sources as set out in Policy QE1. As this commitment is to meet the policy requirements then I ascribe neutral weight to it in the planning balance but there is the potential for the Appeal proposals to significantly better this policy requirement at reserved matters stage.
- 5.69. I therefore consider that the impact on waste, energy and climate change will be negligible with **neutral** weight in the planning balance and hence that the Appeal proposals accord with NPPF (21) Section 14 and Core Strategy policy QE1.

Effect of the Appeal proposals on HS2

- 5.70. In accordance with Core Strategy policy CS4, the Appellant has engaged with HS2 in respect of their safeguarding directions to ensure that the Appeal proposals do not prejudice the delivery of HS2. This is set out in detail in the HS2 Statement of Common Ground (HS2 SoCG) (CD2.4.1) which confirms that there are no matters of disagreement between the Appellant and HS2 Ltd.
- 5.71. I have personally led these discussions which resulted in HS2 Ltd withdrawing their procedural holding objection on 29th July 2021 after the Appeal application was determined by the Council. As set out in the HS2 SoCG, this withdrawal of their objection was made subject to the imposition of three planning conditions and a legal agreement. This legal agreement addresses matters relating to rights of access, easements and compensation which are matters outside of the planning process. The planning conditions relate to planning matters and the justification for each condition is contained within the HS2 SoCG. I agreed these planning conditions with HS2 and the Council and I understand that there are no matters of disagreement between the Council and the Appellant on this matter.
- 5.72. The Appellant submitted an Environmental Statement Addendum on 17th January 2022 (CD2.5). This ES Addendum does not change the Appeal proposals but it does assess the potential cumulative effect of the Appeal proposals with the latest information available at that time from HS2 Ltd. The ES Addendum evaluates the cumulative effect of both schemes based upon the principles agreed with HS2 Ltd as set out within the HS2 SoCG. The HS2 SoCG confirms the locations of the potential HS2 construction and operational accesses; the location and maximum extent of the Utility Connection and Construction Zones; and that the HS2 ecological mitigation areas are to be accommodated outside of the Appeal Site. The ES Addendum evaluates the combined impact of the Appeal scheme and HS2 and concludes that from a construction impact perspective, the potential overlap is limited and that the overall cumulative construction impact will generally be negligible – moderate adverse and will not be significant. In terms of the operational phase, Mr Jones assesses the potential cumulative traffic impact both from his “*first principles*” approach (outlined

in the ES Addendum) and also in light of more recently published traffic estimates from HS2 Ltd. He confirms that the cumulative highways impacts are not significant in either scenario. Appendix DR03 is a corresponding assessment in relation to noise and air quality of the more recently published traffic estimates from HS2 Ltd which also confirms that the cumulative noise and air quality impacts are not significant. I also note that HS2 Ltd have confirmed in respect of the ES Addendum consultation that that “*they are content with the ES Addendum approach and accordingly have no representations to make...*”.

5.73. I consider that the HS2 SoCG along with the ES Addendum demonstrate that significant agreement has been reached with HS2 Ltd to ensure that the Appeal proposal can be delivered alongside HS2 and hence that the existence of the HS2 safeguarding directions across parts of the Appeal Site are not a constraint to the implementation of the Appeal proposal if it is approved.

5.74. I therefore ascribe **neutral** weight to this matter in the planning balance and consider that the Appeal proposals accord with Core Strategy policy CS2.

Effect of the Appeal proposal on town centre uses (retail, food and drink and hotel uses within the MSA).

5.75. Appendix DR04 to my Evidence is a Summary of Assessment of Retail, Food and Drink and Hotel uses which has been prepared by my Company. It summarises several letters and notes that were submitted during the application process to address these uses. It confirms that an MSA is not a retail, leisure, office or main town centre use but rather that it is a ‘*sui generis*’ use comprising elements of retail, food and drink and in many cases, a hotel.

5.76. An MSA must, by its very nature, be located directly adjacent to the Strategic Road Network and it must accommodate the requirements to be an MSA set out within Circular 02/2013 Table BI. The National Highways SoCG (CD2.4.2) confirms those minimum requirements for an MSA include “*hot drinks and hot food available at all opening hours for consumption on the premises*”. The Circular does not give guidance

on the scale of such uses but it does note in paragraph B13 that an objective for roadside services is to make them “*more attractive and conducive to encouraging drivers to stop and take a break*”. Therefore in my opinion it is important that MSAs do not just meet the minimum statutory requirements but also that they provide an experience, environment and offer that is attractive to the modern motorist. MSAs must be attractive enough to persuade travellers to pull off from their journeys which is principally achieved by providing facilities that meet the motorists’ needs and demands.

5.77. The Summary of Assessment confirms that the offering of a wide and diverse selection of food is important to a modern MSA offer and that appropriately sized retail provision within an MSA is not stand alone A1 use but rather it is an ancillary element of the main ‘*sui generis*’ use. I consider that the complementary elements within an MSA do not operate as separate entities and do not form separate planning units. Within this context, the floorspace within the Facilities Building at the Appeal proposal would comprise no more than 4,500 sq.m and it would be spread across two floors (mezzanine).

5.78. I consider that this scale of Facilities Building is appropriate for the Appeal proposal and also proportionate within its Green Belt context. My conclusion is supported in the Appeal for an MSA at Doncaster (CD4.4) which sought planning permission for a new Motorway Service Area (MSA) which included an Amenity Building (3,959 sq.m), Lodge and Drive Thru Coffee Unit (205 sq.m). The proposed Doncaster MSA was to be located within the Green Belt and in respect to the scale of these facilities, the Planning Inspector concluded in paragraph 204 that:-

“With regard to purpose (e), should a need for an MSA be established, then it would be entirely appropriate for it to offer the range of facilities normally to be expected at such an establishment. There is nothing about the scale or range of facilities proposed that would set it apart from other MSAs or that would suggest that it would become attractive as a destination in its own right”.

- 5.79. As such, the Planning Inspector and the Secretary of State were satisfied that the provision of 4,164 sq.m of floorspace was commensurate with the role and function of the MSA in the Green Belt.
- 5.80. Circular 02/2013 recognises in paragraph B29 that the scope and scale of retail facilities at roadside services is a matter for consideration by the relevant local planning authority in line with the NPPF and local planning policies. The Officer Report to Committee confirms that the Appeal proposal retail floorspace within the Facilities Building is 500 sq.m which is below the threshold in Policy PV5 in the Local Plan which requires a retail impact assessment to be undertaken for proposals over 500 sq.m. A condition is proposed to limit the retail floorspace in this regard and hence the Officer Report to Committee confirms in paragraph 8.62 that “*no significant adverse impact upon the vitality and viability of Birchwood Town centre (the nearest district centre to the application site) would arise from the proposal*”. The Council agree that the scale of the retail offer is proportionate and integral to an MSA and hence no sequential test is required (para 8.63). I agree with the Council’s conclusion and my Appendix DR04 sets out the additional work done by my Company to assist the Council in reaching this conclusion. The Council also accept that the scale of food and drink proposed with the Appeal proposal is appropriate and that it would not become a destination in its own right (para 8.66). I concur with their view.
- 5.81. There will also be a retail shop at the Fuel Filling Station which will be no more than 500 sq.m floor space. The Officer Report to Committee confirms in paragraph 8.69 that “*this is an expected feature of a PFS at a motorway services. It is considered to be ancillary to the main use of the PFS within the wider site and it is below the threshold set within policy PV5 to require a retail impact assessment*”. I concur with this view.
- 5.82. The Appeal proposals include a hotel of up to 100 bedrooms. Paragraph B30 of Circular 02/2013 states that the provision of a hotel as part of an MSA will be a matter for consideration by the relevant local planning authority in line with the NPPF and local policies. My Appendix DR04 includes a Report ‘*Hotel Provision at MSAs in England – including North West Case Study*’ which demonstrates that the provision of hotels at MSAs is common and an expected part of the overall offer. In total 96 of the 116

MSAs in England have hotels including a large proportion of Green Belt MSAs. This sets out the hotel provision at current MSAs in more detail along with various recent Appeal decisions that supported new hotels within a Green Belt MSA.

- 5.83. In my opinion, hotels on MSAs meet a very distinct market need as they are a cost-effective and convenient place to break a long journey. MSA hotels provide overnight rest accommodation for long distance road users. Such hotels offer basic bedroom accommodation and hence the Appeal proposal will offer no communal lounge, bars or restaurants and no conference room facilities. MSA hotels support the safety need, in that without this provision, there is a danger that tired drivers will either not stop at all or will come off the motorway and onto unfamiliar surrounding local roads to try and find suitable hotel accommodation.
- 5.84. Paragraph B31 of the Circular states that the Highways Agency (now National Highways) will not object to the provision of hotels at the sites of roadside facilities for motorists unless there would be demonstrable adverse impact on the safety and/or operation of the strategic road network such as a net increase in travel. The National Highways SoCG (CD2.4.2) confirms that “*the provision of a hotel is a recognised and permitted part of MSA provision serving the safety and welfare needs of road users*”. It also confirms that National Highways support the Appeal application which clearly includes the hotel.
- 5.85. The Appeal proposal hotel would contain up to 100 bedrooms. My Appendix DR04 demonstrates that the average number of beds of the hotels on the MSAs surveyed is 97 bedrooms which shows that the scale of beds proposed as part of the Appeal proposals is in line with the scale of hotels provided elsewhere, including in the Green Belt.
- 5.86. The Appellant and the Council have agreed a condition (draft condition 10) which clarifies that whilst the description of development is for “*up to 100 bedrooms*”, the hotel should contain no more than 100 “*bed spaces*” as this clarification ensures that the HSE requirements with regard to COMAH Zones are met. In practice therefore the maximum would be 100 single occupancy bedrooms or 50 double occupancy

bedrooms or a mix of single, double and family rooms but with the total number of bed spaces not exceeding 100.

5.87. In my opinion the hotel element of the Appeal proposals is an integral part of the overall MSA offer to the public to meet the public safety need and hence that the hotel element cannot be disaggregated from the overall proposal. In considering whether ‘*very special circumstances*’ exist it is necessary to consider the harm and benefits of the Appeal proposals as a whole. I consider that this approach has been accepted and confirmed through Inspector appeal decisions including the recent Warren Farm, Chalfont St Peter appeal decision (APP/X0415/W/21/3272171) (CD4.1). Paragraph 69 of this decision confirms “*whilst not supported by a strong need case, a hotel is a common element of an MSA and provides an extra facility with some safety and welfare benefits for motorway users*”. The Inspector then discusses both the hotel and HGV parking and concludes “*all in all, these additional elements represent a moderate benefit*” [my emphasis]. I consider that a hotel is a typical feature of an MSA and that it will not compete with hotels within the town centre. The Council accept this in paragraph 8.68 of the Officer Report to Committee.

5.88. The Officer Report to Committee agrees with my conclusions and accordingly, I ascribe **neutral** weight to this matter in the planning balance and I consider that the Appeal proposals accord with NPPF (21) Section 7 and Core Strategy policies PV4, PV5, SN4, SN5 and SN6.

Assessment of very special circumstances – considerations that weigh in favour of the Appeal proposals

5.89. I will now demonstrate that there are ‘*very special circumstances*’ in favour of the Appeal proposals that clearly outweigh any harm to the Green Belt, and any other harm, in accordance with paragraph 148 of the NPPF (21). This accords with the conclusions of the detailed and comprehensive Officer Report that evaluated the Appeal proposals. The combination of factors which I consider result in ‘*very special circumstances*’ are identified below.

Consideration I: Policy, need and public safety

5.90. Mr Jones provides evidence with regard to Consideration I: Policy, need and public safety to support my own evidence and I draw from and apply weight to his conclusions.

The role of the Strategic Road Network and Policy Support for the Appeal proposals.

5.91. The Strategic Road Network (SRN) plays a key role in the safe and efficient movement of goods, supplies and people around the United Kingdom and its essential road safety function is in ensuring the safety and welfare of drivers and their passengers. It is also critical to the performance of the economy and is essential in helping to facilitate planned economic growth.

5.92. Mr Jones sets out in detail the need to keep the SRN flowing and the significant impact and costs of delays both in terms of economic and social consequences. Mr Jones highlights specific research on the impact of driver fatigue on fatal and serious crashes. He also highlights the importance of planning journeys to incorporate sufficient breaks and that the most effective ways to counter tiredness are to stop in a safe place, drink caffeinated coffee and take a short nap.

5.93. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours. Drivers of many commercial and public service vehicles are also subject to a regime of statutory breaks and other vehicle time restrictions. Mr Jones concludes that the UK's network of MSAs perform an essential road safety function in ensuring the safety and welfare of drivers and their passengers. This principle underpins the safe and efficient operation of the M6, M62 and M60 in the North West of England and other Motorways throughout the country. MSAs create opportunities and facilities for motorists and commercial drivers and their passengers to take breaks, refresh and relax in safe and convenient locations on the SRN.

5.94. The NPPF (21) sets out the Government's planning policies for England and how these should be applied. The NPPF (21) is a material consideration in planning decisions (paragraph 2). NPPF (21) notes that "*other statements of government policy*

may be material when preparing plans or deciding applications” (paragraph 6). I consider that in the context of paragraph 6 of the NPPF (21), of particular relevance and materiality to the Appeal proposal is Department for Transport Circular 02/2013 ‘The Strategic Road Network and the Delivery of Sustainable Development’.

- 5.95. NPPF (21) confirms that the main purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, economic, social and environmental. Through the economic objective, there is a requirement to ensure that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure. Through the social objective, there is a need to foster safe places with accessible services.
- 5.96. Chapter 6 of the NPPF (21) requires planning policies to “*help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”*. Paragraph 83 of the NPPF (21) relates to “*building a strong, competitive economy”* and it notes that that planning decisions should “*recognise and address the specific locational requirements of different sectors” [my emphasis].*
- 5.97. Within this context, I consider that the key considerations for an MSA are paragraph 106(e) and footnote 44. Paragraph 106(e) states that “*Planning policies should:-*

“Provide for any large-scale transport facilities that need to be located in the area (44), and the infrastructure and wider development required to support their operation, expansion, and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a national significant infrastructure project and any relevant national policy standards”.”
- 5.98. Footnote 44 states that “*Policies for large scale facilities should, where necessary, be developed through collaboration between strategic policy-making authorities and other*

relevant bodies. Examples of such facilities include ports, airports, interchanges for rail freight, public transport projects and roadside services. The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be national significant infrastructure projects)”. [my emphasis]

- 5.99. I consider therefore that it is clear that the Government’s planning policy approach through the NPPF (21) is to recognise the importance of roadside services and that their key role is to support the safety and welfare of the road user. This approach is reinforced in Annex B of Circular 02/2013 which provides more detailed guidance on how the locational requirements (supported by NPPF (21) paragraph 83) and the support for safety and welfare of the road user (supported by NPPF (21) paragraph 106 (e) and Footnote 44) should be interpreted.
- 5.100. Circular 02/2013 paragraph 8 states that a well-functioning SRN enables growth by providing for safe and reliable journeys. Paragraph 7 also reaffirms that the SRN plays a key role in enabling and sustaining economic prosperity and productivity, whilst also helping to support environmental and social aims and contributing to wider sustainability objectives and improved accessibility to key economic and social services.
- 5.101. Annex B specifically relates to roadside facilities for road users on motorways in England and sets out policy on the provision, standards and signage of roadside facilities on the SRN. The Circular confirms that all such proposals will be considered in the context of the National Planning Policy Framework and, in particular, the statement that it includes regarding the primary function of roadside facilities being to support the safety and welfare of the road user (as now set out in paragraph 106 e and footnote 44, of the NPPF (21).
- 5.102. In relation to spacing, paragraph B4 outlines that MSAs perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey. Paragraph B4 also confirms that motorists should stop and take a break of at least 15 minutes every two hours. Commercial and public

service drivers are also required to take statutory breaks and are subject to working time limits and these MSA facilities assist in compliance with such requirements.

- 5.103. Paragraphs B5 and B6 set out that MSAs should be located at a maximum of 30 minutes travelling time. This can typically be a maximum distance of 28 miles, but on similar busy and congested sections of the SRN, is an average of 15 to 20 miles. This distance can also be shorter, subject to compliance with the design requirements of the Design Manual for Roads and Bridges.

“The Highways Agency therefore recommends that the maximum distance between motorway service areas should be no more than 28 miles. The distance between services can be shorter, but to protect the safety and operation of the network, the access/egress arrangements of facilities must comply with the requirements of the Design Manual for Roads and Bridges including its provisions in respect of junction separation” [my emphasis]”

- 5.104. Paragraph B8 confirms that in determining applications for new MSAs, Local Planning Authorities should not need to consider the merits of spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons. Nor should they seek to prevent competition between operators; rather they should determine applications on their own specific merits. Paragraph B8 is set out below:-

“The distances set out above are considered appropriate for to (sic) all parts of the strategic road network and to be in the interests of and for the benefit of all road users regardless of traffic flows or choice. In determining applications for new or improved sites, local planning authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons. Nor should they seek to prevent competition between operators; rather they should determine applications on their specific planning merits”.

- 5.105. Paragraph B10 confirms the need for Local Authorities and developers, to discuss proposals for developing new roadside facilities with the Highways Agency (now National Highways) as early as possible.

- 5.106. I consider that the NPPF (21) and Circular 02/2013 demonstrate clearly that MSAs have an important role to play in supporting the safety and welfare of the road user and that the detailed guidance in Circular 02/2013 is clear on its approach and is highly material to the Appeal proposals by virtue of paragraph 6 of the NPPF (21). These two documents demonstrate a compelling policy direction by Government to deliver MSA to meet gaps within the SRN to address the safety and welfare of the road user.
- 5.107. As Mr Jones and I have previously noted, the SRN also plays a key role in the safe and efficient movement of goods, supplies and people around the United Kingdom; it is critical to the performance of the economy and is essential in helping to facilitate planned economic growth. This is confirmed by the Department for Transport report '*Action for Roads: A Network for the 21st Century*' (July 2013) (CD3.1.3ii) which states in paragraph 1 that "*The road network is vital to our nation and a crucial part of the national transport system. It provides real and direct economic benefits: to business, to workers, to consumers. Better connections support individual towns and cities and strengthen the country as a whole. Failures of the road network increase costs, stifle employment opportunities and make it harder to do business in the UK*".
- 5.108. The document, "*Highways England: The strategic road network: Planning for the future*" (September 2015) (CD3.1.3(jj)) confirms the approach that Highways England (now National Highways) take to engaging in the planning system in relation to the whole SRN. It confirms that "*operating an effective and efficient SRN makes a significant contribution to the delivery of sustainable economic growth*". The document also has a section relating to "*Roadside facilities, including Motorway Service Areas*" which confirms that "*new and existing roadside facilities are subject to the provisions of relevant planning legislation and regulation, which together set the framework within which local planning authorities should consider the planning proposals for such developments*". I consider that in the current context, such legislation and regulation relates to the NPPF (21) and Circular 02/2013. In light of the above I consider that the Highways England 2015 Document supports the importance of both public safety considerations and the contribution of the SRN to the national economy.

- 5.109. I am aware that the importance of MSAs has recently been reinforced during the COVID pandemic through a letter dated 5th November 2021 to the Appellant from Baroness Vere (Minister for Roads, Buses and Places) (CD3.1.3(II)). This letter from a key Government Minister confirms in my opinion, the importance of MSA to the smooth running of the economy during the COVID pandemic which in my opinion reinforces the status of MSAs as part of the national infrastructure.
- 5.110. In contrast to the national policy approach which I have described above, the Warrington Core Strategy (2014) is silent with regard to MSAs. As there is an absence of relevant Development Plan policies, I consider that it is appropriate to place **substantial / significant weight** upon the guidance within the NPPF (21) and Circular 02/2013 which support the need for and delivery of an MSA to meet an identified gap in provision. In my view the Appeal proposals should be considered in the context of the above positive policy approach from Government which I consider is a **significant** material consideration in favour of the Appeal proposal.

The identified Need for an MSA in the North West of England

- 5.111. Mr Jones's evidence explains the application of the above policy approach to establishing the need for a new MSA in the North West of England to address the safety and welfare of the travelling public on the M58 / M67 / M6 / M62 / M60 corridors of the SRN. He confirms that the gaps that he relies upon were established independently by the Highways Agency who produced a report in January 2010 entitled: "*Spatial Planning Framework Review of Strategic Road Network Service Areas*" (CD3.1.3 (n)). He confirms that 2010 Framework Review document was commissioned to assess the provision of service areas on the SRN in England (paragraph 1.1) and that the purpose of the 2010 Framework Review was to "*encapsulate the results of the MSA study which provides a gap study of those MSAs located in each region*".
- 5.112. Mr Jones confirms that "*it is National Highways' remit to maintain safety on the SRN, proactively identify where gapping deficiencies exist in the national MSA network and then*

advise Local Planning Authorities when planning applications for new MSAs are brought forward by the private sector”.

- 5.113. Mr Jones has considered the findings of the 2010 Framework Review and confirmed that nationally it shows that the North West area is one of only six broad areas within the Country and only three in the North where this deficiency exists. He notes that progress has been made to address several of these gaps in other parts of the Country but not in the North West of England.
- 5.114. From that analysis Mr Jones confirms that four defined policy gaps existed on the SRN in the North West at that time. Mr Jones confirms that these four policy gaps significantly exceed both the maximum limit of 28 miles and the maximum travelling time of 30 minutes.
- 5.115. In evaluating the 2010 Framework Review document, Mr Jones confirms that it took account of existing MSA locations and hence the gaps were identified by Highways England in the full knowledge of the existence of these MSAs. Mr Jones confirms that in his view, this 2010 Framework Review provides independent identification of the existence of gaps within the North West SRN and he confirms that in his view the 2010 Framework Review and its conclusions have material weight. I concur with his view.
- 5.116. Mr Jones then goes onto to assess the current situation and concludes that no new MSA provision has been made since 2010 in the North West to address these gaps and hence he confirms the continued existence of these four gaps on the North West SRN with the consequential public safety implications of those gaps not having been filled.
- 5.117. Mr Jones particularly evaluates the role and relevance of existing MSA provision within the North West SRN. He refers to Leading Counsel’s Opinion on this matter and to the consultation response from Highways England on the Appeal application dated June 2019 in which they confirmed that based upon current distances between existing MSA facilities, it would have *“no objection in principle to the proposed*

development of a new MSA at M62 J11 (“Warrington Services”) on the grounds of spacing”. Mr Jones also confirms that National Highways agreed a full Statement of Common Ground in November 2021 (CD2.4.2) in which they confirmed that the existing MSA provision does not meet these gaps.

5.118. Mr Jones’ clear conclusion is that *“in accordance with Circular 02/2013, there is a ‘need’ – fully supported by policy – for a new additional MSA to serve the identified gaps”.* He further concludes that meeting this ‘need’ has clear and essential benefits of regional and national significance given the policy context which he set out. I fully support his conclusion. Mr Jones then explains that motorists comprise many different user groups who will choose their alternative routes based upon their own preferences and that such preferences will vary depending upon several factors. He confirms that Circular 02/2013 Annex B seeks to create a suitable and resilient network of MSA across the Country at reliable intervals to take account of all of these variables. I concur with his view.

5.119. Mr Jones explains the approach of the Alternative Sites Assessment (CD1.2.21) in which he and I identified an Optimal Search Area where all four policy gaps could be met. He demonstrates how a new MSA is strategically and optimally located at M62 J11 such that the four unmet identified policy gaps will be met. He therefore concludes that *“the Appeal proposals represent an opportunity to close a long-standing and independently identified deficiency in the provision of MSAs in the North West of England. The Appeal proposals are capable of closing all four identified gaps and doing so should be considered imperative”.* I agree with his conclusion and I consider that it is highly relevant to the Appeal proposal that:-

- The four gaps in the North West SRN were independently identified by Highways Agency (now National Highways) in their 2010 Framework Review.
- The gaps were identified by Highways Agency in the full knowledge of the existence of the current MSA provision.
- There have been no new MSAs provided since 2010 to meet the gaps.

- Specifically in relation to the Appeal proposals, Highways England did not object to the Appeal proposals on the grounds of spacing (Highways England letter of 11th June 2019).
- The National Highways SoCG confirms that the Circular does not include provision for traffic flows and / or route choice to form part of a weighting process to evaluate the importance of a gap.
- The National Highways SoCG confirms the four gaps in the North West are “*genuine gaps*”, that no new MSA provision has been provided to meet the gaps, and that the Appeal proposals will meet these gaps; and that “*National Highways therefore invites the decision maker to afford very significant weight to the need for and resultant highway safety benefits of the Proposed Development*”.

5.120. Mr Jones’s evidence has demonstrated that filling these gaps meets an identified public safety need which if not met could result in road safety and welfare implications for the travelling public. In my opinion and that of Mr Jones, this need is not therefore a theoretical or academic need but rather has real world implications upon the public safety of road users and upon the operation and safety of the SRN. I consider that the continued consequences of not meeting this public safety need in terms of accidents; user groups; lost economic benefits and economic impact of failures on the SRN are important material considerations in the consideration of this Appeal proposal.

5.121. Mr Jones also confirms that the Appeal proposal will meet ALL the gaps in the North West identified by the 2010 Framework Review. As a consequence of the Appeal proposal being built there will no longer be any gaps in the North West motorway network according to that 2010 Framework Review. I consider this to be significant and highly material to the weight to be attached to the Appeal proposals. Whilst other MSA schemes in other parts of the country have been considered on the basis that they would meet some of the gaps identified in that part of the country, the current Appeal scheme can complete the MSA network in the whole of the North West of England. I consider that this adds to the weight to be attached to the Appeal

proposals. I have calibrated “very significant weight” in Section 4 of my evidence as being “particularly consequential or compelling” and hence I consider that meeting ALL four gaps in the North West of England meets this requirement.

5.122. In line with the National Highways SoCG wherein National Highways invite “the decision maker to afford very significant weight to the need for and resultant highway safety benefits of the Proposed Development”, I concur with their conclusion and I also consider that **very significant weight** should be attached to the need for and the resultant public safety benefits of the Appeal proposal.

5.123. I consider that my conclusion on weight is reinforced by the conclusions of the Inspectors and Secretary of State in the group of decisions which included the Beaconsfield MSA appeal decision (APP/N0410/A/00/1039103) (CD4.2). The Beaconsfield MSA (previously known as Burtley Wood) is located at Junction 2 of the M40 and opened in 2009. This scheme is located within the Green Belt and was granted planning permission by the Secretary of State following planning appeal. The Secretary of State, in reaching his decision on these appeals considered that:-

“The Secretary of State attaches significant weight to the completion of the primary 30-mile network of MSAs, and considers it to be one of the key factors in reaching his decision in this case” (paragraph 12)

“The Secretary of State agrees with the Inspector’s conclusion.....that the correct approach in the consideration of need for an MSA should be to focus on those stretches of the motorway where the completion of the 30 mile MSA network has not been achieved” (paragraph 133).

“The Secretary of State has had regard to the fact that motorists do not have an opportunity anywhere on this stretch of the M25 or on the linked routes which include the radial M4 and M40 motorways. He agrees with the Inspector that excessive gaps constitute a significant need, and he attaches substantial weight to this” (paragraph 22)

“For these reasons, the Inspector concludes ...that the excessive gaps and the reasonable spacing of the NBF amount to clear and compelling safety case for an MSA in this western

part of the M25. The Secretary of State has had regard to the Inspectors conclusions on this matter. However he considers that “the clear and compelling safety case” is better expressed as a being a clear and compelling need as he considers the concept of need for an MSA embraces the road safety benefits of allowing drivers frequent access to services... The Secretary of State attaches substantial weight to the clear and compelling need for the MSA.” (paragraph 26).

5.124. The Secretary of State also noted in paragraph 178 of his Beaconsfield decision that:-

“The Secretary of State concludes that the continuing long term absence of suitable alternative MSA sites adds significantly to the motorists’ compelling need for a thirty mile MSA on the western sector of the M25.He considers that there is insufficient justification to delay a decision on the grounds that a further search for a M25 MSA site might be successful. He concludes that the unmet need for an MSA amounts to very special circumstances that would clearly outweigh the harm to the Green Belt and any other harm, and conflicts with other national planning policies, and the development plan”. [my emphasis]

5.125. I am also aware of the more recent Inspector’s decision for an MSA at Land between Junctions 16 and 17 of the M25, Chalfont St Peter (APP/X0415/W/21/3272171) (CD 4.1) in which the Inspector confirmed (paragraph 68) that “the appeal proposal would fall between 30 existing gaps which are 28 miles or greater and resolve 19 of them by bringing them down to less than 28 miles.....Meeting this need would have considerable road safety benefits and would represent a significant positive in the planning balance”. The Inspector also confirmed in paragraph 128 that “...meeting the need is the most important benefit”.

5.126. I consider therefore that my conclusions on the weight to be attached to meeting this public safety need are justified and in line with other appeal decisions for MSA. I also note that the Council Report to Committee confirmed in paragraph 8.225 that “there is an existing need on highway safety grounds to address driver and passenger safety and welfare issues. This should be afforded significant weight as a material consideration in favour

of the application as part of the applicant's case for Very Special circumstances."[my emphasis] This is reaffirmed in the Report to Committee paragraph 8.273.

- 5.127. I am aware that some Third Party Objectors consider that the provision at the existing MSAs already meet the gaps and hence the gaps identified are constructs and not real. Mr Jones has rebutted this assertion and shown that it is contrary to the views of National Highways in their 2010 Framework Review document, their consultee response in June 2019 and the SoCG that they have signed in November 2021. It is also contrary to the views of Mr Jones; Leading Counsel for the Appellant; the Officers of the Council; and the Council's own separate Counsel Opinion referred to in paragraph 8.217 of the Officer Report to Committee. I also understand that it is contrary to the views of Peel who object to the Appeal proposal but who in their written objection state "*there are gaps on the network greater than 28 miles. To some extent this weighs in favour of the scheme*".
- 5.128. I am aware that some Third Party Objectors (principally Moto) have cited the Doncaster case (ref: APP/F4410/W/18/3197290) (CD4.4), as a justification for reducing the weight that should be attached to meeting the public safety need through filling the gap of existing MSAs. I understand that Objectors consider the existence of existing alternative roadside facilities would diminish the weight to be attached to meeting the public safety need.
- 5.129. The Doncaster case Inspector confirmed that the need for an MSA is determined by reference to the Circular, noting at paragraph 222 that the maximum distances set out in the Circular are 28 miles or at intervals of '*approximately*' half an hour. The Inspector noted that the 28 miles is a '*recommended*' distance rather than mandatory. This distance is based upon providing MSAs at 30 minute intervals to provide motorists with an opportunity to stop and take a break.
- 5.130. The two gaps within the Doncaster case were set out as being 1 – 3 miles in excess of the 28 mile threshold. The Inspector noted in paragraph 222 that "*in terms of time spent travelling along a motorway, an additional 1 to 3 miles would be unlikely to add significantly to the drive time*". For the Appeal proposal Mr Jones confirms that the four

gaps are between 7 and 22 miles in excess of this threshold and that the journey times between the gaps are between 40 minutes and 1 hour 22 minutes. I consider that these four exceedances are significant when compared to the Doncaster case gaps and that these exceedances would add significantly to the drive time between MSAs. This is a fundamental difference to the Doncaster case.

- 5.131. In the Doncaster case, the Secretary of State noted in paragraph 17 that “*each of the identified excessive distances include stretches of trunk road that include signed services, and agrees with the Inspector that while the signed services do not provide all the services required for an MSA, they do make a positive contribution to the safety and well-being of the travelling public*”. The Inspector confirms in paragraph 14 that to the north of the site, the A1(M) changes to trunk road (the A1) and that there are two signed services on each side of this stretch of trunk road. He confirms in paragraph 67 that “*The gap that the Appellant seeks to address is comprised of travelling along both trunk road and motorway. Applying the Circular correctly, this cannot give rise to a gap that justifies a need for an MSA. There is no existing gap of 28 miles between MSAs travelling only on motorway that the proposal would address...*”. In relation to the current Appeal proposals, Mr Jones (and National Highways) have shown that the whole of each of the four policy gaps are motorway and none of the routes are trunk roads. Along each of the four policy gaps Mr Jones has confirmed that there are no signed services and that as these routes are motorways then such services would have to be of a MSA standard. Mr Jones has made it clear that there is no current MSA provision along each of the four policy gaps and this is agreed with National Highways. This was not the situation for the Doncaster case. For the Appeal proposal there are four policy gaps which are significantly in excess of the 28 mile threshold with no alternative roadside provision.
- 5.132. My view is that the combination of two small exceedances along with alternative existing roadside provision in the Doncaster case resulted in the Secretary of State applying “*limited weight*” to the need for the MSA. As I consider the gaps and hence need for the current Appeal proposals to be fundamentally different to the Doncaster case then I do not consider that this conclusion should be applied to the Appeal proposals. I have applied very significant weight to the need for the MSA in the case

of the current Appeal proposals and I consider that there are clear differentiators between the two cases to justify my position.

- 5.133. I note that the Doncaster case is dated 8th July 2019 and that the Transport Statement of Common Ground (TSoCG) with National Highways (CD2.4.2) is dated 15th November 2021 which clearly post-dates the Doncaster Case.
- 5.134. I consider therefore that National Highways were aware of the relevance of the Doncaster case to the Appeal proposals in making their judgement about weight within the SoCG. I am also aware that the Officer Report to Committee (CD1.2.11) considered the relevance of the Doncaster case in paragraph 8.220 and confirmed that *“objections have been received that reference the Doncaster appeal decision in this instance the gap was served by non MSA service areas on trunk roads rather than motorways. The needs assessment was very different to the proposed Warrington MSA. The 28 mile gap was also only exceeded marginally by 1 – 3 miles, including a non-motorway network and there was some provision on that non motorway network”*.
- 5.135. Third Party Objectors have also questioned whether meeting the public safety need is urgent or pressing. In both my view and that of Mr Jones it is urgent and pressing due to the potential for fatigue related incidents along the motorway network and the public safety implications of them. It is also pressing due to the need for efficient movement of people and goods on the SRN to create the conditions for growth. Mr Jones also highlights the additional need for lorry parking which I address later in my evidence but which is also pressing. I have already referred to the Secretary of State’s conclusions in respect of the Beaconsfield decision about the nature of delays to meeting the need wherein he indicated that the continuing long term absence of suitable alternative MSA sites adds significantly to the motorists’ compelling need.
- 5.136. I do not accept therefore that the weight that I have attached to meeting the public safety need should be diminished as a result of Third Party Objections and hence I maintain that **very significant weight** should be attached to the need for and the resultant public safety benefits of the Appeal proposal.

Lack of Alternatives to meet the need.

- 5.137. As part of the Appeal application, my Company and that of Mr Jones jointly prepared an Alternative Sites Assessment Report (CD1.1.21) which set out our approach to identifying potential alternative sites to meet the identified need.
- 5.138. Having established and confirmed the four policy gaps, Mr Jones mapped the point at which the introduction of a new MSA would reduce all four of the established gaps on the corridors of the SRN to policy compliant distances. This is an area at either Junction 11 of the M62 or a 4 mile stretch of the M62 to the east of Junction 11 which we defined as the '*Optimal Search Area*'. Mr Jones confirmed that outside of this '*Optimal Search Area*' all four gaps could not be fully satisfied. I consider that the benefits of meeting all four gaps in one location are:-
- Meeting all gaps and hence satisfying the full public safety need;
 - Delivering a single MSA to meet this full need that has been established since 2010 and which remains unmet;
 - Being located within the key M62 stretch of motorway that links the Liverpool and Manchester conurbations.
 - Providing a single MSA to meet all gaps to optimise its viability and deliverability
- 5.139. The analysis of all potential sites within this '*Optimal Search Area*' is set out in detail within the Alternative Sites Assessment (CD1.1.21). The analysis considered both on line and off line alternative sites and concluded that there is a stretch of the M62 east of Junction 11 that could in principle accommodate an on line MSA and in terms of off line potential, this is limited to sites accessed to/from the SRN at Junction 11 of the M62 which is the only current Junction within the '*Optimal Search Area*'.
- 5.140. The Alternative Sites Assessment evaluated all of the potential sites against the requirements set out in paragraph B15 of Circular 02/2013 which establishes that

planning, safety, operational and environmental constraints are all factors that need to be taken into account when determining whether on-line locations are most suitable to accommodate a new MSA or whether any off-line Junction locations perform better against these requirements. A detailed analysis of all the sites was undertaken against these criteria. This demonstrated that all the potential sites (Sites 1 – 7) are within the Green Belt in the currently adopted Local Plans and hence there are no non-Green Belt alternatives that could meet the identified need.

- 5.141. I consider that it is highly relevant to both the Appeal proposals and the justification for ‘*very special circumstances*’, that to address the gaps in the SRN for a new MSA in the North West of England, a Green Belt site must be utilised and consequently there are no non-Green Belt alternatives to meet the MSA gaps.
- 5.142. The Alternative Sites Assessment concluded that the Appeal Site is the most sequentially preferable location to meet the identified MSA need having regard to the locational requirements of the new MSA and the wider range of environmental, planning and engineering constraints.
- 5.143. It also confirmed that of the alternative sites identified, the Appeal Site has the least Green Belt impact, being classified as having a “*weak*” contribution within the emerging Warrington Local Plan evidence base.
- 5.144. I am not aware that any Objectors have specifically challenged the methodology or approach of the Alternative Sites Assessment, but rather they have either sought to challenge the conclusions on two sites identified within the ‘*Optimal Search Area*’ (referred to as Sites 6 and 7) or have identified further potential alternative sites outside of the ‘*Optimal Search Area*’. In response to these objections, I include a ‘*Comparative Assessment Update of Alternative Sites*’ as my Appendix DR05.
- 5.145. The recent Inspectors decision for an MSA at Chalfont St Peter (CD4.1 – paragraph 80) set out the key tests for alternative sites which I have used in my analysis of these alternative sites:-
- *Whether they will cause less harm (Green Belt or other);*

- *Whether they would meet the need just as well or better;*
- *Whether the other benefits are comparable or greater; and*
- *Whether they are likely to be deliverable.*

Comparative Assessment Update

5.146. I am only aware of challenge from Objectors on the conclusions within the original ASA on two specific sites which the ASA referred to as Junction IIA Sites (Sites 6 and 7). The ASA considered the potential for there to be an on-line MSA in this location and it concluded that there was no evidence that such an on-line MSA was capable of being brought forward to meet the current identified need; that it was within multiple ownership; and that it was not backed by an MSA developer. My understanding from the objections made by Peel is that bringing forward an on-line MSA in this location is not part of their objection and hence I consider that no on-line MSA alternatives have been identified.

5.147. The Junction IIA Sites (Sites 6 and 7) will require the delivery of a new junction onto the M62. The Peel Objection (paragraph 3.32) asserts that “*work is ongoing to establish the delivery of the junction and the timescales for doing so*”. This accords with the conclusion in our original ASA (CD 1.1.21) which is that there is no detailed evidence to demonstrate that this new junction has been designed, tested, costed or indeed is deliverable. Peel have provided no updated evidence of progress since the original ASA was completed in August 2019. The Comparative Assessment sets out in detail, the review of published documents that my Company has undertaken to justify this conclusion. From this assessment, I am not aware of any public commitment to deliver the new Junction IIA from National Highways nor am I aware of any detailed new junction designs or evidence that detailed feasibility and design work has been undertaken. Rather the evidence that I have included in my Appendix DR05 demonstrates that a range of options are still being considered which may or may not include a new junction. Even if a new junction is the preferred option, Mr Jones has concluded that in his experience it is reasonable to assume that planning and

procurement processes to deliver such a new junction would mean that an MSA would not be open for use until the medium term (i.e. at least 5 years away) from that date.

- 5.148. Peel have provided no evidence of funding or viability of this junction and I therefore maintain my view that Sites 6 and 7 which rely upon the delivery of this new junction are not able to accommodate an MSA in the short term. I also note that neither site is being backed by an MSA operator. In line with the Chalfont St Peters tests that I have set out above I consider therefore that Sites 6 and 7 are not deliverable to meet the MSA need identified in the short term.

Site 6 – Junction 11A South East Quadrant

- 5.149. The site is Green Belt in the currently adopted Salford UDP. A Green Belt Assessment has been undertaken to inform the ‘*Places for Everyone*’ Plan and the Stage 2 Assessment identifies the site as having ‘*moderate*’ Green Belt harm.
- 5.150. The ‘*Places for Everyone*’ Submission Draft, 2022 identifies part of this site as Allocation JP29 for employment purposes as an expansion to Port Salford. The emerging policy identifies the site as capable of accommodating 320,000 sq.m of employment floorspace. The justification for the release of this site from the Green Belt is to meet employment needs and not the need for MSA.
- 5.151. I make two points on this. Firstly, the emerging ‘*Places for Everyone*’ Plan can only be given ‘*limited*’ weight due to there being substantial objections to the Plan itself and the draft allocation. The ‘*Places for Everyone*’ Plan is itself a relatively new approach to the spatial planning of Greater Manchester as the previous ‘*Greater Manchester Spatial Framework*’ had to be withdrawn when Stockport Council withdrew from the process.
- 5.152. The second point is that the site is currently Green Belt and the Green Belt Assessments confirm that it fulfils several Green Belt purposes. The draft employment allocation is justified by “*exceptional circumstances*” to support Green Belt release on the basis of meeting employment needs due to Port Salford having unique locational advantages. The ‘*Places for Everyone*’ Plan draft Policy JP29 (Port Salford) does not

support an MSA but rather focusses upon employment uses. The supporting evidence for the draft allocation is based upon the employment need and consequential benefits of meeting this need. The draft *Places for Everyone* Plan relies upon this employment Objectively Assessed Need to justify “*exceptional circumstances*” to release the site from the Green Belt.

- 5.153. I maintain my position that Site 6 is not sequentially preferable to the Appeal Site as it remains in the Green Belt, fulfils ‘*moderate*’ Green Belt functions which are higher than those identified for the Appeal Site, and that the “*exceptional circumstances*” to release the site from the Green Belt are predicated upon the need for employment uses and not an MSA. I also maintain that Site 6 cannot be delivered in the short term to meet the need for an MSA.

Site 7 – Junction 11A South West Quadrant

- 5.154. The site is Green Belt in the currently adopted Salford UDP and it is proposed to be retained in the Green Belt in the Submission draft of the ‘*Places for Everyone*’. ‘*Places for Everyone*’ (paragraph 11.264) considers that the retention of the site in the Green Belt will help to prevent the coalescence of Irlam and Eccles and that it performs a ‘*moderate-strong*’ Green Belt role. The Peel objection paragraph 3.33 refers to the site being “*preferable to the application site, even if it were to remain in the Green Belt due to more modest harms and impacts on the Green Belt.*” It is clear to me that these Green Belt harms are understated by Peel and that its ‘*strong*’ and ‘*moderate*’ contributions are higher than those identified for the Appeal Site. I maintain my position that Site 7 is not sequentially preferable to the Appeal Site in Green Belt terms and that it cannot be delivered in the short term to meet the need for an MSA.
- 5.155. In light of the above I do not consider that the Objections made by Peel in terms of Sites 6 and 7 alter my conclusions.

New potential Sites not identified within the Original ASA

- 5.156. All the Objector sites lie outside of the ‘*Optimal Search Area*’ and they all lie within the currently adopted Green Belt. None of the Objector sites therefore were

included within the original ASA as they lay outside of the 'Optimal Search Area'. No additional or new sites have been identified within the 'Optimal Search Area' and hence none have been identified that can meet all four gaps.

J21 of the M6 Motorway

- 5.157. This site lies within the Green Belt in the adopted Warrington Core Strategy. Warrington Council have undertaken a Green Belt Assessment (2016) within which the site was identified as having a 'moderate' contribution to Green Belt. The site is not proposed for release from the Green Belt in the emerging Warrington Local Plan.
- 5.158. In July 2002 (CD4.5) (APP/M0655/V/00/000199&200), the Secretary of State refused planning permission for an MSA on the site. The site is not within the 'Optimal Search Area'. It lies within Green Belt which has recently been classified as 'moderate' which is higher than the Appeal Site. The Secretary of State dismissed an Appeal for an MSA on this site in 2002. The site is therefore not sequentially preferable to the Appeal Site in terms of both meeting the identified need nor in Green Belt terms.

J23 of the M6 Motorway at Haydock

- 5.159. This site lies within the Green Belt in the adopted St Helens UDP. St Helens are currently preparing a new Local Plan. Within the Main Modifications (November 2021) report St Helens Council state that the Green Belt review found that this site makes a 'high' overall contribution to Green Belt purposes. The Green Belt Assessment indicated that a site which made a 'high' overall contribution would not normally be taken forward for further consideration for allocation and that this site was only taken forward to meet a specific and identified employment need. The site is currently identified within St Helens Submission Draft Local Plan as a Safeguarded Site for employment rather than as an employment allocation. I consider that it is important to note that the scale of employment need, and the ability of the site to meet the locational requirements relative to the need for employment formed the case for 'exceptional circumstances' within the Plan making process. The site was not proposed for MSA use and such a use has not formed part of any consideration by St

Helens Council or the Local Plan Inspector. The outcome of the Main Modifications is not yet known and the Inspectors may wish to reopen the Inquiry in light of the Secretary of State's decision below, however if the site were to be released from the Green Belt in the final St Helens Local Plan, it would be safeguarded justified on the basis of meeting employment need. This Appeal decision was uploaded onto the St Helens Local Plan Examination website on 19th November 2021 and hence is in front of the Local Plan Inspector for consideration. The Council have completed their Main Modifications consultation and duly made representations will be considered by the Inspector.

5.160. Peel (the Landowners) progressed a Planning Application (P/2017/0254/OUP) for employment development on the site which they subsequently appealed against non-determination. St Helens Council resolved that they would have refused the application and the subsequent appeal was dismissed by the Secretary of State (ref APP/H4315/W/3256871) (CD4.8). The Appeal decision was issued on 11th November 2021 which is subsequent to the St Helens Local Plan EIP hearing sessions which took place in May and June 2021.

5.161. The Secretary of State determined that the emerging St Helens Plan and Site Allocations Local Plan carried 'little weight' (para 14). He concluded that the appeal proposals would have a 'very significant impact on the openness of the Green Belt' and that the "loss of this essential and fundamental openness of the Green Belt carried substantial weight against the appeal" (paragraph 16). In respect of Green Belt purposes, the Secretary of State agreed with the Inspector that the appeal would "cause a significant measure of harm to the purpose of the Green Belt to prevent urban sprawl" and that "the built development would encroach blatantly into the countryside of rural St Helens, in further contravention of the purposes of including land in the Green Belt" (paragraph 17). The Secretary of State also determined that the appeal site has a "perceived and actual local landscape value" (paragraph 19), that it would "permanently render it highly urban in character" and that there would be a "high adverse" impact on the landscape at this location (paragraph 20). He further noted that "screening would do nothing to offset the removal of a large area of open, rural landscape" (paragraph 21). The Secretary of State

noted “*the current congestion levels at and on the approaches to M6 J23*” and that a specific improvement scheme put forward by the Appellant was the “*minimum required in practice to accommodate the additional traffic generated by the development*”. This was in the context of “*the ultimate wider improvements to M6 J23, notwithstanding that a wider improvement currently remains aspirational and devoid of detailed design or funding*” (paragraph 25). The Secretary of State dismissed the appeal concluding that it was not in accord with the development plan overall and that ‘*very special circumstances*’ had not been demonstrated.

- 5.162. The site is not within the ‘*Optimal Search Area*’. It lies within the Green Belt. The Secretary of State has very recently dismissed an appeal for employment development on this site and in so doing has confirmed the very significant impact on Green Belt openness and purposes along with high adverse impact on landscape. He also confirmed that Junction 23 of the M6 has significant congestion levels and that no long term solution has been developed. Whilst a highway mitigation scheme was developed for the employment scheme, I am not aware of any such mitigation scheme for an MSA. I therefore conclude that the site remains in the Green Belt, has very high Green Belt value and there is no evidence of delivery for an MSA and hence it is not sequentially preferable to the Appeal site.

National Highways Depot off M6 (Rob Lane)

- 5.163. This site is an operational National Highways Depot and hence is not available for MSA use. This site has been put forward by Objectors and not the land owner who are National Highways and who support the Appeal proposal.
- 5.164. The site is located between Junctions 23 and 22 of the M6 with slip roads directly onto the M6. Mr Jones has assessed the ability for these slip roads to accord with DMRB requirements for MSA as set out in Circular 02/2013 and he has concluded that the proximity of this existing arrangement to Junction 23 which is already heavily congested, means that in his opinion an MSA cannot be accommodated on this site as a safe access is unlikely to be achievable due to its proximity to J23, as it would result in substandard weaving distances.

- 5.165. The St Helens Green Belt Assessment identifies this site (GB_036) as having a ‘High’ impact on the Green Belt purposes and that it is within a Strategic Gap between Golborne and Newton Le Willows.
- 5.166. The site is not within the ‘Optimal Search Area’. It lies within Green Belt and has been classified as making a ‘high contribution’ to the Green Belt purposes. It is in operational use by National Highways and hence is not available and it has highways constraints such that it could not be developed for an MSA. The site is therefore not sequentially preferable to the Appeal site in terms of both meeting the identified need nor in Green Belt terms.

J7/8 of the M56 at Tatton

- 5.167. This site is not within the ‘Optimal Search Area’ and hence it does not lie within the gaps identified by National Highways in the 2010 Framework Document and hence would not meet these gaps. I understand that it is being promoted by an MSA operator but no planning application has been submitted.
- 5.168. The site lies within the Green Belt within the Cheshire East Local Plan and it is identified within the Council’s Green Belt Assessment as making a ‘significant’ contribution towards Green Belt purpose 3 which I equate to a “weak to moderate” contribution overall. The site is also constrained by both statutory and non-statutory designations, with a Local Wildlife Site within the site, and it is also in close proximity to RAMSAR, SSSIs, Sites of Biological Importance and a Registered Park and Gardens. The site is also within the Bollin Valley Local Landscape Designation (LLD) which has been reconfirmed recently.
- 5.169. This site lies outside of the ‘Optimal Search Area’ and lies within the Green Belt. It also lies outside of the gaps identified in the 2010 Highways England Framework Review and hence it does not meet the gaps identified by Highways England and hence does not address the need that the Appeal proposal meets. It is also further constrained by its location within the recently re-confirmed Bollin Valley Local Landscape Designation and its proximity to sensitive ecological designations. The site is

therefore not sequentially preferable to the Appeal site in terms of both meeting the identified need nor in Green Belt and landscape terms.

5.170. In light of the above I do not consider that any of the Objector alternative sites are preferable to the Appeal Site. I consider that the lack of alternative non-Green Belt sites for the MSA and my conclusion that the Appeal Site is the most suitable site within the Green Belt to meet the need is a significant material planning consideration in favour of the Appeal proposals. I attach **significant** weight to it.

5.171. The Officer Report to Committee Report in paragraph 8.242 considered the issue of alternative sites and concluded that *“the applicant places significant weight on the lack of alternative non green belt sites within the defined optimum search area. Having regard to DfT guidance as well as the Highways Agency’s identification of gaps on the network, the applicant’s alternative sites assessment is accepted as part of the applicant’s case for Very Special Circumstances in relation to the proposed location within the Green Belt”* [my emphasis].

The deliverability of the Appeal proposals and urgency of meeting the need

5.172. The provision of new MSAs is dependent entirely upon private sector funding. The Appellant is the Extra MSA Group (Extra) who are a leading developer, investor, and experienced operator of high-quality MSA properties across the SRN. Since deregulation of MSAs in 1992, Extra has directly or indirectly successfully delivered ten MSAs. Extra is committed to the early delivery of the Appeal proposals. The Council’s evaluation of the Appeal application demonstrated that there are no barriers to the implementation of the Appeal proposals if planning permission is granted.

5.173. HS2 Ltd has now withdrawn its procedural objection as a result of my close working with HS2 Ltd on behalf of the Appellant. A full Statement of Common Ground with HS2 has been produced which confirms that three planning conditions will overcome HS2 Ltd.’s previous concerns.

- 5.174. A high-pressure gas main runs through the Appeal Site which is classified by the HSE as a “*major accident hazard pipeline*” and which has easements to restrict sensitive uses. In response the Appellant has established a series of ‘*parameters*’ to control the disposition of uses within the Appeal Site to comply with the HSE guidance. HSE have been consulted and they have confirmed that they ‘*do not advise against*’ the Appeal proposals on that basis.
- 5.175. The responses of the statutory consultees for the Appeal application demonstrate that all environmental and technical matters can be addressed through planning condition and / or Section 106 Agreement and hence I conclude that the Appeal proposals are fully deliverable if planning permission is granted.
- 5.176. Since the Appeal proposals are fully deliverable and are promoted by an experienced MSA developer then I consider that they can meet the urgent need for new MSA provision and I attach **significant** weight to this deliverability.

The need for lorry parking

- 5.177. Mr Jones’s evidence confirms that the Appeal proposals include parking provision based on the calculation set out in Circular 02/2013 and this has been agreed by National Highways in the SoCG. In terms of lorry parking, this equates to 82 spaces but the Appeal proposals are for 105 lorry parking spaces (23 great than that required by the Circular).
- 5.178. The National Highways SoCG sets out the agreed position between Mr Jones and National Highways. Within that SoCG, both parties cite the DfT Road Haulage Update (May 2018) and the National Survey of Lorry Parking (2017). Both parties agree that “*lorry parking at existing MSAs are all above critical levels*” and National Highways confirm that they are “*supportive of the proposed provision of up to 105 no. HGV parking spaces at Warrington Services (the Appeal scheme) to increase the availability of appropriate HGV parking on the SRN in the North West region*”.
- 5.179. Paragraph 109 of the NPPF (21) requires that planning decisions “*should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any*

local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance". Mr Jones refers to a letter from Baroness Vere (CD3.1.3(II)) and a Written Statement from Rt Hon Grant Shapps MP (CD3.1.3(b)) which he notes reaffirms the urgency of the situation. Mr Jones confirms that MSA operators are experiencing and responding to unprecedented demand for lorry parking facilities and therefore he confirms that in his opinion *"it is both reasonable and justified for the Appellant to propose HGV parking supply in exceedance of the minimum level returned by the Circular"*.

- 5.180. The Council's approach to these additional lorry parking spaces is set out in paragraphs 8.250 – 8.255 of the Officer Report to Committee which confirms *"in light of the above assessment it is considered that some weight can be afforded to the potential to provide the 23 spaces of additional lorry parking at the site above the requirement set out in circular 02/2013 to meet future needs. However as the application is an outline application the requirement for this would need to be justified as part of any future reserved matters application"*.
- 5.181. I consider that positive weight should be attached to the additional lorry parking for the reasons set out by Mr Jones and supported by the Officer Report to Committee. I consider that the need for additional lorry parking is high on the Government's agenda and hence I ascribe **moderate** weight to the potential for this additional lorry parking.
- 5.182. The Appeal application is controlled by *'parameters plans'* and an area is identified for the full lorry parking provision. This area is *'contained'* by the circulatory internal road systems which itself is *'contained'* by the Silver Lane brook diversion and the creation of the *'peatland type'* habitat and the addition tree planting. I consider therefore that the additional 23 lorry parking spaces do not have a material impact on the *'openness'* or *'purposes'* of Green Belt above that created by the Appeal proposals themselves. In my view if the additional 23 lorry parking spaces were not to come forward alongside the initial MSA development then the area that would have been accommodated by them will still be *'contained'* as I describe above and rather than

being additional lorry parking, it could become a grassed amenity area, reserved for any future lorry parking demand.

Conclusions on the policy, need and public safety

- 5.183. I have shown that the positive policy context for provision of MSAs should be ascribed **significant** weight. I have also shown that the opportunity afforded by the Appeal proposals to meet the actual MSA need in the North West should be ascribed **very significant** weight due to its highway safety benefits. The lack of alternative sites to meet the need for an MSA along with evidence that the Appeal Site is the most suitable site to meet the need should be afforded **significant** weight. The Appeal proposals are fully deliverable and are promoted by an experienced MSA developer with a strong track record in delivering and operating MSAs to which **significant** weight should be afforded. The ability of the Appeal proposals to meet additional lorry parking (above the Circular guidance requirement) should be afforded **moderate** weight.
- 5.184. I consider that my view aligns with that of the Secretary of State in respect of the MSA at Beaconsfield for the reasons that I set out in my paragraph 5.123 - 126.
- 5.185. I have also shown that the Warrington Core Strategy does not have specific policies relating to the provision of MSA but that the Appeal proposals fully accord with the provisions of the NPPF (21) and Circular 02/2013.

Consideration 2 – The employment created by the Appeal proposals

- 5.186. The NPPF (21) supports the need to build a strong, competitive economy which is central to the economic objective of sustainable development (NPPF 21, Paragraph 8 a), and thus central to the purpose of the planning system. Paragraph 81 explicitly requires “*significant weight*” to be placed on the need to support economic growth and productivity and the need to recognise and address the specific and locational requirements of different sectors is confirmed in paragraph 83. The NPPF objective to build a strong, competitive economy aligns with the adopted Core Strategy,

through its objectives (WI), policy CS1, and the vision and objectives (E1, E2 and T3, I3) set out within Chapter 8 Creating Prosperity and Vibrancy and Policy PV3.

- 5.187. Mr Jones and I have set out the importance that a well-functioning SRN plays in enabling and sustaining economic growth, prosperity and productivity.
- 5.188. The economic benefits arising from the Appeal proposals are wider than this as set out in the Appellant's Environmental Statement Part 2 Socio-Economic Technical Paper, including Economic Impact Assessment and Employability and Social Impact Strategy (CDI.1.40). The Appendix I - Economic Impact Assessment of the Socio Economic Technical Paper determines that the Appeal proposals will result directly in 970 gross person years of construction employment which equates to 97 FTE (Full Time Equivalent) gross jobs. Further jobs will also be created during the construction phase due to supply chain expenditure and workers on the development spending money in local shops and facilities. This is estimated to amount to an additional 32 FTE gross jobs (320 job years) across the impact area, just under half of which would be expected to be delivered at the Warrington level. The total net additional jobs at the Warrington level are estimated to equate to 57 FTE's with the total for the whole impact area (Salford, St Helens, Warrington and Wigan) estimated to be the equivalent of 68 FTE's (net).
- 5.189. Appendix I of the Appellant's ES Socio-Economic Technical Paper confirms that approx. 228 gross FTE operational jobs could be created on-site. This has been estimated on the basis of HCA guidance but also reflects the scale of jobs provided at the other Extra MSA Group facilities. These direct jobs will be provided along with further new employment opportunities in the local economy due to additional economic activity being generated off-site. This is anticipated to support an additional 45 FTE's at the Warrington level, and 75 across the wider impact area (Salford, St Helens, Warrington and Wigan). The ES Socio Economic Technical Paper reflects on patterns of part time working based on existing ratios of part time and full time employment and concludes that the Appeal proposal could provide opportunities for around 300 employees.

- 5.190. The ES Socio Economic Technical Report sets out the levels of unemployment in the area, noting the comparatively higher claimant rates within wards near to the Appeal Site (CD1.1.40). The responses to the Appeal application from Warrington Chamber of Commerce highlight the impact of the Covid pandemic on jobs losses, citing job losses in the retail sector and they therefore welcome the Appeal proposals. This supports the importance of the provision of additional employment locally.
- 5.191. I consider that the employment benefits of the Appeal proposals are a significant material planning consideration in favour of the Appeal proposals and I attach **moderate** weight to this element of the overall economic benefits. I therefore consider that the Appeal proposals accord with the economic imperative referred to in the NPPF (21) to support economic growth and prosperity and Core Strategy objectives, vision and policies CSI and PV3, by creating employment opportunities which will support the reduction of unemployment.

Consideration 3 – Investment in the local economy through the Appeal proposals

- 5.192. The Appeal proposals will also deliver significant inward investment of approximately £75 million capital investment into the economy as a direct result of the construction of the MSA. The ES Technical Paper Economic Impact Assessment (CD1.1.40) estimates that the investment could generate a net additional GVA of £24.6 million in Warrington and £28.4 million across the wider catchment area. In addition, once the Appeal proposals have been fully occupied, it estimates that the economic impact of the Appeal proposal will be around £8.47 million per annum (Net additional GVA). In addition, the Appeal proposals will lead to an increase in business rates within Warrington, estimated to be approximately £1.05 million per annum.
- 5.193. In addition, the Appeal proposals will act as a 'Gateway' to Birchwood and Warrington, which will help to support business and investment into the area, which is evidenced to contain neighbourhoods which are experiencing sustained levels of deprivation and relatively high levels of unemployment (ES Socio Economic Technical Paper). Warrington Chamber of Commerce letter highlights the '*significant job losses in retail through the likes of Debenhams and the Arcadia Group*' and considers that the location

of the Appeal proposals will regenerate ‘*a neglected part of Warrington and complement the services available at Birchwood Park*’. In a subsequent letter they highlight the significant rise in claimants (Warrington Chamber of Commerce responses to the Planning Application 19 March 2021 and 24 May 2021). I consider that the benefits from the investment resulting from the Appeal proposals are a significant material planning consideration in favour of the proposals and I attach **moderate** weight to them individually.

- 5.194. I therefore consider that the Appeal proposals accord with the economic imperative referred to in the NPPF (21) and Core Strategy policies CS1 and PV3.

Consideration 4 - Social / training and skills benefits of Appeal proposals

- 5.195. The Appellant’s Employment Strategy Overview contained within Appendix 6.4 the ES Part 2 Socio-Economic Technical Paper and the Technical Paper itself shows that the construction phase could provide the opportunity for 4 no. construction related professional apprenticeships and 8 no. construction related apprenticeships, and the operational phase could provide 4-5 hospitality apprentices. This provision will be within an area that currently has been demonstrated within the ES Technical Paper to have a below average number of apprenticeship qualifications in comparison to the wider borough. The mechanisms for supporting the delivery of the apprenticeship scheme are set out within the Employment and Training Charter (Appendix 6.3 of the ES Socio Economic Technical Paper). This Charter has been developed through discussions with Warrington Borough Council and Warrington & Co, and responds positively to their comments on the Appeal application.
- 5.196. The ES Socio Economic Technical Paper, including Economic Impact Assessment demonstrates that within the impact area, the wards of Poplars and Hulme, Poulton North, Caddishead and Birchwood which are located in close proximity to the Appeal Site, comprise some of the most deprived neighbourhoods within England. This is the case for the income, employment and training and skills domains, as well as the overall Indices of Deprivation.

- 5.197. The employment opportunities, and training and apprenticeship opportunities delivered as a result of the construction phase of the Appeal proposal are within easy access of these neighbourhoods, and the wider impact area. Thus the Appeal proposal will support the ambitions of the Council as expressed within the Core Strategy Objectives, Chapter 8 and Policy PV 3.
- 5.198. The Employment Strategy overview and Employment and Training Charter (CI.1.40), sets out how the Appellant will seek to maximise the job opportunities that will be targeted at the unemployed, underemployed and hard to reach residents of the local community. The Appellant has reached agreement with Warrington and Co. in relation to raising the awareness of future opportunities and the methods through which local people can best be engaged, particularly those in areas suffering from deprivation and higher levels of unemployed. This is expressed within the Employment and Training Charter.
- 5.199. I consider that the training, skills and job benefits of the Appeal proposals are a significant material planning consideration in favour of the Appeal proposals and hence I ascribe **moderate** weight to them.
- 5.200. The Officer Report to Committee did not disaggregate the economic benefits as I have done above but rather considered them as a whole (paras 8.243 – 8.249). The Officer Report noted that *“Officers recognise the economic benefits associated with both investment and turnover of the proposed MSA, job creation and economic benefits arising from the efficient running of the motorway. The economic benefits are welcomed by Warrington Chamber of commerce. Local Employment Agreements for construction phase and operational / end users would be required to be entered into as part of the planning obligations within the S106 Agreement to maximise local employment opportunities associated with the development. It is considered that significant weight should be afforded to the economic benefits of the proposed development”*.
- 5.201. I consider that the Council’s approach to classifying the economic benefits of the Appeal proposal as *“significant”* is similar to my approach of classifying each of the three separate economic benefits as *“moderate”* which in my view would cumulatively

equate to the Council's classification of "significant". Taken together, I consider that the socio-economic benefits of the Appeal proposals should be afforded **significant** weight in the planning balance.

5.202. I am aware that the Rule 6 Party highlights Appeal reference APP/F4410/W/18/3197290 (CD4.4), in which the Secretary of State attributed 'very limited weight' to the economic benefits of the scheme that was before him in that case. I consider that this conclusion relates primarily to the lack of need for an MSA (paragraph 233), and the specific considerations to the Doncaster Plan policies relative to the location of employment (CD4.4 paragraph 234). I consider that the approach I have taken is consistent with decisions on other MSA proposals. The Secretary of States conclusions in the Doncaster appeal are not applicable in every case, and in the vast majority of the decisions that I cite below both Inspectors and the Secretary of State have attached considerable weight to economic benefits and investment.

5.203. The report to the Secretary of State for Communities and Local Government and the subsequent decision of the Secretary of State in relation to Appeal References: APP/E2734/A/09/2102196; APP/G2713/V/09/2108815; APP/E2734/V/10/2133571; APP/E2734/V/10/2133577; and APP/G2713/V/10/2133567 (CD4.6) made reference to the Ministerial Statement of 23rd March 2011 (CD3.1.3(c)) which stated that significant weight would be attached to the need to secure economic growth and employment. Paragraph 4.17.2 of the Report to the Secretary of State further stated "*MSAs by their very nature will secure economic growth at a strategic level for all SRN users; and the facilities provide for local employment opportunities*". Paragraph 41 of the decision of the Secretary of State with respect to the above appeals states "*the fact that work could start straight away – itself generating jobs and economic activity – weighs heavily in its favour*". The benefit of one off investment was also recognised within the appeal decision for APP E2734/W/20/325778 and APP/E2734/W/20/3261729 (2021) in which the Inspector determined "*the one off inward investment is a factor to be considered in the overall planning balance*". Appeal reference APP/X0415/W/21/327217 also recognised the economic benefits arising from the delivery of an MSA, considering

that economic benefits of an MSA go beyond jobs, noting the importance of Circular 02/3013 '*operating an effective and efficient strategic road network makes a significant contribution to the delivery of sustainable economic growth*' and whilst considering that meeting the need for an MSA was the most important benefit the Inspector concluded that '*it would provide investment and jobs, and achieve social and environmental benefits, though the provision of community land. These economic, social and environmental benefits taken together are substantial*".

5.204. I therefore consider that the Appeal proposals accord with the economic imperative referred to in the NPPF (21) and Core Strategy policies CS1 and PV3.

Consideration 5 - Effect of Appeal proposals in traffic and transport terms on the safety and convenience of users on the highway network

5.205. Mr Jones's evidence demonstrates that a full and comprehensive assessment of traffic impacts has been undertaken and that following detailed engagement with the Council's Highways Officers and those of National Highways, both bodies have no objections to the Appeal proposals subject to the imposition of conditions and planning obligations in a Section 106 Agreement. Mr Jones has agreed a Statement of Common Ground with each body and also agreed conditions and Section 106 obligations with the Council.

5.206. Mr Jones's evidence demonstrates the nature of the Appeal proposals' access arrangements; the process of assessment of the Appeal proposals and the outcomes of that assessment; the nature of the traffic impacts; and the mitigation proposals on the SRN. Mr Jones confirms that the Appeal proposals deliver motorway junction capacity improvements to mitigate traffic increases; pedestrian crossing improvements through the motorway junction; offsite footpath improvements to the north and south of the junction; and on-site public footpath improvements along with a Travel Plan approach to encourage non car modes.

5.207. The Officer Report to Committee confirms that the Council and National Highways accept the suitability of highway improvement / mitigation scheme (para 8.84) and

have no objection to it. The Officer Report confirms that the Council support the public right of way, pedestrian and cycle assessments and improvements to be secured via Section 106 (para 8.85). Further, it confirms that the Council support the Travel Plan approach funded via a Section 106 contribution (para 8.87) and that they accept that the pedestrian crossing improvements to the motorway junction are a “*specific improvement to amenity and safety*” (para 8.89). It also confirms that the Council conclude compliance with Policies MPI and QE6 and that the Section 106 improvements will “*deliver substantial improvements that will benefit connectivity across the wider area and for local users of the public footpath network*” (para 8.91).

5.208. Mr Jones considers that the works to be undertaken to Junction 11 of the M62 to accommodate the traffic generated by the Appeal proposals provide appropriate mitigation of the impact of the Appeal proposals and hence I consider these to be **neutral** in the planning balance.

5.209. Mr Jones further considers that the pedestrian enhancements through Junction 11 of the M62 and the footpath enhancements both through the Appeal Site and to the north and south of the Appeal Site are important considerations in improving the Appeal Site’s connectivity. Mr Jones confirms that the Appeal proposals will provide controlled pedestrian and cycle crossings through the signalisation of J11 and the extension of the existing footway to provide a footway and cycle connection from the Appeal Site to the existing walking and cycling network both to the north and south of the M62. The footpath running through the Appeal Site will be improved through an on-site diversion thus creating a more direct link from Silver Lane to the footpaths to the north of the Appeal Site with a high-quality path removing the current steps at the south west corner of the Appeal Site. In addition, the Appeal scheme will provide improvements to the Public rights of Way (PROW) network to the north of the M62 connecting the site to Culcheth and to existing pedestrian links along Silver Lane south of M62 and/or links that run adjacent to Birchwood Way to the south of the M62. These improvements in combination will strengthen the strategic green link, which connects Culcheth, Birchwood and Pestfurlong Hill.

- 5.210. Mr Jones considers that this will be an accessibility benefit for not only staff working at the Appeal proposals but also for other pedestrians and cyclists who may use the network especially if they work at Birchwood or may wish to use the former Risley Landfill site for recreational purposes. Currently the M62 is a major barrier for vulnerable road users (pedestrians and cyclists) and the introduction of traffic lights at the junction along with the significant package of pedestrian improvements that Mr Jones describes overcomes this barrier and also links the Appeal Site to a wider area both to the north and south. Mr Jones considers that this comprehensive package of pedestrian and cycling improvement measures provide significant safety and convenience benefits for the pedestrians and cyclist (not just staff working at the Appeal proposals) and hence I ascribe **significant** weight to these.
- 5.211. I therefore consider that the Appeal proposals are in accordance with the policy approach set out in Section 9 of NPPF (21) and Core Strategy policies CS4, MPI, MP3, MP4, MP7, MPI0 and QE6.

Consideration 6 - Recreational and Health benefits of Appeal proposals

- 5.212. The Appellant's Environmental Statement Part 2 Socio-Economic Technical Paper (CD1.1.40) evaluates the 'health and wellbeing' data for Warrington (paragraphs 5.79 – 5.85) and confirms that "*the residents in a number of wards within the Study Area have marginally poorer health than the national average especially those classed as being in 'bad' and 'very bad' health*"; and that there are "*significant areas of deprivation associated with health and disability within the Study Area*". It confirms that the Appeal proposals will deliver a number of recreation and health benefits through the improvements that I describe above. Paragraphs 7.65 – 7.76 of the ES Part 2 Socio-Economic Technical Paper confirms that "*Whilst this provision alone will not reduce health issues, they will assist in encouraging more people to become active within the local area, use sustainable transport modes and subsequently improve environmental, social and health wellbeing. This could have associated health and wellbeing benefits and improve health deprivation for the Study Area, in particular those communities which suffer from health problems i.e. Birchwood, Poplars and Hulme, Poulton north and Cadishead*".

- 5.213. As well as direct health benefits, the Appeal proposals will deliver new Green Infrastructure and enhance the existing Public Right of Way that passes through the Appeal Site which will deliver recreation benefits.
- 5.214. The Officer Report to Committee assessed the health and recreation benefits of the Appeal proposal (paras 8.256 – 8.261) and concluded that *“the improvements stated above will result in health and recreational benefits as a result of the proposed development and are considered to be a benefit of the scheme having regard to policies SN7, QE3, QE7 and MP3 of the LPCS”*. In paragraph 8.275 of the Officer Report to Committee the Council confirm that *“Public Right of Way improvements to Sliver Lane and the footpaths to the north and south of the application site are considered to be a positive and significant benefit and offer improvements to wider connectivity of the area with associated recreational and health benefits that should be given significant weight”*.
- 5.215. I have already ascribed significant weight to the safety and convenience benefits for the pedestrians and cyclist of the comprehensive package of pedestrian and cycling improvement measures but in addition I also consider that the recreation and health benefits of this package of improvements are a significant material planning consideration in favour of the proposals and I attach **moderate** weight to them.
- 5.216. I therefore consider that the Appeal proposals accord with the policy approach set out in Section 8 of NPPF (21) and Core Strategy policies SN7, QE3, QE7 and MP3.

Consideration 7 – Effect of the Appeal proposals on ecology and bio-diversity

- 5.217. Mr Baxter has produced evidence on behalf of the Appellant on ecology and biodiversity matters. He has analysed the Appellant’s Environmental Assessment Technical Paper (CD1.1.39) and he has concluded that it has correctly applied relevant guidance, followed an appropriate methodology and that the assessment carried out is accurate. He considers that no significant residual effects remain following mitigation and hence the Appeal proposals are compliant with both national and local policy.

- 5.218. Mr Baxter has undertaken a biodiversity net gain assessment and concluded that a fully policy compliant biodiversity net gain is provided for all habitat types. He has concluded that the Appeal proposals will fully safeguard on-site biodiversity through the use of appropriate mitigation and compensation measures. He further concludes that a significant opportunity is available to re-create a very high distinctiveness, high value habitat type in the form of the 'lowland raised bog'-like habitat which will result in a significant net gain for biodiversity. He has explained the importance of the delivery of the 'lowland raised bog' like habitat that is proposed as part of the Appeal proposals and he has demonstrated that creation of such a habitat is a clear conservation priority which represents a significant benefit of the Appeal proposal.
- 5.219. Detailed conditions have been agreed with the Council to minimise and mitigate the impact of the Appeal proposals on ecology and biodiversity. The Officer Report to Committee confirmed that having regard to advice of GMEU and EA, the Appeal proposals comply with Policy QE3 and QE5 in respect of biodiversity and ecology (para 8.167). Mr Baxter agrees with this and I also agree. In light of Mr Baxter's conclusions that the 'lowland raised bog'-like habitat is a clear conservation priority which represents a significant benefit of the Appeal proposal I ascribe **moderate** weight to this in the planning balance.

Consideration 8 - The need for Alternative Fuels on the Strategic Road Network

- 5.220. The Appellant's approach to reducing the impact of the Appeal proposals on climate change through facilitating the shift away from diesel and petrol powered vehicles was set out in a letter from my Company dated 8th Jan 2021 (CD1.2.10(c)). It set out the Government's policy approach, the nature of the Appellant's Electric Vehicle charging facilities proposals (including its relationship with IONITY) and its future proofing strategy towards Hydrogen Vehicles. The Appellant is advised on these matters by Arup who are specialists in this area and I attach as Appendix DR06 a Summary Note from them.
- 5.221. The Arup Summary Note confirms that the Department for Transport announced in November 2020 that sales of new petrol and diesel cars would end by 2030. They

highlight the importance of “a network of rapid charging points (in particular along the strategic road network)” and to meet this objective they highlight that “the provision of appropriate charging facilities is therefore not only required to support the long-term aspirations to change the UK vehicle fleet to zero emission vehicles but also to support the safety and needs of travellers using the Motorway network today”.

5.222. The Arup Summary Note sets out the position of National Highways in their Net Zero Highways Strategy (July 2021) and confirms that their priority is to help roll out solutions to decarbonize HGVs and support the uptake of electric cars and vans. Arup confirm that Circular 02/2013 (paragraph B36) highlights the importance of roadside facilities in providing refuelling facilities for low emission vehicles and they further show that the need for this provision has increased substantially since 2013 (when the Circular was published). The Arup Summary Note confirms that Highways England made a commitment in the Roads Investment Strategy 1 (RIS 1) to ensure that “95% of the Strategic Road Network (SRN) will have a charging point every 20 miles”. They further confirm that this is required to address concerns over provision and ‘range anxiety’ for EV charging and that Government has established a Rapid Charging Fund to support this approach which indicates that on-route charging on motorways is a policy priority for the UK Government in delivering Net Zero. Arup also confirm that Warrington Borough Council’s response to the climate emergency includes a Green Energy Strategy which identifies electric vehicles as a key technology to facilitate a reduction in carbon emissions.

5.223. Arup also address the hydrogen fuel agenda and confirm that the principle use of hydrogen is expected to be for heavy vehicles such as buses and good vehicles, recognising the challenges of other low emission fuels for HGVs. Arup confirm that ITM power currently operate small hydrogen refuelling facilities on behalf of Shell at two of the Appellant’s MSA locations and that ITM have developed a prototype hydrogen refuelling station which can produce hydrogen fuel on site for refuelling vehicles.

- 5.224. Both the National England and the Warrington Transport Statements of Common Ground confirm their agreement with the need for additional EV charging capacity in the North West.
- 5.225. The Arup Summary Note confirms that the Appeal proposals will fit with the Government's RIS 1 policy to provide EV charging opportunities at 20 mile intervals along the SRN, with MSAs playing a key role in the availability of charging points alongside their road user safety and welfare role. Arup confirm that *"the proposed site is located 19 miles from Charnock Richard services, 15 miles from Knutsford services and 16 miles from Birch services. It will provide an additional EV charging facility along the existing gaps between Charnock Richard and Birch services and between Knutsford and Birch services"*.
- 5.226. The Appeal proposals include the potential for provision of hydrogen fuel if there is sufficient demand which Arup note is similar to the existing hydrogen fuel provision at the Appellant's M25 Cobham and M40 Beaconsfield service areas. Arup confirm that this could help to introduce hydrogen fuel for HGVs in Warrington Borough, accelerating the opportunity to adopt hydrogen fuel for goods traffic originating or arriving in Warrington.
- 5.227. I consider that the Appeal proposals will help EV roll out and address 'range anxiety' and could also accelerate hydrogen roll out. The Appeal proposals will therefore become part of a fully functioning network of alternative fuel filling stations on the SRN to address the Government's de-carbonising transport agenda.
- 5.228. In light of the above, I ascribe **significant** weight to the benefits of the Appeal proposals in meeting the need for alternative fuels on the SRN and I consider that the Appeal proposals accord with the policy approach set out in Sections 9 and 14 of the NPPF (21) and Core Strategy policy CS4.

Consideration 9 – Public Art

- 5.229. The Warrington Design and Construction SPD (October 2010 / Amended February 2016) (CD3.2.2(h)) sets out in paragraph 12.27 that *"Planning agreements or Section*

106 Agreements and Unilateral Undertakings can stipulate provision for public art as a means to mitigate the impact of a development”.

- 5.230. I was involved in discussions with both the Council Planning Officer and Members of the Birchwood Forum which resulted in an agreement to financially support the restoration of the Encounter Statue which is located within the southern arm of Junction 11 of the M62 with Birchwood Way as the public art contribution of the Appeal proposals. I was informed that the Encounter Statute was in a state of disrepair and that it needed works comprising painting, landscaping and reinstatement of the lighting of the Statue and that no other funding sources were available. The Appellant costed these works at £50,000 which is reflected in the draft Section 106 Agreement.
- 5.231. I understand from my discussions with the Birchwood Forum that the dilapidated Encounter Statue has a negative effect upon the perception of Birchwood Park which is a highly successful business location and also an Enterprise Zone. In my opinion, Birchwood Park has little visual presence from the motorway network and I understand that the Encounter Statute was originally built to provide this presence and to act as a way marker for the Birchwood Park business area. I agreed with Officers of the Council and Members of the Birchwood Forum therefore that rather than delivering an alternative element of public art on the Appeal Site it was better to refurbish the Encounter Statue to bring it back to being the attractive way marker that it was designed to be. I therefore consider that the refurbishment of the Encounter Statute has wider benefits for the Birchwood Park employment area beyond simply complying with the SPD Public Art requirements.
- 5.232. The Officer Report to Committee confirmed in paragraph 8.277 that *“the Public art contribution towards the refurbishment of the Encounter Statue at Junction 11 of the M62 is considered a benefit to the wider area and is afforded modest weight”*. In light of the above, I ascribe **limited** positive weight to the Public Art benefits of the Appeal proposals.

Conclusions on whether very special circumstances exist in favour of the Appeal proposals

5.233. The SoCG on General Matters confirms that the Appellant and Council are in agreement on the approach to assess whether ‘*very special circumstances*’ exist i.e. an assessment of harm to the Green Belt, followed by an assessment of non-Green Belt harm, followed by an assessment of ‘*other considerations*’ resulting in drawing an overall conclusion on whether the benefits put forward clearly and demonstrably outweigh the harm identified. I have followed this approach and set out my conclusions below.

5.234. I consider that there would be substantial harm to the Green Belt by way of ‘*inappropriateness*’. I also consider that there will be substantial harm to the ‘*openness*’ of the Green Belt but that this harm is localised to the Appeal Site itself and harm to the ‘*openness*’ of the Green Belt beyond the Appeal Site will be limited. I accept that there will be harm to ‘*purpose c)*’ of the Green Belt due to the development of new built form and vehicle parking areas in the countryside where there is currently no built form. I do not consider that there is harm to any of the other Green Belt ‘*purposes*’. I concur with the Council’s Local Plan Green Belt Assessments, that the Appeal Site has a “*weak*” overall contribution to the Green Belt. I therefore conclude that “*substantial*” weight should be attached to the harm to the Green Belt.

5.235. In respect of ‘*non-Green Belt harm*’, I have concluded the following:-

Issue	Harm / positive
Visual impact and landscape character	moderate (negative)
Loss of BMV Agricultural Land	limited / minor (negative)
Bio-diversity	moderate (positive)
Heritage	neutral
Noise	neutral
Air Quality	neutral
Waste / Energy / Climate Change	neutral
Carbon loss	neutral
Ground Conditions	neutral

Issue	Harm / positive
Surface Water Flooding	limited / minor (positive)
Drainage	neutral
Traffic impact	neutral
Residential amenity (noise, vibration and light)	neutral
Effect on Town Centres	neutral
Impact on HS2	neutral
Impact on High Pressure Gas main	neutral

5.236. In respect of ‘*other beneficial considerations*’ I have concluded the following:-

Issue	Weight
Policy Support	substantial / significant
Public Safety Need	very substantial / very significant
Lack of alternative sites	substantial / significant
Deliverability and urgency of meeting the need	substantial / significant
Lorry parking need	moderate
Employment	moderate
Investment in the local economy	moderate
Training and skills	moderate
Traffic and Transport – pedestrian and cycling benefits	substantial / significant
Recreation and health benefits	moderate
Ecology and bio-diversity benefits	moderate
Need for Alternative fuels	substantial / significant
Public Art	limited / minor

5.237. I have weighed all these elements together and I conclude that the ‘*other considerations*’ clearly and demonstrably outweigh the Green Belt and non-Green Belt harm. I

consider that the harm to Green Belt by reason of *'inappropriateness'* together with the substantial (but localised) harm to *'openness'* and one *'purpose'* of the Green Belt, along with the very limited *'other harm'* identified arising from the Appeal proposals would be *'clearly outweighed'* by the above identified benefits of the Appeal proposals. I consider that meeting the public safety need is a compelling consideration that attracts the highest form of weight (very substantial / very significant) in my calibration. When this is added to the other aspects that attract substantial / significant weight and also those with lesser weighting (moderate and limited / minor), these matters when taken together constitute *'very special circumstances'*. I do not consider this to be a marginal or finely balanced matter, in my view the *'other considerations'* very clearly and significantly outweigh the harms.

5.238. I therefore consider that there are *'very special circumstances'* in favour of the Appeal proposals that clearly outweigh any harm to the Green Belt, and any other harm, in accordance with paragraph 148 of the NPPF (21). As this is the case I conclude that the Appeal proposals also accord with policy CS5 of the Core Strategy.

5.239. I note that the Officer Report to Committee concluded (para 8.278) that *"officers are satisfied that the benefits put forward clearly and demonstrably outweigh the harm identified and as such it is considered that the case for very special circumstances has been demonstrated"*. Para 9.1 indicates that the *'very special circumstances'* are *"compelling"*. I understand following the Council's resolution of 3rd February 2022 that this position has been endorsed by the Council's Development Management Committee.

Consideration of mitigation by planning conditions and obligations

5.240. The Appellant and Council have agreed draft planning conditions as part of the consideration of the Appeal application and an agreed schedule is included in the General Statement of Common Ground. I have assessed in my evidence why specific conditions are required and how they are appropriate in mitigating any adverse effects and enhancing the quality of the Appeal proposals. I consider that all the draft conditions meet the requirements set out in paragraph 55 of the NPPF (21).

5.241. In respect of the Section 106 Agreement, I understand that the Appellant's Legal Advisor and Council's Legal Officers have agreed the terms of a final draft Section 106 Agreement. The main obligations of the draft Section 106 Agreement are as follows:-

- A Pedestrian and Cycle Link Contribution of £481,562 to fund the following improvement works:
 - (a) Silver Lane link including new inclusive access between Silver Lane and Junction 11 of the M62 involving surfacing improvements, wayfinding and enhanced lighting.
 - (b) Links to Culcheth (PROW) including surfacing improvements and wayfinding.
 - (c) Gorse Covert Mounds Path including surfacing improvements, wayfinding, access barrier alterations and enhanced lighting; and
 - (d) Pestfurlong Hill link including new path/bridge to connect the existing path with Junction 11 of the M62.
- A Public Art Contribution of £50,000 to be used towards the refurbishment of the Encounter Statue at Junction 11 of the M62.
- A Travel Plan Co-ordinator Contribution of £38,000 to cover costs associated with the Council's Smarter Choices Manager to act as Travel Plan Co-ordinator for the Appeal proposal for a minimum of five years.
- A Travel Plan Measures Contribution of £50,000 towards measures to implement a Travel Plan for the Appeal proposal.
- Travel Plan Publicity Contribution of £3,000 to be used to fund the design, printing and delivery of a leaflet and bespoke website to encourage the implementation of Travel Plan Measures in relation to the Appeal proposal and liaison with local taxi and bus operations.

- Obligations requiring the Appellant to work closely with Warrington & Co (the investment and regeneration agency of the Council) to develop an employment and training scheme to promote employment opportunities for local people during the construction of the MSA and requiring the Appellant to work with Warrington & Co to promote employment and training opportunities after the MSA has become operational. Warrington & Co would be provided with details of all opportunities for local people such as, job vacancies, apprenticeship opportunities, work placements etc. in a timely manner so that these can be promoted locally and Warrington & Co would receive on a monthly basis, details of the recruitment and retention of Local People as employees and the training in place for apprentices and the existing workforce by reference to national industry standards

5.242. I consider that the planning obligations contained within the final draft Section 106 are appropriate and lawful when assessed against the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010, in that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonable related in scale and kind to the development.

Consideration of whether the Appeal proposals comply with the Development Plan.

5.243. As confirmed in the SoCG on General Matters, the Council no longer rely upon their reason for refusal and hence no longer consider that Core Strategy policy CS5 (Green Belt) is breached. I have set out earlier in my evidence how I consider the Appeal proposals comply with specific Core Strategy policies and the table below summarises my conclusions:

Most Relevant Policies	Appeal proposals compliance with Core strategy policies
Policy CS1 Overall Spatial Strategy – Delivering Sustainable Development	Fully Comply

Most Relevant Policies	Appeal proposals compliance with Core strategy policies
Policy CS 2 Overall Spatial Strategy – Quantity and Distribution of Development	Fully Comply
Policy CS 4 Overall Spatial Strategy – Transport	Fully Comply
Policy CS 5 Overall Spatial Strategy – Green Belt	Fully Comply
Policy CS6 Overall Spatial Strategy – Strategic Green Links	Fully Comply
Policy PV 1 Development in Existing Employment Areas	Fully Comply
Policy PV 3 Strengthening the Borough's Workforce	Fully Comply
Policy PV 4 Retail Development within the Town Centre and Primary Shopping Area	Fully Comply
Policy PV 5 Enhancing the Town Centre Economy	Fully Comply
Policy SN 4 Hierarchy of Centres	Fully Comply
Policy SN 5 New Retail and Leisure Development Within Defined Centres	Fully Comply
Policy SN 7 Enhancing Health and Well-being	Fully Comply
Policy QE 1 Decentralised Energy Networks and Low Carbon Development	Fully Comply
Policy QE 3 Green Infrastructure	Fully Comply
Policy QE 4 Flood Risk	Fully Comply
Policy QE 5 Biodiversity and Geodiversity	Fully Comply
Policy QE 6 Environment and Amenity Protection	Fully Comply
Policy QE 7 Ensuring a High Quality Place	Fully Comply
Policy QE 8 Historic Environment	Fully Comply
Policy MP 1 General Transport Principles	Fully Comply
Policy MP 3 Active Travel	Fully Comply
Policy MP 4 Public Transport	Fully Comply
Policy MP 5 Freight Transport	Fully Comply
Policy MP 7 Transport Assessments and Travel Plans	Fully Comply
Policy CC 2 Protecting the Countryside	Partial compliance

5.244. I accept partial non-compliance with policy CC2 in relation to agricultural matters but I consider that it does not render the Appeal proposals as being contrary to the Core Strategy as a whole. In line with the High Court Judgement *Tiviot Way Investments Ltd v Secretary of State for Communities and Local Government, Stockton-on-Tees Borough Council* (CO/774/2015 EWHC 2489 (Admin)) dated 21st July 2015 (CD5.2), I consider that conflict with any individual policy in the Development Plan does not necessarily mean that a scheme proposal is not in accordance with the Development Plan “*as a whole*”. The Tiviot Judgement sets out in paragraph 30, the basis on which a decision maker may consider the issue, stating “*that is not just in relation to one policy but against the development plan as a whole*”. This is reconfirmed in paragraph 31 “*to determine whether a proposal is in accordance with the plan the decision maker needs to have regard to all of the relevant policies and not just one*”. I have noted earlier in my evidence that I consider the most important policies in the Core Strategy in the consideration of this Appeal relate to Green Belt and I have concluded compliance with them. I also consider that the Appeal proposals will deliver economic development in a sustainable location which is a principle tenet that underpins the Core Strategy. As I have shown that the Appeal proposals accord with the most important policies within the Core Strategy which relate to Green Belt and economic prosperity, I therefore consider that the Appeal proposals do comply with the Development Plan ‘*as a whole*’.

Whether there are other material considerations (including any raised by Third Party Objectors) to weigh in the planning balance

5.245. As I consider that the Appeal proposals comply with the Development Plan and therefore are in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 11 (c) presumption then I consider that the Appeal proposal should be granted permission unless there are any material considerations which indicate otherwise. I therefore consider below whether there are any other material considerations which would weigh against the Appeal proposal.

5.246. I have noted that the various Statements of Common Ground demonstrate a significant amount of agreement between the Appellant and the Council and also with National Highways and HS2. I have reviewed the objections submitted to the Appeal and I consider that I have addressed the majority of the matters raised by Third Party Objectors in my evidence. I address below any other matters raised by Third Party Objectors that are not covered within my main evidence.

Prematurity

5.247. I do not consider that the Appeal proposals are premature as the limited circumstances set out in paragraph 49 of NPPF (21) do not apply in this Appeal case. Paragraph 49 of the NPPF (21) indicates that two “*limited circumstances*” must “*both apply*” for an application to be considered premature. In relation to criterion a), I do not consider that granting permission for the Appeal proposals would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan. The Warrington Updated Proposed Submission Version Local Plan (2021-2038) (CD3.2.2(c)) does not contain any policies which seek to plan for the need for MSA within Warrington or to allocate a suitable site to meet that need. The Submission Version Local Plan does not therefore consider the issue to be “*central*” to the emerging plan. In relation to criterion b), the Warrington Submission Version Local Plan (2021-2038) is not at an “*advanced stage*” as it has not been submitted to Government. My Company has lodged objections to the Warrington Submission Version Local Plan (2021-2038) on behalf of the Appellant and these objections together with other objections will need to be considered through the local plan examination process as part of the tests of soundness. In light of the above I do not consider that the Appeal proposals meet the requirements set out in the NPPF (21) paragraph 49 where “*prematurity*” may justify a reason for refusal.

Precedent for further uses in this locality in the Green Belt.

5.248. The Appeal Site is currently Green Belt and hence any ‘*inappropriate*’ development proposed within it must be justified by ‘*very special circumstances*’. The Appellant does not own or control any additional land outside of the Appeal Site in this locality. The

Appeal proposals contain new Green Infrastructure (including the diverted Silver Lane brook) which provide a 'collar' around the proposed built form and vehicle parking. Access will be provided through the Appeal Site for HS2 (construction and operation) and not for any other uses. I consider therefore that the Appeal proposals do not create a precedent for further uses within this area of the Green Belt.

Design matters

- 5.249. The Appeal application is made in outline form and is controlled by a series of 'parameters'. It does not therefore seek the approval of a design solution at this stage but rather detailed design will be considered at reserved matters stage if this Appeal is allowed. The Appellant's Design and Access Statement (CD1.1.23) establishes the design rationale and key principles for the Appeal proposal and further Indicative Scheme Options were submitted (CD1.2.10(i)) in March 2021 to demonstrate alternative potential design solutions (within the same 'parameters'). Through reserved matters submissions, I consider that a contextual design solution can be achieved for the Appeal proposal and hence I do not consider that concerns over design warrant a reason for refusal at this outline stage.

Trespass and rubbish

- 5.250. The concerns of Third Party Objectors are not made clear and hence I am not aware whether these concerns relate to the current situation at the Appeal Site or the situation if the Appeal proposal is allowed. I can confirm that the Appeal proposal if allowed would include suitable management regimes to ensure that rubbish would be collected and managed to ensure the smooth operation of the MSA. Similarly the management regimes would ensure that any trespass or anti-social behaviour is addressed professionally and promptly within the Appeal scheme.

Impact on visitors to Risley Pools and Risley Restored Landfill

- 5.251. I have seen people park their cars at the current M62 Junction 11 'bell mouth' and walk into the restored Risley Landfill site or onto Footpath 13 which runs between it and the Appeal Site. The Appeal proposal will include the Facilities Building and vehicle car parking for the use by the travelling public who are already on the SRN. My Company confirmed the parking strategy as part of the Appeal Application

consideration (in a letter dated 8th January 2021 – CD1.2.10(c)). The letter confirmed “that all parking at an Extra Motorway Service Area is free for everyone for the first 3 hours”. People who currently utilise the current M62 Junction 11 ‘bell mouth’ will therefore be able to park safely for free for up to 3 hours at the Appeal Site. The Appeal proposals will therefore provide a safer parking option for any people who already come to the location, for whom the destination is not the MSA but the recreational walks.

Deficiency of Environmental Statement (not considering the cumulative impacts of HS2)

- 5.252. The General SoCG with the Council has confirmed the adequacy of the Environmental Statement (ES) submitted with the Appeal application. I do not accept that the ES was deficient at the time of determination of the Appeal application. The Appellant submitted an ES Addendum on 17th January 2022 (CD2.5) which directly addresses the concern raised by Third Party Objectors about the consideration of the cumulative impacts of HS2.

Zero Hours contracts

- 5.253. Whilst I do not consider this to be a relevant planning consideration, it was raised prior to the determination of the outline planning application and the Appellant confirmed by email dated 28th May 2021 (CD – 1.2.10(l)) to the Council’s Case Officer that “Extra MSA Group meet and exceed the national living wage in all of their current sites for the lowest tiered employees”.

Supportive comments

- 5.254. I also note that the Warrington Chamber of Commerce have submitted letters in support of the Appeal application, welcoming the jobs and investment for the town.
- 5.255. I do not consider that any of the matters raised above are material considerations which would weigh against the statutory presumption.
- 5.256. I consider that the Appeal proposals comprise “sustainable development” as they satisfy the economic, social and environmental objectives of the NPPF (21). I have set out the economic, social and environmental considerations earlier in my evidence and

hence I consider that the Appeal proposals fully satisfy the economic and social objectives of the NPPF (21). In relation to the environmental objective, whilst I accept that the Appeal proposals represent “*inappropriate*” development in the Green Belt and that they have some adverse impact on landscape character and agricultural land, I consider that the environmental benefits relating to ecology, bio-diversity, landscape / tree planting and flood / water quality mean that on balance I consider that the Appeal proposals would satisfy the environmental objective of “*sustainable development*” and hence overall they comprise “*sustainable development*” as they satisfy all three of the objectives of the NPPF (21).

5.257. Since the Appeal proposals comprise “*sustainable development*” and I conclude that there are no ‘*other material considerations*’ which weigh against the Appeal proposals, then I consider that there is a Section 38(6) presumption in their favour and they also benefit from support from the NPPF (21) paragraph 11(c) which confirms that planning decisions should apply a presumption in favour of sustainable development by “*approving development proposals that accord with an up-to-date development plan without delay*”. I therefore consider that the Appeal proposals should be granted planning permission in accord with Section 38(6) and paragraph 11(c) of the NPPF (21).

5.258. I also consider that if the Planning Inspector does not agree that the Appeal proposals comply with the Development Plan ‘*as a whole*’, then in my view, as set out in paragraph 12 of the NPPF (21), the significant benefits of the Appeal proposals are ‘*material considerations*’ in this particular case which outweigh the harm and any conflict with the Development Plan. As such these ‘*material considerations*’ would warrant a decision other than in accordance with the Development Plan and hence planning permission should still be granted for the Appeal proposals.

6. Conclusions

- 6.1. I have set out in my evidence the case for the Appellant with regard to the Appeal proposals. I have confirmed that the Appeal proposals were supported by consultees and the Case Officer in her recommendation to Development Management Committee following lengthy evaluation of the Appeal application and that this position has been endorsed by the Council on 3rd February 2022.
- 6.2. In respect of Green Belt, I have accepted that the Appeal proposals are “*inappropriate*” development and I have recognised that substantial negative weight should be given to this. I have recognised that the Appeal proposals have “*substantial*” harm to the ‘openness’ of the Green Belt and “*limited*” harm to purpose (c) of the Green Belt. I have also recognised that there are other negative (non-Green Belt) harms but that these are limited in nature and are generally of limited weight. These relate solely to landscape and agriculture matters. I have evaluated the positive considerations which in my view are very significant and weighty and I have concluded that compelling “*very special circumstances*” exist in support of the Appeal proposals as any harm to Green Belt and the other non-Green Belt harm arising from the Appeal proposals, would be clearly outweighed by other considerations. I do not consider this to be a marginal or finely balanced matter, in my view the ‘other considerations’ very clearly and significantly outweigh the harms. This accords with the conclusions of the detailed and comprehensive Officer Report that evaluated the Appeal proposals.
- 6.3. I have concluded that the Appeal proposals comply with the Development Plan as a whole and hence there is a Section 38(6) presumption in their favour. I have considered whether there are any “*other material considerations*” that may outweigh this plan led presumption and conclude that this is not the case and hence that the Section 38(6) presumption in favour of the Appeal proposals applies and that they also benefit from support from the NPPF (21) paragraph 11(c). I have considered whether the Appeal proposals comprise “*sustainable development*” and concluded that they do.

- 6.4. I have also assessed the situation if the Planning Inspector does not agree with my conclusions with regard to compliance with the Development Plan and I have concluded that even if it is found that they do not comply with the Development Plan, I consider that other '*material considerations*' outweigh this non-compliance and that planning permission should still be granted for the Appeal proposals.
- 6.5. I therefore respectfully request that the Appeal proposals be supported by the Planning Inspector and that planning permission be granted for them to allow the undoubted benefits of the Appeal proposals to be realized.

7. Appendices

Proof Reference	Appendix
DR01	Statement of Mr Malcolm Reeve on Agricultural Matters
DR02	Summary of Assessment on Flood risk, drainage and ground conditions (Wardell Armstrong).
DR03	Cumulative Noise and Air Quality Assessment of HS2 Ltd latest highways estimates
DR04	Summary of Assessment of Retail, Food and Drink and Hotel uses (including Hotel Provision Update) (Spawforths)
DR05	Comparative Assessment Report (Spawforths)
DR06	Summary of Assessment Note on the Need for Alternative Fuels (Arup)
