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16 October 2012

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 77 & 78

MOTORWAY SERVICE AREA (MSA) PROPOSALS ON THE A1(M) AT KIRBY HILL (appeal) and RIPON SERVICES, BALDERSBY GATE & MOTEL LEEMING (call-ins), along with TRUCKSTOP PROPOSAL AT FAIRFIELD FARM, LEEMING BAR (CONEYGARTH) (call-in)

1. I am directed by the Secretary of State to say that consideration has been given to the report of the principal Inspector, R R Lyon MA CEng MICE MRTPI FCIHT, who held a public local inquiry into the planning appeals and called-in planning application listed above on various dates between 2 November 2010 and 4 February 2011 and to the report of the second Inspector, David Richards BSocSci DipTP MRTPI, who held the

re-opened public local inquiry between 12 February and 2 March 2012. These inquiries were held to consider your clients' applications/appeals:

Case A (Kirby Hill): appeal by Heather Ive Associates against the decision of Harrogate Borough Council to refuse an outline application for a core twin-sided motorway service area at Kirby Hill comprising amenity building, petrol filling station, heavy goods vehicle amenity building, vehicle parking, landscaping and associated infrastructure with all matters reserved except for access from the A1(M), in accordance with application Ref 08/05860/EIAMAJ, dated 18 December 2008.

Case B (Motel Leeming Services): called-in outline application by Mr Carl Les to Hambleton District Council for a motorway service area at Motel Leeming Services comprising amenity buildings, lodge, manager's accommodation, petrol filling station, drive through restaurant, parking and turning areas and landscaping with all matters reserved except access, in accordance with application Ref 09/01202/OUT, dated 6 May 2009.

Case C (Ripon Services): called-in outline application by Jaytee (Rainton) LLP to Harrogate Borough Council for the erection of a motorway service area at the junction of the A1 and A61, comprising of an amenity building, hotel, filling station, sewage treatment plant, balancing pond, new access from the A61, parking, landscaping and associated works with all matters reserved except access, in accordance with application Ref 10/01982/EIAMAJ, dated 6 May 2009.

Case D (Baldersby Gate): called-in outline application by Refined Estates Limited to Harrogate Borough Council for the erection of a Junction Motorway Service Area comprising; amenity building, lodge, petrol filling station, parking including heavy goods vehicle parking, shower and toilet facilities, a police post, landscaping and associated infrastructure works in accordance with application Ref 10/02490/EIAMAJ, dated 7 June 2010.

Case E (Coneygarth Truck Stop): called-in application by Exelby Services Limited to Hambleton District Council for the development of land within the curtilage of Fairfield Farm to form a Truck Stop Service Area for the relocation of an existing service area from Londonderry to Leeming Bar, comprising: HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop including overnight and rest-stop parking and driver welfare facilities in accordance with application Ref 10/00624/FUL, dated 17 February 2010.

2. The Case A appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 on 5 May 2009 because it relates to proposals against which another Government department has raised objections or has a major interest. In pursuance of section 77 of the Town and Country Planning Act 1990, the Secretary of State directed that cases B, C, D and E be referred to him instead of being dealt with by the relevant planning authority because he considered that the proposals may conflict with national policies on important matters. The Direction relating to Case B was issued on 13 July 2009 and those for Cases C, D and E on 22 July 2010.

Inspectors' recommendations and summary of decisions

3. The principal Inspector (referred to in this letter as the first Inspector) recommended that the Case A appeal should be dismissed and planning permission refused, that the applications for Cases B and C should be refused and that planning permission should be granted for Cases D and E. The second Inspector did not disagree with these recommendations. However, for the reasons below, although the Secretary of State agrees with the Inspectors' conclusions and recommendations in respect of Cases A, C and E, he disagrees with their conclusions and recommendation in respect of Cases B and D, and proposes to grant planning consent for Cases B and E. Copies of both Inspectors' reports are enclosed. That of the first Inspector is referred to in this letter as "IR" and that of the second Inspector as "2IR". All references to paragraph numbers, unless otherwise stated, are to those reports.

Procedural matters

4. The application for costs made at the first Inquiry (IR1.1.1) and the two applications made at the second Inquiry (2IR1) are each the subject of separate decision letters which will be issued by the Secretary of State shortly.
5. The Secretary of State has noted the amendments to schemes as reported by the first Inspector at IR1.2.1 and is satisfied that, as these were all available at the first inquiry, no interests will be prejudiced by him basing his decisions on them. He has also noted the first Inspector's rulings as reported at IR1.3.1-1.3.5 and is satisfied that, as these were made during the first Inquiry, it is appropriate for him to take them into account. The Secretary of State has also noted that, for the reasons given by the first Inspector (IR1.5.3), the evidence of the first witness for the Highways Agency (HA) relating to site specific matters was not tested at the Inquiry, and he accepts the inevitability of that.

Environmental Statements

6. In reaching his decisions, the Secretary of State has taken into account the Environmental Statements (ESs) that were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the 1999 Regulations) in respect of all the proposals for which they were required. The Secretary of State agrees with the first Inspector that, with regard to Case C (IR14.4.47), the environmental information provided meets the necessary requirements; and he notes that EIAs were not required for Case B (IR1.4.4 and 14.6.4) and Case E (IR1.4.4).
7. With regard to Case A, the Secretary of State agrees with the first Inspector (IR14.3.9 and IR14.3.74) that the environmental information meets the necessary requirements and that the spread and presentation of information is within reasonable grounds. He has taken account of the first Inspector's comments about the voluntary Regulation 19 submission (IR14.3.4-14.3.7), including the fact that it contains, in particular, a preliminary groundwater risk assessment associated with proposed on-site Waste Water Treatment Works (WWTW). Hence, given that he agrees with the first Inspector's recommendation (IR14.3.85) that the alternative solution of an on-site WWTW would have virtually no prospect of being achieved and so should be

discarded, he has not seen any need to use his powers to remedy any deficiencies in the voluntary Regulation 19 submission before coming to a decision on the overall merits of Case A.

8. In the case of Case D, the first Inspector concluded (IR144.5.15) that the environmental assessment before him was defective with regard to its assessment of earthworks, and so did not meet the requirements of the regulations. The Secretary of State agreed, and therefore issued a letter on 8 November 2011 (2IR1.2.1) which, *inter alia*, gave notice to the applicant, in accordance with Regulation 19(1) of the 1999 Regulations, to undertake a full assessment of the earthworks required to accommodate the proposed scheme. This further information was discussed at the second Inquiry (2IR2.1.1-2.5.14) and, for the reasons given at 2IR2.6.1-2.6.35, the Secretary of State agrees with the second Inspector's conclusion at 2IR2.6.35 and 2IR9.1.1 that, while there may be increased impacts during the construction period due to a potential for the export of surplus cut material from the site, these would only be temporary and could be satisfactorily mitigated by means of an appropriate condition. The Secretary of State therefore agrees with both Inspectors (2IR2.6.35) that the proposal would result in moderate harm to the landscape character of the area, that the visual impact would be slight, and that both harms would lessen over time.

Other matters arising following the close of the first Inquiry

9. Although the main reason for reopening the Inquiry was because the first Inspector had concluded (IR14.5.11) that the ES for case D as it then stood was defective with regard to its assessment of earthworks, there were also other issues upon which the Secretary of State considered that he needed further information to be assured that there would be no impediments to securing appropriate access between the A1 and each of the sites. In particular, as set out in his letter of 8 November 2011, he asked that the reopened Inquiry should consider whether there would be any need to acquire additional land to secure any such access; whether there would be any need to divert any public rights of way and, if so, the prospects for achieving that; and whether any necessary departures under the Highways Act have been obtained from the Highways Agency (HA) to ensure that there would be no impediment in that respect to the implementation of any particular scheme. The second Inspector's findings on these matters are set out in 2IR.
10. The National Planning Policy Framework ('the Framework') was published after the close of the second Inquiry. It replaced a wide range of Planning Policy Statements to which reference had been made in written evidence and at the both Inquiries. The Planning Inspectorate therefore consulted the main parties on the implications of this for their respective cases as presented at the second Inquiry and their responses are reflected in 2IR. The Planning Inspectorate also made it clear that any comments on the Framework in relation to issues covered at the first Inquiry should be sent direct to the Secretary of State.
11. All correspondence received by the Secretary of State following the close of the first inquiry, and which has not been considered by either Inspector, is listed at Annex A to this letter; and copies may be obtained on written request to the address at the foot of the first page above. Copies of this correspondence (with the exception of a letter dated 12 October 2012 from Savills) were circulated to the other parties to these

cases, and the Secretary of State has carefully considered all of the representations received in determining them. He is satisfied that the issues raised had either already been considered by one or both of the Inspectors, or else that ample opportunity has been provided during the period after the close of the second inquiry for other interested parties to respond. He is also satisfied that the letter of 12 October 2012 from Savills, which relates to the matter of signing, does not raise any issue of sufficient magnitude to affect the overall balance of his decision.

Policy considerations

12. In deciding these cases, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. As stated in paragraph 12 of the Framework, that document does not change the statutory status of the development plan as a starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. In this case, the development plan includes the Yorkshire and Humber Regional Plan 2008 (the RS), which covers all five sites. For cases B and E, this is supplemented by the Hambleton LDF Core Strategy Document (2007), Development Control Policies Document (2008) and Allocations DPD (2010). In the case of Harrogate, the Core Strategy was adopted in 2009.
13. The Localism Act 2011 provides for the abolition of Regional Strategies by Order. However, the Secretary of State has attributed limited weight to the proposed plan to revoke the Yorkshire and Humber Regional Plan. Any decision to revoke the Yorkshire and Humber Regional Plan will be subject to the environmental assessment which is in train.
14. In addition to the Framework, other material considerations which the Secretary of State has taken into account include DfT Circular 1/2008: *Policy on Service Areas and Other Roadside Facilities on Motorways and All-Purpose Trunk Roads in England*; Circular 11/1995: *Use of Conditions in Planning Permission*; and the *Community Infrastructure Levy (CIL) Regulations 2010* (as amended).

Main Issues

Need for MSA

15. Like the first Inspector, the Secretary of State considers that it is first necessary to establish whether there is a need for an additional MSA. For the reasons given at IR14.1.3, he agrees with the first Inspector that the starting point is that the HA have defined two core MSAs (Wetherby MSA and Barton - which has planning permission for redevelopment as an MSA) as being the extremities of the gap which the cases before him would fill; and he notes that the parties have agreed that the distance between them, on the basis of the distance between the southern bridges at the relevant junctions, is 39.622 miles. The Secretary of State also agrees (IR14.1.4) that the Government's aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles, whilst also agreeing (IR14.1.5-14.1.8) that the mere existence of a gap of 28 miles is not sufficient by itself to show an overriding need for an infill MSA.

16. For the reasons given at IR14.1.9-14.1.19, the Secretary of State agrees with the Inspector's conclusion at IR14.1.20 that any proposal for an MSA in the gap between Wetherby and Barton would be for an infill MSA which, if the gap were to be 40 miles or more, would be designated a core site. The Secretary of State has therefore had regard to the discussion at the first inquiry about the significance of a 40 mile gap between MSAs (IR14.1.21-14.1.28). However, although he agrees with the first Inspector (IR14.1.27) that the additional distances from the motorway to the centre of the main car park at each site would place the separation distance between Wetherby and Barton beyond the 40 mile tipping point, he also agrees (IR14.1.28) that, although that means that any successful application within the gap for an infill MSA would be designated a core site, the requirements of paragraph 58 of C01/08 should nevertheless apply - requiring a clear and compelling need and safety case to be demonstrated.
17. The first Inspector therefore goes on to consider this at IR 14.1.29-14.1.51, and the Secretary of State agrees with his reasoning and with his conclusion at IR 14.1.52 that there is a genuine safety-related need for the construction of an MSA between Wetherby and Barton. In coming to this conclusion, the Secretary of State, like the first Inspector, has taken account of the above average number of fatal and serious injury accidents; the percentage for those for which fatigue was a "possible or very likely" cause; the postponement of the improvement of the section of the A1 between Leeming Bar and Barton; and the indeterminate date for the opening of Barton MSA.

Need for Truckstop (Case E)

18. For the reasons given at IR14.2.1-14.2.20, the Secretary of State agrees with the first Inspector at IR14.2.21-14.2.22 that a sufficient need for a truckstop at the Case E site has been demonstrated. In particular, he agrees that the truckstop would meet a specialist need that is different in nature from the HGV offer at normal MSAs, so that it would not contribute significantly to meeting the need for an MSA to serve the needs of all motorists (IR14.2.15 and 14.2.20). He has also taken account of the fact that the upgrading of the A1 has caused 190 to 255 HGV spaces to be lost, made inconvenient or bypassed, with a significant number of HGV drivers parking in lay-bys overnight in the area (IR14.2.19). The Secretary of State therefore agrees with the first Inspector that the provision of a truckstop should be considered separately from the MSA proposals; and he is also satisfied that the selection of the Case E site has been based on a thorough and wide-ranging search (IR14.2.8).
19. Turning to the first Inspector's analysis of the planning merits of the Case E proposal (IR14.7.1-14.7.61), the Secretary of State agrees with him that, for the reasons given, it conforms in general terms with the development plan and national policy and that there are no material considerations suggesting that the application should be determined otherwise.
20. The Secretary of State has also taken account of the findings and conclusion of the second Inspector (2IR3.10.34-3.10.42). He is satisfied that there are no obstacles to granting planning permission for Case E, nor other obstacles such as needing to apply for departures or land ownership issues.

The Kirby Hill MSA proposal (Case A)

21. The Secretary of State has carefully considered the first Inspector's findings with regard to the Kirby Hill MSA proposal at IR14.3.1-14.3.72 and his summary thereof at IR14.3.73-14.3.105. For the reasons given by the first Inspector, the Secretary of State agrees with him that the proposal would meet the specified minimum range of mandatory features required in DfT Circular 01/2008 and that it is the only proposal capable of meeting the full range of abnormal loads specified (IR15.3.75). The Secretary of State also agrees with the first Inspector that the scheme cannot be said to minimise the loss of BMV land (IR14.3.78); and that it would have a significant detrimental effect on the character and appearance of the surrounding landscape (IR14.3.79-14.3.81).
22. The Secretary of State also agrees with the first Inspector with regard to Heritage (IR14.3.82-14.3.83), Ecology (IR14.3.84), Drainage (IR14.3.85), Employment (IR14.3.86), Crime (IR14.3.87), Residential amenity (IR14.3.88), Dishforth Airfield (IR14.3.89) and Sustainability (IR14.3.92). He has also noted the first Inspector's concerns about Deliverability (IR14.3.90-14.3.91), and agrees with regard to Need on the A168/A19 route (IR14.3.93) and the Perception of harm (IR14.3.94). Furthermore, taking account of the first Inspector's consideration of compliance with the development plan (IR14.3.95-14.3.104), the Secretary of State agrees with him (IR14.3.103) that, overall, the proposal would be in conflict with it.
23. With regard to Highways and Traffic, (IR14.3.76-14.3.77 and 2IR3.10.17-3.10.28), the Secretary of State agrees with the second Inspector's conclusion (2IR3.10.28) that no requirement to obtain approval for any departures from standard has been demonstrated and there would be no impediment to the grant of permission on that basis.

The Ripon Services MSA proposal (Case C)

24. The Secretary of State has carefully considered the first Inspector's findings with regard to the Ripon Services MSA proposal at IR14.4.1-14.4.45 and his summary thereof at IR14.4.46-14.4.74. For the reasons given by the first Inspector, the Secretary of State agrees with him that the proposal would meet the specified minimum range of mandatory features required in DfT Circular 01/2008 and could accommodate a significant proportion of the abnormal loads likely to need to use it (IR14.4.48).
25. The Secretary of State also agrees with the first Inspector that, although not overriding, the loss of BMV land is a consideration to be weighed in the balance (IR14.4.51), and that the proposal would cause slight to moderate harm to the landscape character which would soften over the years to slight (IR14.4.52). He further agrees that there would be slight visual harm (IR14.4.53-IR14.4.54), and he also agrees with the first Inspector in relation to Heritage (IR14.4.55-14.4.56), Ecology (IR14.4.57), Site drainage (IR14.4.58), Employment (IR14.4.59), Residential amenity (IR14.4.60), the local economy (IR14.4.61); and that the amount of land take counts against the site in terms of sustainability (IR14.4.63). Furthermore, taking account of the first Inspector's consideration of compliance with the development plan (IR14.4.64-14.4.73), the Secretary of State agrees with him (IR14.4.72) that, overall, the proposal would be in conflict with it.

26. With regard to Highways and Traffic, the Secretary of State has taken account of the findings of both Inspectors (IR14.4.49-14.4.50 and 2IR3.10.5-3.10.16), and is content with the second Inspector's conclusion at 2IR3.10.16 that the need for a departure is highly unlikely. The Secretary of State has also taken account of the findings of the second Inspector on any implications of the proposed diversion of the existing arrangements for non-motorised users at the A1/A61 junction (2IR4.1.1-4.5.28); and he agrees with the second Inspector's conclusion (2IR9.1.3) that no existing public right of way would need to be diverted and outstanding safety concerns could be resolved at the detailed design stage without altering the fundamental principles or geometry of the proposed access to the Case C site.
27. The Secretary of State agrees with both Inspectors (IR14.4.63 and 2IR5.2.1-5.5.13) that the resolution of the issue of securing the land required for the access roundabout to the Case C site is likely to require a significant amount of time - which could have an impact on the deliverability of the scheme. In particular, having regard to the second Inspector's conclusions at 2IR5.5.6-5.5.13, the Secretary of State agrees with him that the likelihood of considerable delays in implementing the Case C scheme is a material consideration to be weighed against it in the overall balance.

The Baldersby Gate MSA proposal (Case D)

28. The Secretary of State has carefully considered the first Inspector's findings with regard to the Baldersby Gate MSA proposal at IR14.5.1-14.5.51 and his summary thereof at IR14.5.52-14.5.79. For the reasons given by the first Inspector, the Secretary of State agrees with him that the proposal would meet the specified minimum range of mandatory features required in DfT Circular 01/2008 and could accommodate a significant proportion of the abnormal loads likely to need to use it (IR14.5.54).
29. The Secretary of State also agrees with the first Inspector that, although not overriding, the loss of BMV land is a consideration to be weighed in the balance (IR14.5.57); and that the proposal would cause moderate harm to the landscape character which would soften over the years to slight (IR14.5.58), and slight visual harm to Hutton Grange Cottages and Hutton Grange which would lessen as the vegetation matures (IR14.5.59). The Secretary of State also agrees with him in relation to Heritage (IR14.5.61), Ecology (IR14.62), Site drainage (IR14.5.63-IR14.5.64), Employment (IR14.5.65), Residential amenity (IR14.5.66), Deliverability (IR14.5.67); and that the proposal would result in the loss of the least BMV agricultural land of the three schemes within Harrogate (IR14.5.68). Furthermore, taking account of the first Inspector's consideration of compliance with the development plan (IR14.5.69-14.5.78), the Secretary of State agrees with him (IR14.5.77) that, overall, the proposal would be in conflict with it.
30. With regard to Highways and Traffic, the Secretary of State has taken account of the findings of both Inspectors (IR14.5.55-14.5.56 and 2IR3.10.1-3.10.4), and is content with the second Inspector's conclusion at 2IR3.10.4 that no departures from standard would be required. The Secretary of State has also taken account of the findings of the second Inspector on any implications of the proposed diversion of the existing arrangements for non-motorised users at the A1/A61 junction (2IR4.1.1-4.5.28); and agrees with his conclusion (2IR9.1.3) that no existing public right of way would need to be diverted and outstanding safety concerns could be resolved at the detailed design

stage without altering the fundamental principles or geometry of the proposed access to the Case D site.

The Motel Leeming MSA proposal (Case B)

31. The Secretary of State has carefully considered the first Inspector's findings with regard to the Motel Leeming MSA proposal at IR14.6.1-14.6.37 and his summary thereof at IR14.6.38-14.6.59. For the reasons given by the first Inspector, the Secretary of State agrees with him that the proposal would meet the specified minimum range of mandatory features required in DfT Circular 01/2008 and could accommodate a significant proportion of the abnormal loads likely to need to use it (IR14.6.40).
32. The Secretary of State also agrees with the first Inspector (IR14.6.43) that the proposal would not encroach into the countryside and there would be no loss of agricultural land but, for the reasons given at IR14.6.44-14.6.46, there would be some slight visual impacts. The Secretary of State also agrees with the first Inspector in relation to Heritage (IR14.6.47); Ecology (IR14.6.48); Site drainage (IR14.6.49); Employment (IR14.6.50); Residential amenity (IR14.6.51); the Local economy (IR14.6.52); the fact that the scheme could be delivered quickly (IR14.6.53); and that the proposal would be a sustainable development (IR14.6.54). Furthermore, taking account of the first Inspector's consideration of the development plan (IR14.6.55-14.6.59), the Secretary of State agrees with him (IR14.6.59) that, on balance, the proposal would comply with it.
33. With regard to Highways and Traffic, the Secretary of State agrees with the first Inspector (IR14.6.41) that the Case B site is in a relatively remote location (1.3km from the junction – IR14.6.10), but that there is no reason to suppose that that would lead to any undue accident risk. He also agrees with the second Inspector (2IR3.10.29-3.10.33) that, subject to an appropriate condition, there are no departures from standard required other than those which have already been agreed with the local highways authority.

Conditions and obligations

34. The Secretary of State has taken account of the reasoning and conclusions on conditions for Cases A, B, C and D (the MSA proposals) as set out by the first Inspector at IR15.1.1-15.1.22 and by the second Inspector at 2IR7.1.1-7.1.9; and those relating to Case E (the truckstop proposal) as set out by the first Inspector at IR15.2.1-15.2.5. He is satisfied that the proposed conditions are reasonable, necessary and comply with Circular 11/95. However, in respect of cases A, C and D, he does not consider that the proposed conditions overcome his reasons for refusing planning permission.
35. The Secretary of State notes that the Applicants for Case D did not complete the planning obligation circulated as REL202 (IR15.3.1); and he agrees with the first Inspector that, for the reasons given at IR15.3.2 and 15.3.4, there would be no need for the obligations referred to in those paragraphs if consent were to be granted for the Case D proposal. However, he also agrees with the first Inspector that the obligations relating to Case E referred to at IR15.3.3 and 15.3.5 are necessary and appropriate and should form part of the approved scheme. He is satisfied that they meet the statutory requirements including those set out in the CIL Regulations.

Overall Conclusions

36. A wide range of factors need to be taken into account in determining the most suitable site for an additional MSA along the A1/A1M. Taking as his starting point the requirement of section 38(6) of the Planning and Compulsory Purchase Act 2004 that proposals be determined in accordance with the development plan unless material considerations indicate otherwise, the Secretary of State concludes that only Site B has the necessary statutory planning support. He has therefore gone on to consider whether there are other material considerations in favour of any of the other sites and to undertake an overall balancing exercise.
37. Despite not being in accordance with the development plan, Case A has the advantage of being the only site which is on-line, with direct access from both sides of the motorway, and of being the only proposal capable of meeting the full range of abnormal loads specified. However, the fact that it is only just above 12 miles north of the fully operational Wetherby MSA weighs against it, as do the material considerations that it would have the greatest visual, environmental and heritage impacts as well as the greatest take of BMV land. Furthermore, the need to resolve the drainage issue means the likelihood of some delay in commencing work. Overall, therefore, the Secretary of State concludes that the benefits do not outweigh the disadvantages.
38. As Cases C and D are located on different quadrants of the same junction of the A1(M) and the A61, they are both near the midpoint between Wetherby and Barton. The Secretary of State recognises that both Inspectors consider this centrality to be fundamental and that it should outweigh any other considerations. However, while agreeing that the central location should be given significant weight, the Secretary of State considers it necessary to balance that against other factors, especially given that neither proposal would be in accordance with the development plan.
39. Both Cases C and D would be constructed in open country on green field sites, taking BMV land and causing some visual impact. The site for Case C would take more land than Case D (but less than Case A) whilst, although Case D would take the least of those requiring additional land, it would have a greater visual impact than Site C – especially during construction. In planning terms, therefore, the Secretary of State concludes that the advantages and disadvantages of the two site in planning terms can be regarded as being equal although different; but neither outweighs Case B – especially bearing in mind that neither of them has development plan support.
40. The Secretary of State considers that these factors together outweigh the benefit of centrality. Furthermore, in relation to Case C, there are, additionally, complex land-ownership issues which both Inspectors identify as potentially leading to considerable delay and, although land ownership is not, in itself, a planning matter, the established need for an MSA in this vicinity implies that speed and predictability of delivery should be an important material consideration.
41. As Site B would be based on an existing Trunk Road Service Area, the Secretary of State sees it as being the most sustainable of the options, whilst also conforming in general terms with the development plan. It would be built on brown field land, with no additional land-take and, given the established need for an MSA, the fact that work could start straight away – itself generating jobs and economic activity - weighs heavily in its favour. Against that, the Secretary of State acknowledges that it would require a

detour of 1.3 km from the A1(M) to reach it but, although he accepts that that may prove to be a deterrent to some prospective users, he does not consider that it outweighs the advantages of speed of provision without taking any green field land. He also accepts that it would be only slightly more than 12 miles from the potential MSA at Barton; but considers that that is outweighed by the fact that the Site B scheme could be brought on stream relatively quickly to fulfil an existing need while the date for the opening of Barton as a fully operational MSA remains to be determined.

42. Overall, therefore, with regard to the potential MSA sites (Sites A, B, C and D), the Secretary of State concludes that the balance of advantage lies with Site B. Not only is it in general accordance with the development plan but, by making use of brown field land, it avoids taking land in the open countryside and is capable of being brought on stream quickly – thereby making an immediate contribution to the economy of the area while meeting a real need for users of the A1/A1(M).
43. With regard to the Site E proposal, the Secretary of State agrees with the first Inspector that there is a clear need for a Truckstop to meet the specialist need not provided for by MSAs. The Secretary of State is satisfied that the selection of Site E has been based on a thorough and wide-ranging search and that the proposal conforms in general terms with the development plan and national policy.

Formal Decision

44. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspectors' recommendations in respect of Cases A, C and E but not in respect of Cases B and D. Accordingly, he makes the following decisions:

Case A: The Secretary of State hereby dismisses the appeal and refuses outline planning permission for a core twin-sided motorway service area at Kirby Hill comprising amenity building, petrol filling station, heavy goods vehicle amenity building, vehicle parking, landscaping and associated infrastructure with all matters reserved except for access from the A1(M), in accordance with application Ref 08/05860/EIAMAJ, dated 18 December 2008.

Case B: The Secretary of State hereby grants outline planning permission for a motorway service area at Motel Leeming Services comprising amenity buildings, lodge, manager's accommodation, petrol filling station, drive through restaurant, parking and turning areas and landscaping with all matters reserved except access, in accordance with application Ref 09/01202/OUT, dated 6 May 2009, subject to the conditions set out at Annex B to this letter.

Case C: The Secretary of State hereby refuses outline planning permission for the erection of a motorway service area at the junction of the A1 and A61, comprising of an amenity building, hotel, filling station, sewage treatment plant, balancing pond, new access from the A61, parking, landscaping and associated works with all matters reserved except access, in accordance with application Ref 10/01982/EIAMAJ, dated 6 May 2009.

Case D: The Secretary of State hereby refuses outline planning permission for the erection of a Junction Motorway Service Area comprising; amenity building, lodge, petrol filling station, parking including heavy goods vehicle parking, shower and

toilet facilities, a police post, landscaping and associated infrastructure works in accordance with application Ref 10/02490/EIAMAJ, dated 7 June 2010.

Case E: The Secretary of State hereby grants planning permission for the development of land within the curtilage of Fairfield Farm to form a Truck Stop Service Area for the relocation of an existing service area from Londonderry to Leeming Bar, comprising: HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop including overnight and rest-stop parking and driver welfare facilities in accordance with application Ref 10/00624/FUL, dated 17 February 2010, subject to the conditions set out at Annex C to this letter.

45. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
46. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
47. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

48. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
49. Copies of this letter have been sent to Harrogate BC, Hambleton DC, North Yorkshire CC, The Highways Agency and Kirby Hill Residents Against Motorway Services. A notification letter/e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

Annex A

Correspondence received by the Secretary of State following the close of the first Inquiry and not considered by the second Inspector (by date of letter)

Savills, on behalf of Moto Hospitality Limited:	14.2.12; 13.3.12; 14.3.12; 30.3.12; 18.4.12; 12.10.12
ID Planning, on behalf of Exelby:	6.3.12; 18.4.12
Marrons, on behalf of Heather Ives Associates:	13.3.12; 5.4.12; 25.4.12
Harrogate BC:	13.3.12; 8.5.12
Manches, on behalf of REL:	13.3.12
RPS, on behalf of REL:	20.3.12; 12.4.12; 17.4.12;
Cllr Christopher Brown:	21.3.12
Waltons, on behalf of JayTee:	27.3.12; 11.4.12; 19.4.12; 24.4.12; 1.5.12
Wardhadaway, on behalf of Mr Carl Les:	10.4.12; 3.5.12
Highways Agency:	12.4.12
Gareth Owens, Kirby Hill RAMS:	16.4.12; 21.4.12

Conditions to be imposed in respect of Motel Leeming MSA (Site B)*Reserved Matters*

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers 79567/35 RevD (masterplan layout), LES006.7 Rev1 (location plan) and 79567/00517/RevD (landscape masterplan).
5. Any application for the approval of reserved matters shall be in accordance with the principles embodied within drawing 79567/00517/RevD.

Materials

6. No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the local planning authority shall be advised that the materials are on site and the materials shall be approved in writing by the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Landscaping

7. The development shall be carried out in accordance with the landscape masterplan as illustrated on plan 79567/00517D unless otherwise agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species, unless otherwise agreed in writing by the local planning authority.
8. Prior to commencement of development a landscape and habitat management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to, and approved in writing by, the local planning authority. The landscape and habitat management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Surface water drainage

9. No development shall be commenced until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage/tank farm areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-
 1. Surfaces to be used by vehicles and where fuel storage tanks are present shall be finished in impermeable hardstanding;
 2. The area of hardstanding shall, wherever possible, drain into a system separate from the rest of the site;
 3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
 4. Clean roof water shall not pass through the interceptor(s);
 5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);

6. Surface water drainage shall then pass into the existing balancing pond which shall be fitted with a penstock.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

10. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV and coach parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-

1. Surfaces to be used by vehicles shall be positively drained;
2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
3. Clean roof water shall not pass through the interceptor(s);
4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
5. Surface water shall then discharge to the existing balancing pond.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

11. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-

1. All new parking and vehicle turning areas, other than those associated with the fuel filling station, fuel storage area, HGV and coach parking areas, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
2. These areas will also be provided with filter trenches;
3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;
4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;
5. Inspection manholes shall be provided on all new surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
6. All new surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
7. Consideration of the incorporation of green roof areas into the proposed buildings;
8. Full details of the size, design and location of the balancing pond;
9. Full details of the size, design and location of any soakaways, where relevant.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.

Construction Environment Management Plan

13. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the agreed Plan and shall incorporate all relevant mitigation measures detailed within it.

Storage of fuel and oil

14. No development shall take place until a scheme for the storage of fuel and fuel oil has been submitted to and agreed in writing by the local planning authority. The scheme must detail the exact size, location and design of any tanks and associated pipe works. Fuel shall wherever possible be stored above ground level. Any below ground storage must include a comprehensive leak-detection system. The development shall thereafter proceed only in strict accordance with the agreed scheme.

Water minimisation

15. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements:-

- A rain-water harvesting system;
- A grey-water harvesting system;
- The use of aerator taps throughout the development;
- The use of low-flush toilets;
- The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Foul drainage

16. No development shall take place until a detailed scheme for the disposal of foul sewage from the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:

- Full details of balancing and off-site works;
- Full details of how the existing on-site septic tank will be decommissioned and its foul flows incorporated into the mains system;
- Confirmation that the foul drainage system will utilise the existing maximum pumping rate/velocity of 4.5 litres per second at the private pumping station;
- Details to demonstrate that the effluent discharged to the public sewer will not be septic; robust measures to ensure that fats, oils and grease are properly disposed of and do not enter the public sewerage. The measures shall include the existing facilities within Motel Leeming Bar and those proposed.

The development shall thereafter proceed only in strict accordance with the agreed scheme. All associated infrastructure shall be retained and maintained throughout the lifetime of the development. No buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.

17. The site shall be developed with separate systems of drainage for foul and surface water on and off site unless otherwise agreed in writing by the local planning authority.

Approval of details for works in the highway

18. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of

material on the site in connection with the construction of the access road or buildings or other works until:

- (i) The details of the required highway improvement works, including the agreed works to the link road outside the site, have been submitted to and approved in writing by the local planning authority.
- (ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
- (iii) A programme for the completion of the proposed works has been submitted to and approved in writing by the local planning authority.

Section 278 highway works

19. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Completion of works in the highway before occupation

20. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until the agreed works to the link road outside the site have been constructed in accordance with the details approved in writing by the local planning authority under condition number 18 and the works to the eastern dumbbell to the A1(M) New Leeming junction shown on plan 79567/37 have been completed.

Details of access, turning and parking

21. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or buildings or other works hereby permitted until full details of the following have been submitted to and approved in writing by the local planning authority:
- (i) vehicular, cycle, and pedestrian accesses
 - (ii) vehicular and cycle parking - such provision shall include for the following minimum number of vehicle parking spaces to be provided on the date of opening for use by users of the A1(M) motorway:
 - 236 Cars (including spaces for the vehicles of disabled people)
 - 87 HGVs
 - 17 Coaches
 - 7 Touring Caravans
 - 1 Abnormal Load
 - 20 Additional parking spaces for the Lodge.
 - (iii) vehicular turning arrangements
 - (iv) manoeuvring arrangements
 - (v) loading and unloading arrangements

Provision of approved signing, access, turning and parking areas

22. The development shall not be open for use unless a signing agreement is in place in accordance with the DfT Circular 01/2008 and the signs are positioned to give effect to that agreement. Use of the development shall not commence until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 22 have been constructed in accordance with the submitted drawing 79567/35D and are available for use unless otherwise approved in writing by the local planning authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Precautions to prevent mud on the highway

23. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.

Lighting

24. No external lighting equipment shall be used other than in accordance with details previously submitted to and approved in writing by the local planning authority.

On-site parking, storage and construction traffic during construction

25. Unless approved otherwise in writing by the local planning authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the local planning authority for the provision of:
- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
 - (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Construction Method Statement

26. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. *the parking of vehicles of site operatives and visitors*
 - ii. *loading and unloading of plant and materials*
 - iii. *storage of plant and materials used in constructing the development*
 - iv. *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
 - v. *wheel washing facilities*
 - vi. *measures to control the emission of dust and dirt during construction*
 - vii. *a scheme for recycling/disposing of waste resulting from demolition and construction works*
 - viii. *advisory HGV routeing.*

Travel Plan

27. No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall include details for the appointment of a Travel Plan Coordinator and proposed monitoring and shall be in general accordance with details set out in the submitted Transport Plan of Sep 2010, Inquiry reference: CD4.17.

The approved Travel Plan shall then be implemented in full and all actions undertaken within the timescales contained within the approved document.

Retail, Meeting Room and Games/Leisure Space Limits

28. The amenity building shall contain no more than 500 m² of retail floorspace as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987.

29. No more than a total of 100 m² of games / leisure floorspace shall be made available to the public.
30. No development shall commence until full details of the proposed toilet provision at the site has been submitted to and approved in writing by, the local planning authority. The toilet provision shall be determined from the approved parking provision and calculated in accordance with Annex C of DfT Circular 01/2008.
31. No part of the development hereby permitted shall be open for use until the following facilities and services currently offered by the existing trunk road service area are completely taken out of use and remain out of use for the duration that the site operates as an MSA:-
 - Conference facility,
 - The sale of alcohol,
 - The use of the existing car parking area as an overspill car park for the Wensleydale Railway.

Boundary treatment

32. Prior to first use of the motorway service area hereby approved, the boundary walls, fences and other means of enclosure shall have been constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior written consent of the local planning authority.

Manager's accommodation

33. The occupation of the manager's accommodation as shown on plan 79567/35D shall be limited to a person or persons solely or mainly employed at the Motorway Service Area at Leeming Bar.

Conditions to be imposed in respect of the Coneygarth Lorrypark (Site E)*Time condition*

1. The development hereby permitted shall be begun within three years of the date of this permission.

Approved plans

2. The development hereby approved shall be in accordance with the following approved plans unless otherwise agreed in writing with the local planning authority.

Description	Reference No.	Date on plan
Existing Site Layout Phase 1	6162/S101/B	Aug 09
Existing Site Layout Phase 2	6162/S102/B	Aug 09
Existing Site Location Plan	6162/S103/B	Sep 09
Proposed Floor & Forecourts Layout	6162/D21/F	Oct 09
Proposed Elevations	6162/D22/E	Oct 09
Proposed Forecourt Shop Floor Layout & Elevations	6162/D23/D	Oct 09
Proposed Tank Farm Floor Layout & Elevations	6162/D24/C	Oct 09
Proposed Drivers Cafe Floor Layout & Elevations	6162/D25/B	Oct 09
Proposed Site Layout Phase 1	6162/D101/J	Jan 10
Proposed Site Layout Phase 2	6162/D102/H	Jan 10
Proposed Site Levels and Gradients	6162/D103/G	Jan 10
Proposed Drainage Layout	6162/D104/G	Jan 10
Proposed Landscaping Layout Site Sections A to E	2229/4	10 Dec 2010
Site Sections F to J	2229/5 2229/6	10 Dec 2010

Materials

3. No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the local planning authority shall be advised that the materials are on site and the materials shall be approved in writing by the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Landscaping

4. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved in writing by the local planning authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. The approved scheme is to include mounding works and associated planting as shown on plans 6162/D101/J, 2229/5 and 2229/6. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species unless the local planning authority gives written consent to any variation..

Foul drainage and trade effluent

5. No development shall take place until works have been carried out to provide adequate facilities for the drainage, disposal and treatment of all waste water, including trade effluents, in accordance with details to be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been implemented and are operational.
6. Prior to the submission of the information required by conditions 7, 8, 9, 10, 11 and 12, a Quantitative Hydrogeological Risk Assessment shall be submitted to and agreed in writing by the local planning authority.
7. No development shall be commenced until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage/tank farm areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-
 1. Surfaces to be used by vehicles and where fuel storage tanks are present shall be finished in impermeable hardstanding;
 2. The area of hardstanding shall drain into a system separate from the rest of the site;
 3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
 4. Clean roof water shall not pass through the interceptor(s);
 5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 6. Surface water drainage shall then pass into a dedicated balancing facility, which shall be fitted with a penstock. Water shall then discharge to ground via soakaway;

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

8. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-
 1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
 3. Clean roof water shall not pass through the interceptor(s);
 4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 5. Surface water shall then discharge via soakaway, to ground.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

9. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures:-
 1. All parking and vehicle turning areas, other than those associated with the fuel filling station, fuel storage/tank farm area and HGV parking area, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
 2. These areas will also be provided with filter trenches;
 3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm

water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;

4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;
5. Inspection manholes shall be provided on all surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
6. All surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
7. Consideration of the incorporation of green roof areas into the proposed buildings;
8. Full details of the size, design and location of the balancing facilities;
9. Full details of the size, design and location of any soakaways, where relevant.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.
11. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the agreed Plan and shall incorporate all relevant mitigation measures detailed within it.
12. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements:-
 - A rain-water harvesting system;
 - A grey-water harvesting system;
 - The use of aerator taps throughout the development;
 - The use of low-flush toilets;
 - The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Boundary treatment

13. Prior to first use of the truckstop hereby approved, the boundary walls, fences and other means of enclosure shall have been constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior written consent of the local planning authority.

Archaeology

14. No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Temporary construction site access

15. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until full details of proposals for access to the site for construction purposes and the traffic management regime associated with it have been submitted to and approved in writing by the local planning authority and constructed in accordance with the approved details.

Once created, no vehicles shall access the site except via the approved temporary access. Any damage to the existing adopted highway occurring during use of the access until the completion of all the permanent works shall be repaired immediately.

16. Before the development is first brought into use the highway verge/footway shall be fully reinstated in accordance with a scheme submitted to and approved in writing by the local planning authority.

Approval of details for works in the highway

17. Unless otherwise approved in writing by the local planning authority, no development shall commence (other than ground investigations, ground works, site preparation works and preparatory works for the landscaped mounds) until the following details have been submitted to and approved in writing by the local planning authority:

- (i) The full construction details, including lining and signing, of the required local highway improvement works, listed below.

The required highway improvements shall include:

- a. The site access.
- b. Modifications to the A1(M) New Leeming Junction Eastbound approach to the Eastern Dumbbell Roundabout
- c. The footway to Leases Road north of the roundabout to link to footway at the roundabout to the site entrance.
- d. The footway to Leases Road south of the roundabout to link the existing footway to the south with the provision at the roundabout.
- e. The widening of Leases Road carriageway to a minimum width of 7.3m between the roundabout and the site entrance.

- (ii) Details of the highway lighting

- (iii) The provision of written confirmation of full compliance with current Departmental Standards (DMRB).

The provision of an independent Stage 2 Road Safety Audit (taking account of the Stage 1 Road Safety Audit recommendations) carried out in accordance with current Departmental Standards (DMRB) and Advice

18. The details to be submitted in accordance with Condition 17 shall be substantially in accordance with the following drawings:

- i. The proposed site access as illustrated on drawing number 6162/D101/J
- ii. Modifications to the A1(M) New Leeming Junction Eastbound approach to the Eastern Dumbbell Roundabout as illustrated on drawing number 60162014-P-004 Rev A, titles 'Proposed Mitigation to Accommodate BALB, Leeming MSA and Proposed Coneygarth Truckstop in 2022'
- iii. Proposed widening to Leases Road as illustrated on drawing number 60162014-P-015
- iv. The proposed footway to the north and south of the Leases Road roundabout as illustrated on drawing number 60162014-P-001 (Rev A)

Completion of works in the highway before occupation

19. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until:
 1. The following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under conditions nos 17 and 18
 - a. The site access
 - b. The footway to Leases Road north of the roundabout to link to footway at the roundabout to the site entrance
 - c. The footway to Leases Road south of the roundabout to link the existing footway to the south with the provision at the roundabout
 - d. The widening of Leases Road carriageway to a minimum width of 7.3m between the roundabout and the site entrance
 2. The provision of fuel pumps has been completed in accordance with Condition 21.
 3. The provision of parking of vehicles has been completed in accordance with Condition 20.
20. The vehicle parking to be provided within the development shall not exceed the following number of spaces:-
 - i) 10 short stay LGV's
 - ii) 108 HGV's within a secure perimeter
 - iii) abnormal load bay
21. The fuel pumps to be provided within the development shall not exceed the following numbers:
 - i) 14 HGV high speed bunker diesel pumps
 - ii) 6 LGV combined petrol / diesel pumps

Details of access, turning and parking

22. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas to be used in connection with that part of the development, have been constructed in accordance with the submitted drawing (Reference 6162/D101/J) and are available for use unless otherwise approved in writing by the local planning authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Precautions to prevent mud on the highway

23. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.

Lighting

24. No external lighting equipment shall be used other than in accordance with details previously submitted to and approved in writing by the local planning authority.

Construction Method Statement

25. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors

- ii. *loading and unloading of plant and materials*
- iii. *storage of plant and materials used in constructing the development*
- iv. *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- v. *wheel washing facilities*
- vi. *measures to control the emission of dust and dirt during construction*
- vii. *a scheme for recycling/disposing of waste resulting from demolition and construction works*
- viii. *advisory HGV routeing.*

Section 278 highway works

26. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Sustainable design

27. No development shall take place until the applicant has provided for the written approval of the local planning authority a Design Stage Certificate provided by an accredited BREEAM assessor that achieves BREEAM 'very good' or higher. Development shall be carried out in accordance with the approved details. A certified BREEAM Post Construction Certificate shall be provided to the local planning authority in writing, confirming that BREEAM 'very good' has been met, prior to the first occupation of the development.

Renewable energy

28. No development shall take place until a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and /or low carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.

Noise

29. Construction work activities shall be restricted to the hours of 08:00 – 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no working on Sundays and Bank Holidays.
30. The noise from plant associated with the development shall be limited to rating levels of 42dBA LAeq, measured over 1 hour during the day-time period (07:00 – 23:00) and 34 dBA LAeq, measured over 5 minutes during the night time period (23:00 hours to 07:00) unless otherwise agreed in writing by the local planning authority.



Report to the Secretary of State for Communities and Local Government

by R R Lyon MA CEng MICE MRTPI FCIHT

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

Date: 25 August 2011

MOTORWAY SERVICE AREA PROPOSALS

ON THE A1(M)

BETWEEN WETHERBY AND BARTON

AND

TRUCKSTOP PROPOSAL AT FAIRFIELD FARM, LEEMING BAR

HEATHER IVE ASSOCIATES – HARROGATE BC Recovered Appeal APP/E2734/A/09/2102196 – 08/05860/EIAMAJ
MR CARL LES – HAMBLETON DC Called-in Application APP/G2713/V/09/2108815 – 09/01202/OUT
JAYTEE (RAINTON) LLP – HARROGATE BC Called-in Application APP/E2734/V/10/2133571 – 10/01982/EIAMAJ
REFINED ESTATES LIMITED – HARROGATE BC Called-in Application APP/E2734/V/10/2133577 – 10/02490/EIAMAJ
EXELBY SERVICES LIMITED – HAMBLETON DC Called-in Application APP/G2713/V/10/2133567 – 10/00624/FUL

Inquiry dates

Need	2-5, 23 November 2010	XLB	5-6 January 2011
HIA	24-26 November, 14 December 2010	Members of the Public	10, 17, 18 January 2011
REL	30 November, 1-2 December 2010	Kirby Hill RAMS	11 January 2011
JT	2-3, 7-8 December 2010	Harrogate BC	12, 19 January 2011
Highways Agency	10, 14 December 2010	Conditions	20 January 2011
NYCC	14-15 December 2010	Closing Submissions	2-4 February 2011
MOTO	15-16 December 2010		
Site Visit Days	9 & 10 September, 31 December 2010.	25 & 26 January, 25, 31 March, 1 April 2011	

File Ref: APP/E2734/A/09/2102196

Land to the East and West of the A1(M) North of the Ripon to Boroughbridge Road (B6265) near Kirby Hill, North Yorkshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The application was recovered for decision by the Secretary of State by a direction, made under section 79 and paragraph 3 of Section 6 of the Town and Country Planning Act 1990, on 5 May 2009.
- The appeal is made by Heather Ive Associates against the decision of Harrogate Borough Council.
- The application Ref 08/05860/EIAMAJ, dated 18 December 2008, was refused by notice dated 13 March 2009.
- The development proposed is an outline application for a core twin-sided motorway service area at Kirby Hill comprising amenity building, petrol filling station, heavy goods vehicle amenity building, vehicle parking, landscaping and associated infrastructure with all matters reserved except for access from the A1(M).
- The reason for making the direction is that the appeal relates to proposals against which another Government department has raised major objections or has a major interest.
- The recovery letter did not identify any specific matters of concern, but the main matters to be addressed at the Inquiry were described in the minutes of the second Pre-Inquiry Meeting as follows:
 - i. The extent to which the proposed development is consistent with the advice in Planning Policy Guidance 13 and DfT Circular 01/2008 on Motorway Service Areas (in particular, whether there would be a need for an MSA in the locality, following the completion of Phase 1 of the upgrading of the A1(M), bearing in mind the siting of the other facilities on the strategic road network);
 - ii. The availability of alternative sites which would meet any such need;
 - iii. The weight to be given to policy T7 of the Harrogate District Local Plan;
 - iv. The impact of the proposals on the landscape character of the area and its surroundings;
 - v. The weight to be given to the loss of agricultural land which would occur as a result of the proposal;
 - vi. The implications for highway safety and the free flow of traffic on the A1(M);
 - vii. The impact on the local road network arising from the need to provide access from the A168 and B6265 to construct slip roads on the motorway;
 - viii. Whether the proposal makes adequate provision to encourage staff to travel to the site by means other than the private car;
 - ix. Whether the foul water generated at the site can be dealt with in a manner that would not cause a risk of pollution to the environment;
 - x. Whether the site is likely to have an archaeological value that would be unacceptably harmed by development;
 - xi. The impact on the living conditions of local residents, with particular regard to light, air and noise pollution, and the public perception of harm;
 - xii. The implications for the safe operation of Dishforth Airfield.

Summary of Recommendation: That the appeal be dismissed.

File Ref: APP/G2713/V/09/2108815

Motel Leeming Services, Bedale Road, Bedale, North Yorkshire DL8 1DT

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 13 July 2009.
- The application is made by Mr Carl Les to Hambleton District Council.
- The application Ref 09/01202/OUT is dated 6 May 2009.
- The development proposed is an outline application with all matters reserved except access at Motel Leeming Services for a motorway service area comprising amenity buildings, lodge, manager's accommodation, petrol filling station, drive through restaurant, parking and turning areas and landscaping.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 1. The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Hambleton Core Strategy adopted in April 2007 and the regional Spatial Strategy – the Yorkshire and Humber Plan, published in 2008, together with any relevant saved policies.
 2. The extent to which the proposed development is consistent with the advice in Planning Policy Guidance 13: Transport and DfT Circular 01/2008 on Motorway Service Areas, in particular:
 - i. The need for an MSA at this location and the proximity of other facilities;
 - ii. The transport impact of the development on the motorway including safety considerations;
 - iii. Engineering design of the access to the motorway; and
 - iv. Details of the arrangement of facilities at the MSA, its extent and the motorway boundary.
 3. Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex.
 4. Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

In addition, the minutes of the second Pre-Inquiry Meeting described the matters that should also be addressed:

- a) The impact of traffic associated with the development upon highway safety and the free flow of traffic on the A1(M);
- b) The impact on the local highway network, including proposals for the Bedale, Aiskew and Leeming bypass;
- c) Whether adequate access can be provided between the site and the local highway network;
- d) Whether adequate provision would be made for the parking of abnormal loads;
- e) Whether the proposal makes adequate provision to encourage staff to travel to the site by means other than the private car;
- f) The impact of the development upon the local footpath and bridleway network and the implications for the National Cycle Network; and
- g) The availability of alternative sites which would meet any need which may be demonstrated for an MSA serving this length of the A1/A1(M).

Summary of Recommendation: That the application be refused.

File Ref: APP/E2734/V/10/2133571

Field south of Junction Leeming Lane and Hutton Grange, Hutton Conyers, North Yorkshire

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
- The application is made by Jaytee (Rainton) LLP to Harrogate Borough Council.
- The application Ref 10/01982/EIAMAJ is dated 6 May 2009.
- The development proposed is an outline application with all matters reserved except access for the erection of a motorway service area at the junction of the A1 and A61, comprising of an amenity building, hotel, filling station, sewage treatment plant, balancing pond, new access from the A61, parking, landscaping and associated works.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.

On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:

- a) The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Harrogate Core Strategy adopted in February 2009, together with any relevant saved policies;
- b) The extent to which the proposed development is consistent with the advice in Planning Policy Note 13: Transport and DfT Circular 01/2008 on Motorway Service Areas, in particular:
 - i) the need;
 - ii) the need for an MSA at this location and the proximity of other facilities;
 - iii) the transport impact of the development on the motorway including safety considerations; and
 - iv) engineering design of the access to the motorway including safety considerations;
 - v) details of the arrangement of facilities at the MSA, its extent and the motorway boundary;
- c) whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex;
- d) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable;
- e) any other matters that the Inspector considers relevant.

As regards the 'other matters', I indicated that the following matters should be addressed:

- a) the impact of the proposals on the landscape character of the adjacent area and surroundings;
- b) the weight to be given to the loss of any agricultural land that may occur as a result of the proposals;
- c) whether the foul water generated at the site would be dealt with in a manner that would not cause a risk of pollution to the environment;
- d) whether the site has an archaeological value that would be unacceptably harmed by the development;
- e) the impact of the proposals on sensitive receptors, with particular regard to light, air and noise pollution;
- f) the impact of traffic generated by the proposals on the local highway network; and
- g) whether the proposals make adequate provision to encourage staff to travel to the site by means other than the private car.

Summary of Recommendation: That the application be refused.

File Ref: APP/E2734/V/10/2133577

Land in north west quadrant of A61/A1(T) Junction, Baldersby Gate

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
- The application is made by Refined Estates Limited to Harrogate Borough Council.
- The application Ref 10/02490/EIAMAJ is dated 7 June 2010.
- The development proposed is an outline application: Junction Motorway Service Area comprising; amenity building, lodge, petrol filling station, parking including heavy goods vehicle parking, shower and toilet facilities, a police post, landscaping and associated infrastructure works.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.

On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:

- a) The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Harrogate Core Strategy adopted in February 2009, together with any relevant saved policies;
- b) The extent to which the proposed development is consistent with the advice in Planning Policy Note 13: Transport and DfT Circular 01/2008 on Motorway Service Areas, in particular:
 - i) the need;
 - ii) the need for an MSA at this location and the proximity of other facilities;
 - iii) the transport impact of the development on the motorway including safety considerations; and
 - iv) engineering design of the access to the motorway including safety considerations;
 - v) details of the arrangement of facilities at the MSA, its extent and the motorway boundary;
- c) whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex;
- d) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable;
- e) any other matters that the Inspector considers relevant.

As regards the 'other matters', I indicated that the following matters should be addressed:

- a) the impact of the proposals on the landscape character of the adjacent area and surroundings;
- b) the weight to be given to the loss of any agricultural land that may occur as a result of the proposals;
- c) whether the foul water generated at the site would be dealt with in a manner that would not cause a risk of pollution to the environment;
- d) whether the site has an archaeological value that would be unacceptably harmed by the development;
- e) the impact of the proposals on sensitive receptors, with particular regard to light, air and noise pollution;
- f) the impact of traffic generated by the proposals on the local highway network; and
- g) whether the proposals make adequate provision to encourage staff to travel to the site by means other than the private car.

Summary of Recommendation: That the application be approved and planning permission granted.

File Ref: APP/G2713/V/10/2133567

Fairfield Farm, Leases Road, Leeming Bar, Northallerton, North Yorkshire DL7 9DD

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
- The application is made by Exelby Services Limited to Hambleton District Council.
- The application Ref 10/00624/FUL is dated 17 February 2010.
- The development proposed is development of land within the curtilage of Fairfield Farm to form a Truck Stop Service Area for the relocation of an existing service area from Londonderry to Leeming Bar, comprising: HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop including overnight and rest-stop parking and driver welfare facilities.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.

On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:

- a) The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Hambleton Core Strategy adopted in February 2007, together with any relevant saved policies;
- b) The extent to which the proposed development is consistent with the advice in Planning Policy Note 13: Transport and DfT Circular 01/2008 on Motorway Service Areas, in particular:
 - i) the need;
 - ii) the need for a truckstop at this location and the proximity of other facilities;
 - iii) the transport impact of the development on the motorway including safety considerations; and
 - iv) engineering design of the access to the motorway including safety considerations;
 - v) details of the arrangement of facilities at the truckstop, its extent and the motorway boundary;
- c) whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex;
- d) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable;
- e) any other matters that the Inspector considers relevant.

As regards the 'other matters', I indicated that the following matters should be addressed:

- a) the impact of the proposals on the landscape character of the adjacent area and surroundings;
- b) the weight to be given to the loss of any agricultural land that may occur as a result of the proposals;
- c) whether the foul water generated at the site would be dealt with in a manner that would not cause a risk of pollution to the environment;
- d) whether the site has an archaeological value that would be unacceptably harmed by the development;
- e) the impact of the proposals on sensitive receptors, with particular regard to light, air and noise pollution;
- f) the impact of traffic generated by the proposals on the local highway network; and
- g) whether the proposals make adequate provision to encourage staff to travel to the site by means other than the private car.

Summary of Recommendation: That the application be approved and planning permission granted.

1. Procedural and Preliminary Matters

1.1 Costs Application

- 1.1.1 At the Inquiry an application for costs was made by Refined Estates Limited (REL) against the Highways Agency (HA). This application is the subject of a separate Report.

1.2 Amendments to Schemes

- 1.2.1 In addition to the original application plans, during the Inquiry, the promoters of schemes made amendments to various aspects of their proposals. I required each of the parties to list their final plans and submit a document containing the final set of drawings for which they ask the SSCLG to grant planning permission. These are at HIA201, HIA202, JT201, REL201, LES201 and XLB201. Amendments are reported within the case for each party.

1.3 Rulings and legal submissions

- 1.3.1 I made several rulings during the Inquiry. The first relates to submission of amended plans by REL as a result of amended information by the HA and Environment Agency (EA) with regard to their advice on the application. The original request, with reasons, came in a letter dated 16 November 2010 (REL105); my response was dated 16 November 2010 (REL106). Jaytee (Rainton) LLP's (JT) reaction to that exchange was dated 18 November 2010 (JT102), which was followed by a submission to the Inquiry in written form on 24 November 2010 (JT103). I made my ruling on 28 November 2010, which concluded that *"I am satisfied that the Inquiry should go ahead on the basis of the amended plans"* (INSP2).
- 1.3.2 Second, on 8 December 2010, JT made a verbal request for a ruling as to whether Regulation 19 powers should be invoked with regard to its amended plans showing amended building locations. I was told that this was in response to cross examination by REL of one of its witnesses during which it was alleged that some prejudice may be caused to some unspecified member of the public by the change. My ruling was made on 9 December 2010 to the effect that *"I am satisfied that there is no need to invoke Regulation 19 powers regarding the amended building locations related to JT's application"*.
- 1.3.3 Third, on 6 January 2011, JT made a verbal request for a ruling on whether I should or should not accept HIA's Voluntary Regulation 19 Submission as evidence for consideration at the Inquiry. For convenience, I have transcribed my notes and included the paper as an Inquiry document (INSP4A). My reasons and ruling were given to the Inquiry on 10 January 2011 to the effect that *"I accept Heather Ive Associates' Voluntary Regulation 19 Submission dated December 2010 (Ref CD3.29) as evidence for consideration at this Inquiry"*. JT returns to this topic in its closing statement (paras 92-118). These representations contain some legal argument, so I report them fully in my summary of JT's case [paras 4.11.26-48 below]. HIA's response is at HIA300 paras 83-91 [reported in my paras 3.7.27-34].

- 1.3.4 Fourth, by way of a letter dated 12 January 2011 REL formally requested the substitution of two of the plans submitted for its application (REL118). I accepted those plans in writing on 14 January 2010 (INSP5).
- 1.3.5 During closing speeches, MOT made a legal submission that the HIA application/appeal for a twin sided on-line MSA must be considered incomplete and development must be considered landlocked and undeliverable (MOT300 AnnexII) [see also para11.8.14 below]. Additions were made to that submission during its delivery; I attach the submission in full as Annex 2 to this Report (I have added paragraph numbers in so doing). HIA's response is at HIA300 para82, which I report fully in my paragraph 3.7.26 below.

1.4 Other Procedural Matters

- 1.4.1 A number of Statements of Common Ground (SOCGs) were submitted to the Inquiry, these are found at section 14 of the Core Document (CD) list. Three Pre-Inquiry Meetings (PIM1 to PIM3) took place, the final one involved the parties eventually present at the Inquiry; the minutes of these meetings are at CD16.1 to CD16.3. Accompanied site inspections took place on 25 and 26 January 2011; additionally I carried out a number of unaccompanied inspections on various dates.
- 1.4.2 I have attached all documents and plans submitted to the Inquiry including proofs of evidence. The proofs are as originally submitted; in other words unless expressly stated they do not take account of how the evidence may have been affected by cross-examination or other aspects of the Inquiry. Copies of closing submissions by the advocates have also been included. Again, these are as originally submitted and, unless expressly stated, they do not take account of additions, amendments and explanations offered by the advocates during delivery of the submissions. A list of abbreviations employed is at Annex 1.
- 1.4.3 In the event of planning permission being granted to any of the proposals, conditions and s106 planning obligations were discussed on 20 January 2011. An iterative process was carried out parallel with the Inquiry, including my written comments (at documents INSP200 to INSP202). The conditions finally discussed, with reasons, are at documents HBC203 to HBC210, and XLB200. The submitted conditions for the Hotel Leeming Application are at LES200. The lists of conditions that I propose for any successful proposal are at Annex 3. True copies of completed s106 planning obligations are at documents JT203, and XLB 204 to XLB206.
- 1.4.4 The potential environmental effects of the proposals have been assessed through Environmental Impact Assessments (EIAs) in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999 No 293) (CD4/5). I have reached conclusions on the environmental information in considering each case. In broad terms, the environmental information for the Kirby Hill MSA and Ripon Services MSA schemes is acceptable (paragraphs 14.3.9 and 14.4.8 below), and the information for the Baldersby Gate MSA scheme is acceptable except for its assessment of earthworks (paragraph 14.5.11 below). EIAs were not required for the Motel Leeming MSA and Coneygarth lorrypark schemes (paragraphs 14.6.4 and 14.7.4 below).

- 1.4.5 Harrogate Borough Council (HBC) formally refused the planning application by HIA on 14 March 2009 [see para3.4.1 below]. At its Committee meetings of 17 August 2010, HBC Planning Committee resolved that in the absence of the SSCLG's direction, it would have refused both JT's and REL's planning applications [see paras4.4.1 & 5.4.1 below]. At its Committee meeting of 17 September 2009, Hambleton District Council strongly supported the LES proposal at Motel Leeming [see para6.4.1 below]. In its Statement of Case (SOC), HDC indicated that the XLB proposal is suitable and justifiable in policy terms (CD13.17) [see para7.4.1 below]
- 1.4.6 The parties at the Inquiry produced their main evidence at a stage when the Yorkshire and Humber Regional Spatial Strategy (RSS) was apparently revoked, and thus considered not to be part of the development plan. During the Inquiry, the matter of the pending judicial review in *Cala Homes (South) Ltd v SSCLG & Winchester* [2010] EWHC 2866 (Admin) arose. I wrote to all parties on this matter on 12 November 2010 (INSP1). I asked the parties to draw the Inquiry's attention to the RSS policies that required to be considered and to express views on the materiality and weight of those policies. Written responses are at HIA1/8, LES1/6, JT7/6, REL1/11, XLB5/6, HBC1/4, NY1/6, HA103, MOT2/7. In all cases I have noted that my conclusion does not turn on RSS policies; I would have come to the same conclusion with or without them.
- 1.4.7 On 23 March 2011, the Rt Hon Greg Clark MP, Minister for Decentralisation, issued a Ministerial Statement entitled "Planning for Growth". The parties were asked by letter for their comments on that document's implications on the case that was made to the Inquiry. The statement and responses are at Document DOC12, and the parties' responses have been reflected in my reporting of the cases.
- 1.4.8 On 22 June 2011, Mike Penning MP, the parliamentary Under-Secretary of State for Transport, issued a Ministerial Statement entitled "Policy on service areas and other roadside facilities on motorways and all purpose trunk roads in England". The parties were asked by letter for their comments on that document's implications on the case that was made to the Inquiry. The statement and the parties' responses are in Document DOC13, and the responses have been reflected in my reporting of the cases.

1.5 Preliminary Matters

- 1.5.1 For the avoidance of doubt, four of the five promoters of proposals were represented at the Planning Inquiry. The proposal at Motel Leeming Services, promoted by Mr Carl Les, was dealt with through the written representations procedure; deadlines for submitting documents in relation to the case paralleled those imposed on the Inquiry. Four of the schemes relate to prospective Motorway Service Areas (MSA) on the stretch of A1/A1(M) between Wetherby and Barton; the fifth scheme is for a truckstop at Fairfield Farm.
- 1.5.2 The naming of the sites can be confusing in the documentation. The southernmost site is the double sided Heather Ive Associates (HIA) scheme, which is consistently known as the Kirby Hill site. Two of the competing schemes are at different quadrants of the recently constructed A1(M)/A61 junction, also known as the Baldersby Gate junction. The Jaytee (Rainton) LLP (JT) site in the south western quadrant is known as Ripon Services, whilst the Refined Estates Limited (REL) site in the north western quadrant

is known as Baldersby Gate Services. Further north, the off-line Motel Leeming site of Mr Carl Les (LES) is also called the Leeming Bar site (particularly in the Report of 2004 and corresponding Decision of 2005 (CD12.1, CD12.2)). The northernmost site is that of the truckstop proposal by Exelby Services Limited (XLB). This is variously described as Coneygarth, Fairfield Farm, Leases Lane, and, occasionally, Leeming Bar. I will use the names Kirby Hill, Ripon, Baldersby Gate, Motel Leeming, and the (Coneygarth) truckstop site.

- 1.5.3 HA's first witness was originally to have been Mr Abdulla. He was replaced before the Inquiry started by Mr Askew who adopted Mr Abdulla's evidence, albeit with paragraph re-numbering. Having completed his evidence on need, on his return to the stand on 16 December 2010 regarding site specific matters, Mr Askew was taken ill. I directed that his oral evidence in chief should be allowed to stand, but that his answers in cross examination should be struck off. At that stage, it was assumed that the witness would resume in the New Year to complete his evidence. Subsequently, the Treasury Solicitor informed the Inquiry that he would not be returning and that an alternative witness would not be put forward (HA106). Thus his evidence with relation to site specific matters was not tested.

2. Introduction

2.1 Background

- 2.1.1 There has been a history of proposals for new MSAs or their equivalents on the A1(M) and A1(T) to the north and east of Leeds. An Inquiry was held in 1994 into three MSA proposals, none of which was permitted (CD12.1 para 2.1.1). A second Inquiry was held in 1997/8 into four MSA proposals, two of which were at Kirk Deighton and Kirby Hill. Following the 1997 Inquiry, the Secretary of State allowed the appeal and granted outline planning permission for the Kirby Hill MSA on 15 March 1999 (CD12.3). The other proposals were dismissed. On 14 April 2002, the High Court quashed the decisions in relation to Kirby Hill and Kirk Deighton.
- 2.1.2 A further Inquiry was held in 2002/3 into five MSA proposals which included Kirby Hill and Kirk Deighton. The Inspector reported to the First Secretary of State on 24 August 2003 (CD12.1) and the First Secretary of State granted planning permission for the Kirk Deighton MSA on 4 August 2005. The other proposals, including Kirby Hill, were dismissed. The Kirk Deighton MSA has been built out and is now known as Wetherby Services.
- 2.1.3 The current Inquiry considered proposals for four MSAs and a proposal for a truckstop. The competing MSA proposals again include one for Kirby Hill, two are new sites situated next to the recently constructed A1(M)/A61 junction (Ripon and Baldersby Gate), and one is for an upgrade from an existing Trunk Road Service Area (TRSA) to an MSA (Motel Leeming). The truckstop application is to relocate the existing Londonderry truckstop facility to a new site at Conegarth, Leeming Bar.
- 2.1.4 The context for the proposals is that the A1 from Dishforth to Barton (A1D2B) is being upgraded to motorway standard. Phase 1 from Dishforth to north of Leeming Bar is open for use and will be completed in 2012 (plans at CD11.9-IN-01). Implementation of Phase 2 from north of Leeming Bar to Barton has been postponed as a result of the Government's comprehensive spending review on 21 October 2010; there is no prospect of it advancing in the current spending period, and it is unlikely to advance in the next spending period (CD11.6).
- 2.1.5 Thus, on completion of Phase 1, the A1 will be a three-lane motorway from Dishforth to Leeming. Unless and until Phase 2 progresses, it will remain a two-lane all purpose dual carriageway from Leeming to Barton (CD11.9 Note 01). Many roadside facilities that used to exist along the old A1 have closed as a consequence of the construction of Phase 1. Moreover, Motel Leeming, which provides the most comprehensive set of facilities on the existing A1, will be affected by loss of its direct access to the A1.
- 2.1.6 In relation to existing consented MSA sites within North Yorkshire on the A1(M), to the south there is Wetherby Services and to the north there is Barton Lorry Park which has planning permission for redevelopment as an MSA; this planning permission has been implemented. Both sites are operated by MOT, who also operate the TRSA at Scotch Corner some 2 miles south of Barton. In the context of C01/08, Wetherby and Barton are considered to be core sites for the purpose of assessing the proposals before the Inquiry (CD14.13 paras 3.1.1-2).

- 2.1.7 The SOCG agreed by all parties (CD14.11) shows the distance between the core sites to be 39.622 miles as measured between points at Wetherby Services Junction 46 (underneath the southern parapet wing wall of the southern structure of the grade separated junction) and Barton Interchange junction 56 (to south bridge) (CD14.11 Table DM-3 Northbound). The same table shows that the distance between the southern parapet at junction 46 and the B6265 overbridge at Kirby Hill is 12.363 miles.
- 2.1.8 The SOCG draws attention to C01/08 Annex A para A2.2.1.11 which says that *"It is important not to give the overall distance to the MSA, as this could mislead drivers into passing the junction, seeking a later turn-off for the MSA"* (CD14.11 para3.1). It adds that should parties consider that other points at junctions and MSA site entrances should be used in considering matters of distance, these can be established by the addition or subtraction of lengths determined from a suitably scaled agreed plan of the relevant junction (CD14.11 para3.2).

2.2 Need for the Provision of Motorway Service Areas

- 2.2.1 Department for Transport (DfT) Circular 01/2008 *Policy on Service Areas and Other Roadside Facilities on Motorways and All-Purpose Trunk Roads in England* was issued on 2 April 2008 (CD1.14). It sets out policy on the provision, standards and signing of roadside facilities on the Strategic Road Network (SRN), including motorway service areas (MSAs), motorway rest areas (MRAs), truckstops, and services and lay-bys on all-purpose trunk roads (APTRs). It also sets out the role of the Highways Agency in relation to such facilities. This supersedes previous guidance contained in Roads Circular 01/94, the MSA Policy Statement of 1998, and Annex J to Circular Roads 04/94 (in respect of the SRN).
- 2.2.2 Thus Circular 01/2008 (01/08) is an important consideration in the determination of need for additional MSA provision. It says that *"MSAs and other roadside facilities 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. Government advice is that motorists should stop and take a break of at least 20 minutes every two hours"* (C01/08 Para6). *"The Government's objective is to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue-related accidents"* (C01/08 para7)
- 2.2.3 The Circular advises: *"Drivers are encouraged to stop and take a break of at least 20 minutes every two hours. Drivers of HGVs are required by drivers' hours' legislation to take a break at specified intervals. Research has shown that up to 20 per cent of accidents on monotonous roads (especially motorways) are caused by tiredness"* (C01/08 para53). However, it recognises that *"roadside facilities introduce new on- and off-motorway movements that have their own safety implications, and may disrupt the free flow of traffic"* (C01/08 para53).
- 2.2.4 The existing network has evolved around a long-standing spacing criterion of 30 miles. However *"Any new application for a core MSA should therefore be considered on the basis of a 28 mile (45km) distance, or 30 minutes travelling time from the previous core MSA"*. The reason given for this is that, at peak hours, on congested parts of the network, travel between MSAs can take longer than 30 minutes. And, 56mph speed limiters for

HGVs limit the distance they can travel in 30 minutes to a maximum of 28 miles (C01/08 para55). *"The absolute minimum acceptable distance between facilities on the same route is 12 miles"* (C01/08 para56).

- 2.2.5 The Circular recognises possible adverse effects from the provision of services: *"There is also a need to limit development alongside motorways and motorway junctions to mitigate the impact of strategic roads on the environment. This applies particularly, though not exclusively, to open countryside and areas of planning restraint"* and *"any development accessed from a motorway (including roadside facilities) risks the creation of additional local journeys that would not previously have been made"* (C01/08 para54).
- 2.2.6 The main controversies on the subject of need, and the selection of the scheme best suited to satisfy any identified need, were centred on the subjects of spacing and location, the need (or otherwise) to demonstrate a clear and compelling need and safety case, and the preferred type of facility. Much of the focus was on paragraphs 58, 59, 97 and 98, which are produced in full below.
- 2.2.7 *"58. Where a clear and compelling need and safety case can be demonstrated, applications for an infill service area may be considered. Individual cases will need to be treated on their merits, and it is not possible to prescribe a comprehensive list of the factors which it might be appropriate to consider in every case. There are, nevertheless, a number that are likely to be of importance in virtually all cases. Planning authorities therefore will be expected to have considered at least:*
- the distance to adjoining roadside facilities;*
 - evidence (such as queuing on the roadside facility approach roads or lack of parking spaces at times of peak demand) that nearby existing roadside facilities are unable to cope with the need for services;*
 - evidence of a genuine safety-related need for the proposed facilities (such as, for example, a higher than normal incidence of accidents attributable to driver fatigue);*
 - whether the roadside facility is justified by the type and nature of the traffic using the road; the need for services may, for example, be lower on motorways used by high percentages of short-distance or commuter traffic than on those carrying large volumes of long-distance movements".* (C01/08 para58)
- 2.2.8 *"59. Where infill sites are proposed, the Government's preference will be that they should be located roughly halfway between MSAs, unless it can be shown that an off-centre location is more suitable in either operational, safety or spatial planning terms or in its ability to meet a particular and significant need. The Government will not agree to more than one infill site between any two core MSAs. Where the spacing between two existing MSAs is 40 miles or greater, any infill site that might be permitted will also be designated as a Core site and must provide the required range of facilities (see paragraphs 67 to 71 below)".* (C01/08 para59)
- 2.2.9 *"97. Although an MSA situated at a junction may be signed from the motorway, there is a presumption in favour of on-line sites. Junction MSAs are more likely to generate undesirable trips from the surrounding area if*

the facilities are attractive to local residents. In addition, sites that are located further away from the motorway network might discourage drivers from stopping to rest. Where drivers do make use of such facilities, there is a need to leave the motorway, negotiate the junction and later rejoin the motorway. All of these manoeuvres increase the risk of accidents occurring and may cause congestion at the junction or exacerbate an existing congestion problem". (C01/08 para97)

2.2.10 *"98. However, a junction site may be considered in circumstances where it can clearly be demonstrated that the construction of an on-line MSA would have an adverse impact or could not be delivered due to planning, operational or environmental constraints" (C01/08 para98).*

2.2.11 A public consultation document *Roadside Facilities on the Strategic Road Network* was published in 2010, the purpose for which was to seek views on the proposed revisions to C01/08; the document also indicated that *"the Department has also taken the opportunity to repackage the Circular to present it in a more user friendly format"* (CD1.23 para1). The document advised that:

"43. The provisions of this policy are not retrospective and will only be relevant when changes are proposed. Any planning applications for new (or modifications to existing) roadside facilities registered with the relevant local planning authority prior to the date of publication of this policy document will be considered under the previous Circular 01/2008" (CD1.23 para43).

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3. Heather Ive Associates (HIA) promoting the Kirby Hill MSA Proposal

3.1 The Site and Surroundings

(SOCC at CD14.10 and plans 1500-P-102-C (HIA202) & HIA2/3 App2 Fig6)

- 3.1.1 The total area within the red line of the appeal site is 19.31ha, about 15.84ha of which being the area proposed for built development. The two parts of the appeal site (northbound and southbound) lie adjacent to the western and eastern sides respectively of the A1(M) and A168 road corridor. The village of Kirby Hill is about 0.6km to the southeast, with the settlement of Marton-le-Moor some 1.5kms to the northwest. Ripon is 7km to the west and Boroughbridge 2.5kms to the south. About 0.5km north of the site is the Highfields Lane embankment and overbridge (to A1(M)); beyond that lies RAF Dishforth, about 1km from the appeal site.
- 3.1.2 The northbound site comprises part of two large fields. The southern boundary is bound by the elevated B6265/A168 roundabout, and bounded to the east by the A1(M). The northern boundary is not defined by vegetation or fencing, whilst the western boundary is a hedgerow approximately 2m high containing two mature trees. The southbound site is bounded on the west by the A168, and to the southwest by the B6265/A168 roundabout. The eastern boundary, which runs across narrow fields, is not defined by vegetation or fencing.
- 3.1.3 The northern edge of Kirby Hill village comprises residential properties, a farm, a church (the Grade 1 listed Church of All Saints) and a caravan park. There is a haulage yard on Leeming Lane between the village and the site, and Providence Lodge, to the south of the B6265/A168 roundabout, is the nearest residential property. Other residences nearby include those along the B6265 near the grade II listed Skelton Windmill and those at RAF Dishforth. The roundabout includes 10m high lighting columns. There is also lighting at the haulage depot and at RAF Dishforth. The agreed distance between Kirby Hill and Wetherby is 12.363 mile (CD14.11 Table DM-3 Northbound).
- 3.1.4 The Harrogate District Landscape Character Assessment (HDLCA) (CD8.3) shows the site as being within Area 81 'Dishforth and Surrounding Farmland' (CD8.4).
- 3.1.5 The appeal site forms part of an open undulating agricultural landscape characterised by large fields of arable farmland, few hedgerows and trees and scattered farmsteads. To the east of the A1(M) the low-lying gently rolling landscape stretches to the foot of the Hambleton Hills, some 15km distant. The land is punctuated by occasional knolls and ridges of higher ground as at Kirby Hill (43m AOD) and immediately north east of the appeal site adjacent to Highfields Lane and the motorway overbridge (40m). To the west of the A1(M) the land rises to 58m AOD behind Skelton Windmill, and to 47m AOD on Langthorpe Moor. (CD14.10 paras11.1-2)

3.2 Planning Policy

- 3.2.1 In Harrogate District, the Development Plan comprises: the Yorkshire and Humber Plan Regional Spatial Strategy (RSS) (CD2.3); the saved policies of the Harrogate District Local Plan (CD8.2); and the Harrogate District Local Development Framework: Core Strategy Development Plan Document (CD8.1).

- 3.2.2 Those policies of the development plan referred to by HBC in the reasons for refusal of the planning application are policies A1, C2, C15, T7 and HD20 of the Local Plan and policy SG3 of the Core Strategy. Policies A1 and C15 are now superseded by policies SG4 and SG3 respectively of the Core Strategy.
- 3.2.3 Saved Local Plan policy T7 (CD8.2.1) is the only policy specifically to refer to MSAs. It is in two parts. The first part says: *Within Harrogate District Planning Permission will be granted for not more than one motorway service area serving the A1(M). The provision of an MSA is to be dependent on there being a need for such a facility, taking into account existing and planned services on the A1 and linked motorways elsewhere in Harrogate and Yorkshire.*
- 3.2.4 The second part says that: *Sites and proposals will be assessed against the following criteria:*
- a) *The need to meet minimum standards for parking and the other basic services necessary to serve the needs of motorway users;*
 - b) *The desirability of excluding extraneous services and facilities;*
 - c) *The need to provide safe and convenient access without interfering with the free and safe flow of traffic on the motorway or on the local highway network;*
 - d) *Minimising the loss of the best and most versatile agricultural land;*
 - e) *Minimising the impact on listed buildings, registered parks and gardens and their settings;*
 - f) *Safeguarding and or enhancing the existing landscape character of the surrounding area;*
 - g) *Safeguarding site and features of archaeological or nature conservation interest; and*
 - h) *Minimising the impact on residential amenity.*
- 3.2.5 Local Plan policy C2 requires all new development to protect existing landscape character (CD8.2 p16), whilst policy HD20 (CD8.2 p68) sets out a series of requirements, including that all new development should make a positive contribution to the spatial quality of the area, respect its landscape setting and the character of its surroundings. HD20 states that: *"Development which is contrary to these design principles will not be permitted"*.
- 3.2.6 The HDLCA was adopted as Supplementary Planning Guidance (SPG) in February 2004 following public consultation. HDLCA indicates that large-scale development cannot easily be accommodated in Area 81 without further detriment to the landscape character. Amongst other things, it aims to maintain the extensive views across and beyond the area, pointing out that extensive large scale tree planting, required to screen any new development, would be inappropriate to the area's characteristics and would impact upon views. It seeks to avoid highlighting the A1(M) and A168 corridors; linear planting along which would not respect the landscape pattern.
- 3.2.7 Core Strategy policy SG3 (CD8.1 p19) restates that strict control will be applied over new development in the countryside, in accordance with national planning policy. Core Strategy policy SG4 describes criteria with

which all development proposals should comply including that: 1. *the scale, density, layout and design should make most efficient use of land and a. be well integrated with ... the spatial qualities of the land; be appropriate to the form and character of the ... landscape character*; 2. *visual, residential and general amenity should be protected ...*; 3. *there should be no loss of greenfield land unless justified by [other policy or LDF proposal]*; and 4. *The environmental impact and design of development should conform with policies EQ1 and EQ2.* (CD8.1 p20).

- 3.2.8 Policy EQ1 requires, inter alia, that development should attain 'very good' standards as set out in the Building Research Establishment Environmental Assessment Method (BREEAM). Policy EQ2 recognises the "exceptionally high quality" of the District's natural and built environment and states that this will be appropriately protected (CD8.1). Policy TRA1 requires a Transport Assessment for all developments likely to have significant transport implications; aims to reduce the need to travel and improve the accessibility to, among other things, jobs. (CD8.1) Policy C1 relates to inclusive communities (CD8.1)
- 3.2.9 RSS policy T1 relates to personal travel reduction and modal shift. Criterion A says that the Region will aim to reduce travel demand, traffic growth and congestion, shift to modes with lower environmental impacts and improve journey time reliability. Criterion D provides that the function of the SRN to provide efficient and convenient long distance travel should be protected through the appropriate location of development, integrated demand management and influencing travel behaviour.
- 3.2.10 Policy T4 of the RSS says that the Region will develop an integrated freight distribution system that makes the most efficient and effective use of all modes of transport subject to environmental considerations. Policy T9 relates to transport investment and management priorities. Priority A6 in the related table 13.24A (CD2.3) refers to the strategic role of the A1 and includes as a possible specific traffic outcome "improvement to the management and capacity of the A1"
- 3.2.11 Other general policies are relevant such as ENV7 (Agricultural Land) states that if development of agricultural land is required it should take place on poorer quality land wherever possible and appropriate, ENV8 (which seeks to safeguard and enhance biodiversity), ENV9 (which seeks to safeguard and enhance the historic environment) and ENV10 (Landscape) which seeks to safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber.
- 3.2.12 HIA says that there are no policies within the RSS that specifically address the provision of MSAs. The RSS endorses the importance of the SRN throughout the Region, together with the need to protect the important environment. The re-establishment of the RSS does not introduce any new or significant issues not already addressed in HIA's evidence. It is a principle of planning decisions that they should be made in the context of the planning framework that exists at the time: the RSS should be given full weight. (HIA1/8).

3.3 Planning History

- 3.3.1 HIA submitted a planning application to HBC for an MSA on this site on 17 October 1996. An appeal (Appeal A) was lodged on 24 February 1997 on

the ground that HBC failed to give notice of its decision in respect of the application within the statutory 8 week period for determination. A second application was submitted by HIA to HBC on 26 February 1997 and an appeal (Appeal B) was lodged on 5 September 1997 on the same ground.

- 3.3.2 Appeal A was withdrawn on the first day of the public inquiry held between October 1997 and January 1998; at which inquiry Appeal B was considered jointly with three competing proposals (at Allerton, Arkendale and Kirk Deighton (Wetherby)). The Secretary of State issued his decision on the four competing sites on 15 March 1999, granting planning permission for the Kirby Hill proposal, refusing the application at Allerton and dismissing the appeals in relation to the other two proposals.
- 3.3.3 On 20 April 1999, HBC and the applicant in respect of Kirk Deighton challenged the Secretary of State's decision in respect of Kirby Hill and Kirk Deighton. On 14 April 2000, the decision was quashed due to the Secretary of State failing to give adequate reasons for his decision and a subsequent appeal to the Court of Appeal was dismissed. The proposals relating to Kirby Hill and Kirk Deighton were remitted to the Secretary of State for re-determination. The decisions on Allerton and Arkendale were not challenged and stand dismissed.
- 3.3.4 The First Secretary of State (FSoS) notified his decision to re-open the inquiry in a letter dated 8 November 2001. Appeal B was considered jointly with four competing sites (Skelton Grange, Bramham Crossroads, Kirk Deighton and Flaxby Covert) at a public inquiry held between October 2002 and June 2003. The FSoS issued his decision on the five competing sites on 4 August 2005, approving the proposal at Kirk Deighton and refusing the other four.

3.4 The Application Proposal (CD3.3 and plans at HIA202)

- 3.4.1 The application that is subject to HIA's appeal is in outline form, with all matters reserved except for means of access, and is dated 18 December 2008. HBC formally refused the planning application on 30 March 2009 (CD3.5 p36,37):
1. *The provision of a motorway service area is provided for within the District by a facility at Kirk Deighton (now known as Wetherby Services). In the absence of any overriding need the development would cause demonstrable harm to interests of acknowledged importance and would conflict with Policy T7 of the Harrogate District Plan.*
 2. *The proposed development would adversely affect the landscape character of the area materially altering the countryside to the north of Kirby Hill and would therefore conflict with Policies A1, C15, T7 (criterion F), C2 and HD20 (criterion B) of the Harrogate District Plan and Core Strategy SG3.*
 3. *The proposal would result in the loss of some of the best and most versatile land in the District and would conflict with the advice in PPS7 Sustainable Development in Rural Areas.*
 4. *The Local Planning Authority considers that the application has failed to demonstrate that foul water from the site can be adequately drained without causing risk of pollution to ground and surface water and would therefore conflict with Core Strategy policy SG4.*

5. *The Local Planning Authority considers that the applicant has failed to demonstrate that safe and suitable accesses for the construction of the motorway slip roads can be created on the A168 and B6265. It is considered that without safe and suitable accesses for heavy construction traffic the construction of the motorway slip roads would be likely to create conditions prejudicial to highway safety.*
 6. *The Local Planning Authority considers that the applicant has failed to demonstrate that adequate provisions can be made to encourage staff to travel to the site by means other than the private car. It is considered that this will encourage reliance on single occupancy trips by private car which is contrary to local and National policies.*
 7. *The Local Planning Authority considers that the applicant has failed to demonstrate that foul water from the site can be adequately drained without causing a risk to [sic] pollution.*
- 3.4.2 The proposal is for a twin-sided on-line Core MSA with mirrored facilities serving each carriageway of the A1(M), with the full range of facilities required by C01/08 (C01/08 does not require the provision of a motel, and none is proposed by HIA). The proposed facilities and buildings are listed in the SOCG (CD14.10 paras2.2-3). The application form shows that some 100 full time and 100 part time jobs would be created (CD3.3). HIA now wishes the proposal to include on-site sewage treatment works: HIA's Regulation 19 Submission (Voluntary) (December 2010) includes a Preliminary Groundwater Risk Assessment at appendix3. The non-technical summary includes that "an on-site sewage treatment plant has been assessed to cover the very unlikely event that a suitable connection cannot be made to the existing sewer network" the accompanying plan shows two options for WWTW, one on each side of the motorway. The provision of any on site WWTW is opposed by JT, HBC and EA.
- 3.4.3 The original application proposed that there would be no direct access to the Local Road Network (LRN) but, following discussion between HIA, HA and NY, alternatives are presented with and without such access (also advertised in CD3.29). The final illustrative masterplan is at Drg. No. 1500-P-102-C (without rear staff access) and 1500-P-103-C (with rear staff access) (HIA202). The final set of application drawings is at HIA202.

Environmental assessment

- 3.4.4 Following pre-application discussions with HBC, HIA were advised that the previous August 2002 Environmental Statement (CD3.28) should be updated (6 August 2008 – Appendix 1). The specific topics judged to fall within the scope of the ES Update were: traffic and highways matters; agricultural land; landscape character & visual resources; archaeology & heritage; ecology & nature conservation; and drainage. The subsequent Environmental Statement Update (ESU) sets out the findings of the EIA as required by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008 which came into effect on 1st September 2008. It includes a Non Technical Summary. (CD3.5 para1.3-4)
- 3.4.5 A voluntary Regulation 19 submission was prepared in September 2010 to deal with minor amendments to the site layout to take on board comments made by the HA. Unfortunately the scheduled advertisement was not

published in the Ripon Gazette. It was decided to republish and re-advertise that material in December 2010 to ensure that all parties had the opportunity to consider and comment on the matters it contained (CD3.29). At the same time, the opportunity was taken to provide further information on the likely landscape and visual effects of the scheme and its likely effects on groundwater, the public sewerage network, noise and air quality.

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3.5 Key question 1; Having regard to the guidance in C01/08, is there a need for a new MSA on the A1(M) between Wetherby and Barton which in principle justifies the grant of permission for one of the competing schemes?

- 3.5.1 This is the first of three key questions in considering the four competing MSA proposals (HIA makes no submissions on the XLB scheme). First, HBC's planning witness confirmed, if it were concluded by SSCLG that there is a need for a new MSA having regard to the guidance in C01/08, then that could be a material consideration that outweighed any conflict with the Development Plan arising out of Policy T7. That is plainly right, as the primary objective of C01/08 is *"to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue-related accidents"* (C01/08 para7). If it is concluded that there is a need for a new MSA to serve this stretch of the SRN, its provision should not be blocked on the basis of policy adopted nearly ten years ago which is parochial in its nature (HIA1/2 paras 6.19-21).
- 3.5.2 Second, substantial weight should be accorded on this issue to the expertise of the HA as the body charged with the administration of the SRN in the public interest. HA is unequivocal that there is a need for a new MSA.
- 3.5.3 Third, in contrast to the independent perspective of the HA, the MOT and KH objections should be seen in the context of their private interests. MOT's objection is based on commercial protectionism. KH RAMS have for years been entrenched in their view that, regardless of the evidence, nothing should go anywhere near them. Realising the dangers of accepting that there is a need and confining their arguments to the particular merits of HIA's scheme, they too seek to persuade that they know better than the body responsible for the SRN as to the application of C01/08 and the needs of motorway users.
- 3.5.4 Fourth, the first consideration under C01/08 para58 in determining whether there is a *"clear and compelling need"* is *"the distance to adjoining roadside facilities"*. The point where the extent of the gap is so great that it is sufficient in itself to demonstrate need is at 40 miles, because at that distance, C01/08 para59 requires any new roadside facility to be a Core MSA. Necessarily implicit in this requirement is that a Core MSA is needed where the gap is 40 miles (12 miles greater than the optimum spacing of 28 miles (C01/08 para55) (HIA1/6 para3.2 & HA300 paras24-26). Notwithstanding the poor drafting of C01/08 on this point, on careful analysis the intention is clear. The author of the policy has told the Inquiry that in deciding how the policy should be interpreted; it is plainly right to give significant weight to his first-hand evidence of what it was intended to achieve (HA1/1 para4.76).

- 3.5.5 Fifth, it makes no difference that, when the gap is measured along the motorway carriageway, the precise figure is 39.622 miles. In particular:
- (1) the HA methodology is to round distances to the nearest mile (HIA1/1 para5.4 & CD11.2 para2.7), as is the approach of C01/08 itself (HA300 para31);
 - (2) the 39.622 mile measurement does not take account of the distance between the motorway carriageway and the entrance to Wetherby/Barton (the HA methodology is to include the journey from the motorway slip road to the entrance of the MSA parking area); and
 - (3) it defies common sense to suggest that the need issue could turn upon the gap being 'too short' by 0.37 miles, which at 56mph would be travelled in less than 30 seconds and thus imperceptible to the driver.
- 3.5.6 Sixthly, northbound drivers not stopping at Wetherby would have no other opportunity to stop until Barton (and vice versa); no amount of potential to increase parking capacity at Wetherby would change that.
- 3.5.7 Finally, it is also clear that:
- (1) on this stretch of the A1(M) fatigue has been a significant cause of accidents and it is reasonable to conclude that, even after the upgrading of the motorway, fatigue-related accidents would still occur (HIA1/3 App5 paras5.1-5.2);
 - (2) there is a particular need for abnormal loads (ibid par 4.4); and
 - (3) in relation to the A1(M) south of Dishforth, there is also a particular need in relation to traffic travelling to/from the A168/A19 strategic route to Thirsk and Teesside, which suffers from a poor provision of services (HIA1/1 para5.5, HIA1/3 App4 & HIA1/6 para4.8).
- 3.5.8 In light of these key points, together with the other submissions made in support of the need case, it is clear that the need for a new MSA on this stretch of the A1(M) has been demonstrated.

3.6 Key question 2: Which of the competing schemes would best serve the needs of users of the SRN having regard to the guidance in Circular 01/08?

(i) Introduction

- 3.6.1 C01/08 is the DfT's tailor-made policy for assessing MSA proposals and has been designed with the safety and efficacy of the SRN as its paramount objective. REL's planning witness said that it should receive broadly the same weight as a PPS
- 3.6.2 Applying C01/08, it is clear that the HIA scheme would best serve the users of the SRN because: it is on-line; it is the only site that could accommodate the full range of abnormal loads required by the Circular; and it is able to meet the needs of a significantly greater number of users of the SRN owing to the higher traffic flows at Kirby Hill than at Baldersby.

(ii) On-line vs. off-line

- 3.6.3 C01/08 para97 provides that *"there is a presumption in favour of on-line sites"*. This is because, as the Highways Agency itself states, an on-line MSA *"better suits the needs of the travelling public on the SRN"*(CD13.18 p6). The reasons for this are important, since they illustrate that HIA's

compliance with the presumption is not just a semantic advantage but a consideration of fundamental importance.

- 3.6.4 HIA transport assessments were undertaken on the basis of 8%, 10% and 15%, with the testing using 15% turn-in rate for sensitivity assessment (HIA3/1 para4.6). On-line sites are more attractive as they are quicker and more straightforward for access than off-line sites with their greater distance from the motorway and the manoeuvres that access requires. It is of fundamental importance to the success of an MSA that it is convenient and straightforward for drivers to use (JT1/2 para5.8). As a result, on-line sites have higher turn-in rates and consequently have significantly greater potential for reducing fatigue-related accidents (HIA3/1 paras4.5-4.6 & HIA1/3App2). This is recognised in C01/08 para97, which states that: "[S]ites that are located further away from the motorway network [*than on-line sites*] might discourage drivers from stopping to rest. Where drivers do make use of such facilities, there is a need to leave the motorway, negotiate the junction and later rejoin the motorway."
- 3.6.5 HIA's highway witness cited as examples the on-line MSAs at Clackett Lane and Warwick, which benefit from 10% daily turn-in rates, compared to the junction MSA at Cherwell Valley which has only 6% daily turn-in rates. JT's highway witness agreed in cross-examination that these were broadly representative examples of the different turn-in rates between on-line MSAs and junction MSAs, and accepted the proposition that *"the further away from their route that a driver has to deviate to access a MSA, the less likely they are to stop"* (JT2/2 para5.23). He also agreed that the higher turn-in rates an MSA has, the more effective it would be at reducing accidents. REL's highway witness agreed that in theory an on-line site has higher turn-in rates than an off-line site and as such it can serve a greater proportion of the travelling public. Indeed, even if HIA's turn-in rate were just 2% greater, applying that to a traffic flow of (say) 85,000 this would mean the drivers of an additional 1,700+ vehicles per day (vpd) (over 600,000 per year) would be stopping for a break and avoiding the onset of fatigue.
- 3.6.6 TabA18 of JT105 shows that southbound drivers wishing to gain access to Ripon Services would negotiate roundabouts and face a journey from A1(M) of about 2.27km (1.42 miles) (HIA108 & JT112). At about 15mph, this equates to a total access and egress journey time of 5 minutes 40 seconds. JT assumes that 50% of MSA users would stay for 10 minutes or less (JT3/2 para3.8). People wanting a 10 minute break would be deterred by the prospect of making a 5½ minute detour to do so. The journey difference compared to the HIA scheme would be 1.45km longer for southbound traffic and 1.03m for northbound. For Baldersby Gate, the additional differences would be + 990m southbound and + 570m northbound. The additional distances and manoeuvres would plainly have a detrimental impact on the turn-in rates at both sites as compared to the on-line site at Kirby Hill. The Motel Leeming site would involve a longer detour of 2.6km (JT300 para55).
- 3.6.7 It is also relevant that Wetherby, Barton and Durham MSAs are off-line. It is very likely that there will be drivers who need a break by the time they get to those services who would be deterred by these off-line sites as they are less straightforward and less convenient. Whilst those sites do not persuade them to take a break, the opportunity to stop at an on-line facility at Kirby Hill may well do. The HIA scheme would thus meet an element of need that exists beyond the Wetherby-Barton gap which is currently unmet

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- at Wetherby and Durham (and Barton if and when it is built). The same cannot be said of the Baldersby junction or the Motel Leeming sites.
- 3.6.8 Another point underpinning the presumption in favour of on-line sites is that the additional manoeuvres associated with gaining access to MSAs situated at a junction *"increase the risk of accidents occurring"* (C01/08 para97). REL and JT downplay the extent of any accident risk arising out of the additional manoeuvres that vehicles would have to negotiate. However, each manoeuvre would present an additional accident risk (JT's highway witness accepted this in terms, and REL's witness appeared to accept given the criticism of JT for adding a new roundabout). The likely number of accidents may be debated but inescapably, junction sites pose a greater risk than on-line sites because they involve more manoeuvres.
- 3.6.9 Thus, the safety benefits of on-line MSAs are clear and compelling. The presumption in favour on-line sites of C01/08 para97 is based on considerations of the highest importance. Safety is at the heart of C01/08 (para7). The presumption cannot be dismissed, as a junction site may only be considered in circumstances where it can *"clearly be demonstrated that the construction of an on-line MSA would have an adverse impact or could not be delivered due to planning, operational or environmental constraints"* (C01/08 para98). Even without the emphatic word *"clearly"*, that is a high threshold for junction sites to surmount. Its inclusion leaves no doubt as to the force of the presumption.
- 3.6.10 This presumption was a policy decision introduced in C01/08 and this is the first inquiry at which it has been tested (HIA1/2 para5.15). If it is treated with the same light touch JT and REL adopt (HIA1/7 paras6.5-6.5), then it may be undermined. If it can be outweighed in the overall balance simply on the basis that an on-line site has a greater land-take, or by finding an off-line site that is closer to the mid-point of the area of search than the available on-line site(s), then in many if not all cases the presumption would be easily rebuttable and it would thus be denied of all practical effect. That cannot have been the intention behind C01/08. JT's suggestion (for the first time) in closing that *"no weight"* at all should be given to the presumption (JT300 para61) is clearly wrong. JT suggest that, in order to rely on the presumption in favour of on-line sites, a party needs to adduce evidence that an on-line site best serves the needs of the SRN (JT300 para61). Apart from the points already made the whole point of a 'presumption' is that the evidential onus is on those who are seeking to rebut it.
- 3.6.11 In written evidence, JT and REL placed great emphasis on the statement at C01/08 para58 that *"where infill sites are proposed, the Government's preference will be that they should be located roughly halfway between MSAs"*. Their highway witnesses wrote that this outweighed any advantage the HIA scheme had by virtue of being on-line.
- 3.6.12 As a matter of construction, this approach does not square with the wording of C01/08 or HA's interpretation of policy (HA300 para37). In particular both in the ordinary use of English language and in the specific context of planning (e.g. Green Belt policy in PPG2) the concept of a *"presumption"* carries significantly more force than a mere *"preference"*. Secondly, the *"preference"* in C01/08 para58 for a location *"roughly halfway"* within the area of search is qualified by an important caveat: *"unless it can be shown that an off-centre location is more suitable in either operational, safety or*

spatial planning terms or in its ability to meet a particular need". Where that caveat applies, the preference for a roughly halfway location does not apply. C01/08 para97 makes abundantly clear that it is the DfT's view that an on-line site is more suitable than an off-line site in operational and safety terms. Therefore, in a situation where the only available on-line site is further from the centre of the area of search than off-line sites, the caveat in para58 is triggered and there is no preference for the *"roughly halfway"* off-line site (HIA1/7 para4.6). The para97 presumption takes precedence.

- 3.6.13 JT and REL also suggested that the longer distance (and thus travel time) between Kirby Hill and Barton compared to that between Baldersby and Barton could have road safety implications which, in turn, could eventually lead to pressure for a further roadside facility north of Kirby Hill (JT7/2 paras7.116-117, JT7/5 paras5.12-14 & REL1/1 para4.8). Mr Lane stated that it was because of these factors that the Baldersby sites' greater proximity to the mid-point of the area of search was *"fundamental to the decision"* (JT7/5 para4.8), *"the most important consideration"* (JT7/5 para5.2), and *"the key determining factor"* (JT7/5 para5.12).
- 3.6.14 In cross-examination, witnesses for JT and REL recognised the flaws in the argument. In particular: it was said that as the Kirby Hill site is 27 miles south of Barton, compared to 22 miles for the Baldersby junction, it would generate a safety issue and thus further pressure for a roadside facility. They accepted that C01/08 para55 is clear that the target spacing is 28 miles or 30 minutes' travelling time, thus there is nothing wrong in itself with a 27 mile gap between MSAs.
- 3.6.15 There is no evidence that the median average inter-peak travelling time on this stretch of the A1(M) would be below 56mph. Indeed, that speed would be a conservative benchmark speed, particularly bearing in mind the planned upgrading of the road. Thus, there is no basis for concluding that a sub-28 mile gap between MSAs on this stretch of the A1(M) would be inadequate. Therefore there would be no case for a new roadside facility between Kirby Hill and Barton on spacing alone. A *"clear and compelling need and safety case"* would have to be made having regard to the specific circumstances of the road (C01/08 para58).
- 3.6.16 REL and JT are of the view that there would be no safety issues, and no conceivable need for a further roadside facility between Baldersby and Barton, in the event that the REL or JT proposals were built out; C01/08 para56 would categorically preclude any such facility being built, since it states that *"the absolute minimum acceptable distance between facilities on the same route is 12 miles"* (JT7/2 para9.8). So the 'spacing' case against Kirby Hill came down to this: the extra 5 miles between Baldersby and Kirby Hill would turn a situation where the witnesses considered there would be no conceivable need and safety case for a further roadside facility (22 miles Barton to Baldersby) into a situation where there would be a clear and compelling safety case (27 miles Barton to Kirby Hill).
- 3.6.17 At 56mph, those additional 5 miles would take just 5 minutes 20 seconds to travel. At 70mph, this would be just under 4 mins 20 seconds. Whether a new MSA is built at Kirby Hill or one of the Baldersby sites, it would complete the 28 mile network of MSAs in this stretch of the SRN and there would be no conceivable need and safety case for a further roadside facility south of Barton.

- 3.6.18 The REL and JT planning witnesses accepted that their spacing argument was not their best point. Their argument that Baldersby junction's closer proximity to the mid-point of the area of search was a more important factor than Kirby Hill's on-line status was simply not well founded.
- 3.6.19 The suggestion by KH RAMS that the on-line advantage of the HIA scheme was undermined by the safety implications of creating a new access also failed to gain any traction. The simple answer to this point is found in C01/08 para14: *"the potential risk to safety that is created by additional accesses and egresses is balanced by the improvement to safety resulting from refreshed and alert drivers."* The Highways Agency has confirmed its view that there are no safety issues arising out of the creation of new accesses at this location, and that view has not been the subject of any serious challenge.
- (iii) Abnormal loads**
- 3.6.20 This stretch of the A1(M) is designated as an abnormal load route and a high load route (CD14.15 HA Note 02). The extent to which the competing schemes provide for abnormal loads is therefore an important consideration (HIA3/1 paras4.18-20), especially as there are currently no formal facilities for the parking of abnormal loads on the A1(M) and A1(T) in North Yorkshire (CD14.15 HA Note 02 para1.13).
- 3.6.21 C01/08 para48 provides that, as a *"minimum requirement"* an MSA should be capable of accommodating loads up to 30m rigid length, 6.1m wide and 150,000kg total weight. The HA confirm that HIA's scheme is the only one of the competing proposals that is able to meet this minimum requirement. Notably, the Baldersby Junction roundabouts are designed only to accommodate an abnormal load vehicle 23m long and 3.55m wide (JT2/2 para5.65, JT2/6 para6.6(ii)) – significantly below the minimum requirement of C01/08 para87. JT acknowledged that the constraints of the roundabouts *"may preclude the full range of abnormal loads gaining access to the Ripon Services site"* (JT2/2 para5.64, HIA3/3 para5.4).
- 3.6.22 Of the abnormal loads that JT and REL said would not be precluded from accessing their sites, a significant proportion would still result in encroachment onto the opposite traffic lane on the A61 overbridge (across which southbound vehicles seeking to access the REL or JT sites would have to travel). This includes vehicles 2 and 3 in JT's modelling (JT2/6 para6.5) at 22.626m long and 30m long, where their loads are more than 3.65m wide (vehicle 3 also would also encroach onto the central hatching on the link road between the western roundabout and Ripon Services) (JT2/6 para6.6). The monthly numbers of abnormal loads, and their dimensions, are set out in HA Note 02 (CD14.15). It is clear from this note that a significant number of these are of a size that would result in encroachment onto the opposite traffic lane on the Baldersby overbridge.
- 3.6.23 Only those abnormal loads that are over 30m are required to be escorted (CD14.15 HA Note 02 para1.24). The JT and REL schemes would therefore both involve unescorted abnormal loads of 24-30m encroaching onto the opposite traffic lane on the overbridge. JT acknowledged that such a situation would be a significant safety risk. Whilst the above comments are directed at the two Baldersby sites, Leeming Bar is also unable to accommodate a significant portion of abnormal loads, and in any event it

would be inappropriate to take such vehicles on a 2.6km detour to access the proposed facilities there (HIA3/1 para6.4, CD14.7 para9).

(iv) Traffic flows

- 3.6.24 There are, and will continue to be, greater traffic flows to the south of Dishforth Junction than to the north. REL puts the difference in 2022 at 6,380AADT (REL2/7 Table JWS2), JT puts it at 6,908 (HA/105) and HA puts it at 9,928 (CD14.5.3 para1.9). There is no evidence of what the growth rates would be in the A19/A168 catchment area, so there is merit in the HA's approach of applying the national average. But REL and JT's scepticism at the extent of the resulting differential in growth rates north and south of Dishforth is understandable. The precise figure does not matter. What is clear is that flows past Kirby Hill be substantially higher than past Baldersby and Leeming Bar, and that the HIA scheme would therefore benefit a greater number of drivers.
- 3.6.25 If, for the sake of argument, one takes the lowest differentials in 2022 of 6,380) and applies an average daily turn-in rate of 8% (disregarding the differential between on and off-line turn in rates), an additional 510 vpd would stop at Kirby Hill than would stop at the competing sites. That equates to over 186,000 extra drivers per year stopping for a break and avoiding the onset of fatigue, with obvious benefits for both the safety and the convenience of users of the SRN.
- 3.6.26 It is also important to bear in mind that the A168/A19 route to Thirsk and Teeside currently suffers from a poor provision of services despite being part of the SRN (HIA1/1 para5.5, HIA1/3 App4, HIA1/6 App4.8). Drivers on the A1(M) south of Dishforth heading to or from that route would therefore draw a particular benefit from the provision of an MSA at Kirby Hill (HIA3/1 para4.14).

(v) Other matters

- 3.6.27 In each scheme, layout is a reserved matter. The main parties agree an acceptable layout for each could be achieved at the detailed design stage; HBC and HA expressed no dissent from this view.
- 3.6.28 The Highways Agency has consistently confirmed its conclusion that there are no safety issues in relation to the access to the HIA scheme and that no departures from standard are required (CD14.12, HA107). MOT and REL tried to find a problem with the A168 overbridge associated with HIA's scheme southbound access, but the drawings in HIA/108 and HIA/115 demonstrate that adequate visibility splays can be ensured, and the HA agrees (HA/107).
- 3.6.29 MOT's view that, even if the SSCLG considers that there is a need for an MSA, all the schemes should nonetheless be refused has been countered by HIA (HIA/3/3, HIA/108 & HIA/115). In particular, HA has maintained its position and re-confirmed that there were no departures from standard on HIA's access arrangements (HA/107). Plainly the independent opinion of the HA, the body responsible for administering the SRN in the public interest, should be accorded more weight than evidence submitted on behalf of a commercial objector. Notably, MOT's witness said that HA's evidence on the Wetherby site from the 2002/03 Inquiry should carry significant weight when it was in line with his own (CD 12.1 para6.4.46). He confirmed

in cross-examination that his position is that the HA's evidence should only be given weight when it agrees with what he is saying.

- 3.6.30 JT and REL assert that the provision of a lodge on their schemes supports the contention that they best meet the need for an MSA (REL300 para2.36(ii)). However lodge provision is optional (C01/10 para17). It would have no material impact on turn-in rates: few people would make a spur of the moment decision to spend the night at a lodge and delay their journey by some 10 hours. Neither has assessed the extent to which there is a need for overnight accommodation. Thus, very little if any weight can be given to their proposals for a lodge as providing any real advantage over the HIA scheme. Indeed, their inclusion of a significant element of built form without any justification has a bearing on the conclusions to be drawn about landscape and visual impact.

(vi) Motel Leeming

- 3.6.31 The Leeming Motel promoter chose to advance his case by way of written representations that were not tested in cross examination (and which should be given less weight as a result). Those written representations have been addressed in HIA's rebuttal evidence to which reference should be made. What should be emphasised is that, at 1.3km from a motorway junction, Leeming Motel is simply too far for an MSA (HIA3/1). All the points made in relation to the unattractiveness of the junction sites at Baldersby compared to an on-line site apply with even greater force to Leeming Bar. It is a non-starter for this reason alone.

(vii) Objective support for the view that HIA best meets the need

- 3.6.32 Substantial weight should be given to the fact that HA, from their objective standpoint as the body responsible for the SRN and a statutory consultee, have concluded that, overall, HIA's on-line scheme would best meet the need for a new MSA (HA1/1 para7.244). Whilst HA's main witness' written evidence on this point was not tested in cross examination, the key points in his evidence relating to the interpretation of C01/08 have been tested anyway. Moreover, REL and JT witnesses specifically accepted in cross examination that *"the view of the HA as to which site best meets the need is a matter of substantial weight given their role and expertise"*. Given that they seek to place substantial weight on the HA's views on the question of need (JT7/1 paras5.7-9), it would be inconsistent for them to suggest otherwise when it comes to the question of which proposal would best meet the need. The allegation that the HA has changed its position is without merit. That arises from quoting selectively from the HA correspondence (JT300 paras63-65) – the correspondence should be read in its entirety.
- 3.6.33 Following HA's witness' unfortunate and unexpected incapacitation, the HA's failure to provide a substitute witness at short notice should not be taken as abandonment of their support for HIA (JT300 para73). HA made no amendment to their statement of case or written evidence, and it is understandable why finding a replacement witness within a matter of a month was considered to be too tall an order.
- 3.6.34 Further objective support for HIA's approach can be found in Stroud DC's summary reasons for granting permission to the Gloucester Gateway MSA (HIA110). It is clear from their reason (1) that substantial weight was accorded to the HA's representations and that the on-line scheme at

Gloucester Gateway was considered to meet the need for an MSA better than two specific alternative junction sites because off-line sites *"encourage movements off the motorway, thereby putting more pressure on junctions"* and because off-line sites *"do not reflect Highway Agency guidance"* (which must be a reference to of C01/08 para97).

(viii) Conclusion

- 3.6.35 Overall, it is clear that, having regard to the guidance in C01/08, the HIA proposal is the scheme that would best serve the needs of users of the SRN and thus be the most effective at reducing accidents. This is a matter of very considerable weight for the reasons outlined.

3.7 Key question 3: Are there any overriding planning considerations which justify rejecting HIA's scheme in favour of an alternative which serves the needs of the SRN less well?

(i) Landscape

- 3.7.1 The fact that the HIA scheme would best meet the need for a new MSA provides an important context for considering the landscape issues. It means that the task is not to determine the appeal on the basis of which of the competing sites has the least landscape and visual impact. Rather, the central question is whether the HIA scheme is so much worse than the other competing sites in landscape terms (allowing for the fact that as an on-line site its land-take is necessarily greater) that this outweighs its clear and important highway safety advantages as well as its other advantages to be outlined later.
- 3.7.2 The 2004 Inspector's Report (2004IR) (CD12.1) does not answer the particular issues in the present case. In particular see HIA1/2 para4.8:
- (1) The assessment of landscape impact is inherently subjective and subject to differing conclusions. This happened at Kirby Hill where 2004IR was critical of the HIA scheme that was then before him, the views of the 1998IR (with which the then S/S agreed) about the same scheme were supportive. However, for all the quotes and references from 2004IR found in our opponents' written evidence and submissions at this inquiry, none will be found from the 1998IR. (e.g. HBC300). The matter should be reviewed afresh on the evidence before the Inquiry.
 - (2) The current HIA scheme has evolved since the 2004IR in order to address some of that Inspector's criticisms (HIA2/2 section4) and fresh evidence has been advanced explaining how it would relate to the surrounding landscape.
 - (3) The selection of candidate schemes for consideration at this inquiry is very different to that which was before the 2002/03 inquiry. In particular, the JT and REL sites are in the same landscape character area as the HIA scheme and those sites have a significant landscape impact of their own.
 - (4) The underlying policy matrix is also different. In particular, C01/08 requires substantially greater weight to be given to the on-line status of HIA's scheme.
- 3.7.3 It is also crucial not to lose sight of a number of 'big picture' points:
- (1) Given a new MSA on this stretch of the A1(M), some landscape and visual impact would be inevitable. The planning system should recognise in

principle that this is acceptable owing to the highway safety benefits on the SRN provided by an MSA.

- (2) It is inescapable that most, if not all, MSAs would be on greenfield sites in the country.
- (3) MSAs can be located in relatively sensitive areas: for example the recently permitted Gloucester Gateway MSA, next to an AONB and directly overlooked from a range of nearby elevated vantage points (HIA2/2 App3 p14, HIA/102 pp2-3, HIA2/2 para3.16), and Beaconsfield Services which is in Green Belt and an Area of Attractive Landscape and involved the removal of ancient woodland (HBC2/2 paras18.1.2, HIA2/5 AppH paras7.10,12, HIA2/4 para2.8).
- (4) By contrast, the countryside in the vicinity of Kirby Hill has never been identified as worthy of special protection or designation; it is not especially attractive or important in landscape terms (HBC2/2 para5.4.2, HIA2/2 paras 3.3-13).
- (5) The fact that a proposed MSA site would require landscape mitigation measures does not of itself demonstrate that the site is inherently unsuitable for an MSA. HBC's planning witness acknowledged that, and if an MSA is to be located in the countryside, it is better that it is screened than not screened.
- (6) The Government's policy presumption in C01/08 in favour of on-line MSAs would have been made knowing that on-line MSAs need to be twin-sided to meet the need on both sides of the motorway. Faced with competing on-line and off-line proposals, if the planning system were to reject the on-line proposal on the basis that its land-take and landscape impact was greater as a result of it being on both sides of the motorway, that would mean that the presumption in favour of on-line sites could never be given effect (HIA1/2 para6.13). The promoter of an off-line site would always be able to claim the advantage of lesser landtake – precisely what JT and REL say in this case (CD13/11 para3.9, JT7/5 para5.4). HBC misrepresented HIA's point in closing when saying *"HIA argue that the presumption in favour of on-line sites contained within paragraph 97 means that any harm that a twin-sided MSA would cause by reason of it being twin sided should not be weighed in the balance"* (HBC300 para143). Of course it is relevant, as are the whole plethora of planning considerations – but the point is that if the inevitable landscape consequences of being two sided are seen as a decisive factor, then the policy presumption in favour of on-line sites would be rebutted in every case and would become redundant.

3.7.4 In addition to the 'big picture' points, the key factors to bear in mind when looking at the landscape impact of the HIA scheme include the following:

- (1) The core of the Council's objection is not that the proposed mitigation measures would be ineffective at satisfactorily screening views of the MSA. The Reasons for Refusal relate solely to impact on *"landscape character"* and *"landscape setting"* (CD3.1 reason for refusal 2). It was expressly concluded that there would be no unacceptable visual impacts on any nearby properties (CD3.2). HIA's cross-sections show that the mounding would be effective at screening views from Kirby Hill of the southbound side of the MSA (HIA2/3 App2 fig17) and HBC's landscaping witness agreed. If

for some reason SSCLG disagrees, a condition restricting the maximum building heights to (say) 8m or 8.5m rather than 9m could be imposed.

- (2) Such views as there are into the site from the Ripon Road would be seen in the context of the existing highway infrastructure: the A1(M), the Ripon Road itself, the overbridge and its embankment. The MSA would be significantly below the Ripon Road and therefore would not be perceived as overdominant. Moreover most views from the Ripon Road would be from moving vehicles: such transient views are less sensitive.
- (3) There was a strong degree of consensus amongst the experts that in landscape and visual terms it is a good thing for an MSA to have a close relationship with the existing motorway as opposed to being distinct from it, and that the closer that relationship the better. An MSA is part of the highway infrastructure and should be seen as such. The HIA scheme fares the best in this regard since its on-line nature means it 'hugs' the A1(M) most closely.
- (4) The landscaping witnesses from HBC and MOT agreed that the planting associated with the HIA scheme would be consistent with, and reinforce, the planting already undertaken as part of the HA's landscape strategy for the A1(M) upgrade. This would have clear benefits, such as shutting off views of the motorway that have not been fully screened by the HA's existing planting (photomontage HIA2/3 App2 Fig18). So the mitigation measures proposed for this piece of new highway infrastructure are in line with the mitigation measures already in place for the existing highway infrastructure. The fact that HBC endorsed the HA's landscape strategy for the A1(M) upgrade (HIA2/2 paras3.18 & 3.23-24), and JT's landscape witness had actually promoted it, means that they cannot credibly criticise HIA for being consistent with it.
- (5) As for the mounding, a number of points can be made:
 - a. Mounding is a relatively common feature of highway infrastructure.
 - b. It is an over-simplification to characterise HIA's proposed mound as a "9m mound". It is contoured; it is not a monolith (contours plan at CD3.29 fig2.6).
 - c. Its maximum height would be 43m AOD; comfortably below the level of the Ripon Road roundabout.
 - d. Artificial landform associated with highway infrastructure is already a feature of the area immediately surrounding the site. For example the Ripon Road overbridge embankment, at its highest point, is 11.5m above the adjacent ground levels (CD3.29 fig2.6). So an increase in height of this order between the natural ground level and the top of the highway infrastructure is already part of the baseline position. Moreover, the baseline also now includes the permanent mounding that NYCC have constructed close to the site so as to prevent HGVs from parking on the side of the road (HIA2/5 AppC).
 - e. The external face of the mound has been made shallower since the 2002/03 inquiry in order that it may more effectively integrate into the landscape. Moreover, as the 1998 Inspector noted (CD12.2 para14.110), the proposed planting would in time blur the topography and soften the appearance of the mound.

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- f. Implicit in HBC's conclusion that there are no unacceptable visual impacts on views from residential properties is that there is nothing inherently unacceptable about the visual appearance of the mound. The mound would appear as a background feature against the context of the wider landscape (HIA2/3 App2 fig17), and the primary focus of the eye would still be on the Hambleton Hills and the White Horse to the East.
 - g. Whilst the interior face of the mound would be steeper than in the scheme before the 2002/03 inquiry, it is technically achievable using gabions and the visual appearance of the internal face could be softened through planting (HIA119, HIA2/4 AppB). The appearance would not be incongruous with the expectations that drivers have of what an MSA looks like.
 - h. Overall therefore, the conclusions of the 1998 Inspector about the mounding remain apposite today: in particular CD12.3paras14.110-14.112 of his report and the conclusion at 14.113: *"On balance I am satisfied that the potential incongruity of the proposed mound in the landscape would be limited and acceptable, bearing in mind the benefits it would provide in terms of screening the proposed southbound MSA from the Kirby Hill village."*
- (6) There would be no unacceptable impacts in terms of lighting. The use of up-to-date lighting design would ensure that light pollution is minimised through well-hooded, well-guarded systems (HIA/114). Indeed this is a requirement of C01/08 para 43. Moreover, the HIA scheme would lie against the backdrop of the substantial lighting on the Ripon Road roundabout and at Dishforth Airfield, and in the context of that existing lighting any additional light from the MSA would not be particularly noticeable (HIA2/3 App2 fig19). There would be no clear distinctions between Ripon Services, Kirby Hill, Exelby or Leeming Bar schemes in relation to lighting impacts (JT7/2 para9.65).
- (7) Finally, the Kirby Hill scheme would have two particular benefits in environmental/ landscape terms. First, the substantial net gain in overall biodiversity delivered through the introduction of a more diverse landscape featuring woodland, hedgerows, species-rich grassland and wetland zones. Second, it would actively promote the public appreciation of the Hambleton Hills and the Kilburn White Horse, through the Tourist Information Centre and the signposted walk on the southbound side to an accessible viewpoint with information about these attractions. It would therefore provide thousands of drivers per year with the chance to pause and take in these views in a way that they could not safely do when driving along the A1(M). The HIA scheme thus actively seeks to take advantage of the wider landscape in the distance, unlike the competing proposals.
- 3.7.5 Moreover, it is clear that the competing sites also would have significant landscape impacts. The following factors in particular are highlighted:
- (1) The REL and JT schemes would also involve an MSA being built in a greenfield location in open countryside (in a much more rural setting), on sites that are visible to passing motorists.
 - (2) The Baldersby sites are in the same landscape character area as Kirby Hill, so all the objections to HIA's scheme on the basis that an MSA is inappropriate in landscape character terms (a point which is at the very

forefront of HBC's case) apply with equal force to the REL and JT schemes (HBC300 para29). Similarly, the points that JT and REL make in relation to why the landscape character of their sites is capable of accommodating an MSA apply equally to the HIA site (REL300 paras3.9-13).

- (3) The JT and REL schemes would also involve significant landscape and visual mitigation measures, including planting and (in the case of REL) substantial mounding.
 - (4) Both the Baldersby sites are on a ridge, and as HBC's landscaping witness commented, their elevated position means that they are open and exposed.
 - (5) The upper parts of the buildings of the JT and REL schemes, as well as the perimeter security fence, would be clearly visible from the nearby residential properties at Wide Howe (JT3/3 p74).
 - (6) Both REL and JT include a sizeable lodge, which would be clearly visible from external viewpoints (including Wide Howe), without having undertaken any assessment of whether there is a need for including the lodge. Thus both would have a greater impact than is necessary for an MSA. JT's witness conceded that he was not consulted about the landscape and visual implications of including a lodge: it was presented to him as a *fait accompli*.
 - (7) Whilst the LES scheme would unquestionably have a lesser impact given that it would be expanding on the existing facility at Leeming Bar, it does abut open landscape to the south and west and is open to views.
- 3.7.6 Crucially, even on HBC's evidence, there is little between the HIA, JT and REL schemes in terms of landscape impact. HBC does not identify a significant difference. That falls well short of a basis for concluding that the HIA scheme is so much worse than the JT/REL schemes in landscape terms that this outweighs the clear and important highway safety and other advantages that it has over them.
- 3.7.7 Two decisive points in HBC placing the HIA scheme behind JT/REL were the fact that the HIA scheme would be twin-sided and thus "*be experienced over a wider area*" and because the tree planting for the A1(M) upgrade is more mature at Kirby Hill than it is at Baldersby and therefore has started to screen the motorway from the wider landscape to the East (HBC2/1 para18.6.5).
- 3.7.8 These are not good points because, the first point is an inevitable consequence of the HIA scheme being an on-line, twin sided scheme as opposed to an off-line scheme; as already shown, it would render the presumption in favour of on-line sites ineffective. The second point is illogical. The more mature A1(M) planting favours HIA (HIA2/4 para2.11) as it would help in screening the development: contrast, for example the open views from Wide Howe over the JT site (JT3/3 p74 viewpoint 02, HIA App2 fig24). Moreover, the planting associated with the HIA scheme would be consistent with, and reinforce the A1(M) planting, and from some views would enhance its screening effect of the motorway (HIA2/3 App 2 fig18 shows traffic obscured in Year 10). Whilst it is true that an element of the A1(M) planting would need to be removed, it is small in amount and the new planting would more than adequately compensate for it.
- 3.7.9 The evidence of MOT's landscaping witness should be given little weight, and should be seen in the context of MOT seeking to protect its commercial

monopoly of MSA provision in the area. This was no more obvious than when, having argued that the landscape impact of each of the competing schemes was so great as to justify refusal even if there was a need for a new MSA, she contended that the particularly prominent view of her own client's scheme at Wetherby shown at MOT/4/3 pp18-19 "*works well*" and had no adverse impacts.

(ii) Best and most versatile (BMV) agricultural land

- 3.7.10 There would be an irreversible loss of 14.7ha of BMV land. A reversible loss of 3.3ha would take place in planting along the western boundary (HIA1/2 para6.25). HBC and JT agree that loss of BMV land is not a decisive dividing point between JT, REL or HIA (JT7/2 para 10.28). Assuming Leeming Bar to be a non-starter owing to its distance from the motorway, HBC sees the principle of BMV land being lost as inevitable. Therefore the question is simply whether any of the competing schemes is "*wasteful*" or over-hungry, of agricultural land. HBC did not suggest that the HIA proposal was wasteful in this regard, thus endorsing HIA's conclusions (HIA1/2 paras6.2.5-6.3.3). The point may be taken against JT, as their single site scheme would take around 6ha more than REL's single site scheme, with nearly the same land-take as HIA's twin-sided scheme (REL/300 paras3.28 & 4.2). Despite JT's suggestion that the landscaped areas could be returned to agriculture after the end of the MSA's lifetime, the reality is that the entire site would be lost from agriculture for the foreseeable future.

(iii) Residential amenity

- 3.7.11 The 1998IR and 2004IR reports agreed that there was no reason for refusing permission for the previous HIA scheme on the basis of impact on residential amenity (CD12.3 paras14.126-14.131, CD12.1 paras10.6.72-10.6.77). Against that context, the Officer's Report on the current scheme stated the following in relation to the requirement in Policy T7(H) that any MSA scheme should be assessed against the objective of "*minimising the impact on residential amenity*": "*The Inspector considered the impact on the amenities of local residents from visual impact, air quality, noise, litter and local parking and concluded the effects would be quite modest. The current application does not change those conclusions and therefore there is no conflict with this aspect of policy T7.*" (CD3.2) Regarding noise, even the noisiest activities on the MSA were calculated to remain below the existing background noise level at each of the nearest properties and would be unlikely to give cause for complaint, by day or by night (CD3.29 para3.9).
- 3.7.12 The Reasons for Refusal (CD3.1) contained no reference to impact on residential amenity, visual impact, air quality, noise, litter or local parking. HBC did not consider impact on residential amenity to be a factor justifying the refusal of the HIA scheme. This was reiterated in the SOCG between HBC and HIA (CD14.4 para7.1). HBC's landscaping witness confirmed in cross examination that the planting and mounding would effectively screen views from residential properties, that his criticisms were based exclusively on landscape considerations.
- 3.7.13 There is no evidential basis for going against these conclusions (HIA1/2 paras6.45-50, HIA1/7 paras2.1-6 & 2.22-29). Whilst KH RAMS advanced various concerns about residential amenity, their non-expert evidence should be given less weight than the expert conclusions of the two previous inspectors and of the Council's case officer who wrote the Officer's Report

(HBC1/3 p17). An illustration of this is their concern about wind-blown litter (KH3/1 s3.7). Leaving aside the fact that the management of litter can be controlled through conditions (REL1/1 para3.35), the prevailing wind blows in an east/northeast direction (HIA2/3 App2 fig1, HIA2/4 paras8.3-4), i.e. away from Kirby Hill.

- 3.7.14 Whilst the precise form of the construction phasing will be the subject of a detailed assessment, a potential phasing arrangement has been included in the Supplementary TA which provides for a temporary re-routing of the A168 during the bridge construction to allow for the connector roads into the southbound site to pass beneath the existing A168. All construction traffic would use the A168 for access to the sites with construction traffic banned from access to Kirby Hill or Ripon on the B6265 beyond the access to the northbound site. All haul roads will be designed to avoid any noise, smell, dust, visual or other adverse impact on the existing residents. (HIA3.1 paras 4.27-28, CD3.5 paras5.30-31)
- 3.7.15 Moreover, the Baldersby sites also neighbour residential properties. They are a short distance from Wide Howe, from which the MSA would be visible and which, being to the east/northeast, are downwind of the sites. There are other residential properties not much further away. There have been local objections to those schemes too (including orally to the Inquiry on 18 January 2011 (CD2.5-6).

(iv) Heritage issues

- 3.7.16 Much the same can be said under this heading too. The 2004IR considered the impact of the HIA scheme on the Church of All Saints and Skelton Windmill and concluded that any impact on their setting would be *"really quite limited"* (CD12.1 paras 10.6.56-10.6.60), confined to *"only minor effects"* (CD12.1 paras10.6.56). Drawing on this conclusion, HBC considered that there was no basis for refusal on listed building grounds, and that there was no conflict with criterion (E) of Policy T7 (CD32 pp9-10). The SOCG reiterates this (CD 14.4 para. 13.2). There is no expert heritage evidence to contradict that view; the Inspector's conclusions therefore carry the same force today as they did then (HIA1/2 para7.45).
- 3.7.17 In relation to archaeology, the 1998IR and 2004IR considered this could be dealt with by condition (CD 12.3 para14.50,) CD 12.1 paras10.6.61 & 10.6.105). This conclusion is supported by expert evidence (CD 3.29, HIA/109 & HIA/120). The Heritage Unit of NYCC has not dissented from this view (HBC1/2 para7.2.17), nor did HBC take any point on archaeology in its reasons for refusal (CD3.1). On both points, the consistent finding has been that there is no basis for refusing permission on heritage grounds.

(v) Sustainability

- 3.7.18 It is common ground with HBC and NYCC that the question of whether the HIA scheme should include provision for rear staff access is not a matter that goes to the principle of development, since the matter could be satisfactorily addressed by condition(s) in the event that the Secretary of State agrees with NYCC that rear access is desirable. None of the parties contest that view in their evidence (albeit that KH RAMS agree with HIA that in the event of permission being granted rear access should be excluded) (HIA3/1 paras4.30-34, HIA3/3 paras3.1-13).

- 3.7.19 NY does say that in the event that a condition for rear staff access were included, the HIA proposal would be the most sustainable of the competing schemes in relation to staff access, since it would offer the greatest amount of realistic choice for access by non-car means owing to its greater catchment. HIA's proposal would also be the most sustainable in relation to customer access, since the travel distance to and from the motorway would be considerably shorter than it would be at Ripon Services, Baldersby Gate or Leeming Bar. NY's highway witness said "the greater the distance savings, the greater the sustainability gap".
- 3.7.20 The journey from the motorway to Ripon Services and back again would be longer than the equivalent journey to and from the HIA scheme, by 1.03km for northbound drivers and 1.45km for southbound drivers (HIA108). The Baldersby Gate distances would be 570m and 990m respectively. Applying these to the predicted traffic flows and turn-in rates, this would result in an additional 5,288km (3,285miles) per day being travelled if Ripon Services was built compared to the position if the HIA scheme was built – or 3,295km (2,047miles) per day in relation to Baldersby Gate (HIA108). Over a year the differential would be 2,088,760km (1,199,025miles) for Ripon Services and 1,202,675km (747,155miles) for Baldersby Gate. HBC said there is no evidence of what this would mean in carbon terms (HBC/300 para145). However, the implications are obvious. Over the lifetime of the MSA, the distance and CO₂ emissions savings delivered by the HIA scheme would be very substantial.
- 3.7.21 The Key Planning Objectives set out in paragraph 9 of the Supplement to PPS1 *Planning and Climate Change* ("PPS1S") include (2nd bullet) ensuring that in providing for infrastructure developments the "highest reduction in emissions" is secured and (4th bullet) securing new development that minimises vulnerability to climate change. The ability of the HIA scheme to save between 750,000 to 1 million vehicles miles per year (with the consequent emissions savings) compared to the JT and REL schemes, and its ability to provide the greatest degree of choice for staff access by non-car means, should be viewed as a contribution towards these Key Planning Objectives. There is no evidence that this contribution would be outweighed by the JT or REL schemes having a sustainability advantage in any other respect (HIA2/2 para8.7). As PPS1S para40 makes clear, this is an advantage that should be given significant weight. HBC's suggestion that it should be ignored flies in the face of the policy (HBC300 para145). It is plainly a material consideration and HIA considers that to fail to take account of it would be unlawful.

(v) Viability and deliverability

- 3.7.22 There is no evidence from any party that weighs the specific costs of any of the competing sites against the specific value it would generate; so there is no evidence to support a conclusion that any of the schemes would be commercially unviable. However, the Business Development Director of Roadchef, makes clear his company's interest in developing and operating the Kirby Hill site (HIA1/3 TabH2, HIA106). As a successful MSA operator, Roadchef is in a good position to judge whether a proposed MSA would be a success. There is also the evidence that HIA is prepared to develop the site itself (HIA1/2 para1.5).

- 3.7.23 In the event of SSCLG concluding that there is a need for a new MSA, any delay in meeting that need would delay the consequent safety benefits for the travelling public. If there are land ownership issues which might delay and/or frustrate the development of a proposal, this should be given significant weight. This is an area where JT are at a significant disadvantage. REL outline the reasons for this, and HIA adopt their submissions on the matter (REL300 paras6.66-6.66 and 6.8 {there are 2 paras6.66}). The principal points are:
- (1) JT would not start building out their permission unless and until they know that they can complete it (JT's planning witness in cross examination);
 - (2) Land which is essential for them to construct their access is the subject of the CPO for the A1(M) improvement scheme, but is not required for that scheme;
 - (3) It is at least arguable that the Potter family are entitled to that land back;
 - (4) JT accept that, at the very least, this issue would have an effect on the timing of their scheme (JT's planning witness in re-examination) but they have not assessed how much time it would take to obtain a satisfactory resolution (JT's planning witness in cross examination); and
 - (5) In fact, JT labour under a misapprehension that this is a matter of timing and that ultimately a deal can and will be struck with the Potter family. The truth is that Clause 6 of the Potters' option with REL prevents them from selling the land to JT for 12 years (REL103).
- 3.7.24 At best this issue is likely to involve significant delay thereby prolonging the period in which the need for a new MSA would go unmet and deferring the safety benefits that a new MSA would bring. In the worst case, it might threaten the delivery of the JT scheme altogether. Either way, it is a factor of considerable significance in the overall balance.
- 3.7.25 By contrast, the evidence does not support a similar conclusion relating to the deliverability of the HIA scheme. Two points should be highlighted in this regard. First, the drawings contained in HIA108 and HIA115 show that there are no construction issues that threaten the deliverability of the A168 overbridge associated with the southbound access. The HA confirms through HA107 that it and the A1(M) DBFO Operator, RMS (Darrington) Ltd, are content with the drawings. They also confirm that there are no issues with the structural integrity of the bridge and that RMS communications equipment is capable of being moved at a relatively small cost (HA107 paras1.8-10).
- 3.7.26 Secondly, MOT's suggestion that the HIA scheme is not deliverable because the application boundary stops short of the motorway is without merit. In particular:
- (1) HIA's highways witness explained in chief that all the necessary land is in the ownership of the HA and/or the NYCC. The evidence indicates that it falls within the land transferred to the HA in connection with the A1(M) Walshford to Dishforth upgrade and/or within the area of highway public maintained by NYCC (HIA108). The HA and NYCC have not demurred from this view. Unlike the situation with JT, nobody other than the HA or NYCC lays claim to the land and after 14 years of HIA promoting an MSA at Kirby Hill, no ransom-holder has been revealed.

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- (2) Part 13 of Sch. 2 to the GPDO confers wide powers of permitted development (PD) on the Secretary of State for Transport (SST) and local highway authorities. For the SST, the power covers any works in exercise of his functions under the Highways Act 1980 or "*in connection with or incidental to*" those functions (Class B of Part 13). It plainly includes works in connection with the provision of an MSA on the SRN. MOT's suggestion that the SST must "*do the work himself*" (MOT300 Anx.2) is without merit. The HA is an Executive Agency of the SST's Department and as such has authority to perform his functions under the 1980 Act. Indeed Circular 02/2006 *Crown Application of the Planning Acts* specifically mentions the HA as the beneficiary of these PD rights (at para60). The power of local highway authorities under Class A of Part 13 is similarly broad. The scheme would involve works affecting the A168, for which NYCC is responsible, and therefore the carrying out of development in connection with the scheme is plainly "*required for*" and/or "*incidental to*" their functions and within the scope of Class A.
- (3) The exercise of these PD powers would be covered by the envisaged s.278 agreement (HIA108 paras4.5). There is nothing unusual about that.
- (4) Even if, for some reason, the SSCLG concluded that the works fell outside the PD powers of NYCC and/or the HA and that they therefore require a separate grant of planning permission, the straightforward solution would be to impose an appropriately worded Grampian condition. If permission were granted for the HIA scheme, plainly, any necessary further permission for works on the HA/NYCC land would be forthcoming within a reasonable timescale.

(vi) Drainage

- 3.7.27 This topic is straightforward. Surface water would be disposed of by means of soakaways or to existing ditches. The use of soakaways is accepted by the EA (CD3.5 paras12.2-4). The development has a low risk of flooding and will not have any off-site impacts (CD3.5 App12 FRA). Yorkshire Water (YW), the relevant statutory undertaker, considers that there is no reason why foul water from the HIA scheme could not be disposed of via the public sewer network by means of a connection to Boroughbridge Waste Water Treatment Works (WWTW), subject to any necessary improvements to the works being funded. That was the position at the 2002/3 public inquiry (CD12.1 paras10.6.67 & 10.6.107) and is the position now. There is no evidence of any major developments in the catchment of Boroughbridge WWTW since that time which might suggest that the position has changed since then. HBC confirms that it no longer seeks to rely on its drainage-related reason for refusal (No.6) and that the matter can adequately be addressed by Grampian condition which would be fully compliant with Circular 11/95 (CD14.10).
- 3.7.28 Neither JT nor any other party have put forward any evidence contradicting Yorkshire Water's position the written evidence on behalf of JT was contingent on what was at the time considered to be an objection from YW (JT6/2 paras10.13-14, JT6/4 paras2.32-33). Even KH RAMS now accept that off-site treatment "*does appear to be a feasible option*" (KH300 para3.10.2).
- 3.7.29 There is no need for a s106 agreement in relation to the improvement works. Condition 26 provides that a drainage scheme must be approved prior to commencement of development. Plainly HBC would not grant such

approval unless and until a guaranteed funding mechanism was in place in respect of any improvements to Boroughbridge WWTW. If the SSCLG is in any doubt about the acceptability of using a condition, he has the power to issue a 'minded to grant' letter requiring HIA to enter into a suitably worded planning obligation.

- 3.7.30 YW's view is that any necessary improvement works would fall within their PD powers and would not involve the construction of a building (letter of 9 Dec 2010 at CD14.9 App6). All pipe works would be underground and any above ground form would be limited in size and not significantly alter the visual form of what is already present at Boroughbridge WWTW (CD3.29 para3.29). Thus, the impact of the works is likely to be negligible. Extensions or alterations to existing WWTWs fall within the EIA Regulations, and so only require EIA if they are likely to have significant environmental effects. Whether that is the case here would be a matter for consideration as and when any improvement works are commissioned, but on the evidence available it looks very unlikely. JT's notion that it must be subject to EIA now is in error as they are not part of the current HIA application. The opportunity for EIA, in the unlikely event that it is required, would come when YW seek to construct the improvement works. In any event, insofar as the likely effects of any improvement works are ascertainable, they have been assessed in HIA's December 2010 Regulation 19 submission (CD3.29 para3.29).
- 3.7.31 The fact that HIA's scheme is the only one able to connect to the public sewerage network is a point in its favour. The EA's strict policy (as seen in its comments relating to on-site treatment at Kirby Hill: HBC/3/8 para3.3) is not to grant an Environmental Permit for on-site discharge of foul water into the ground unless it can be shown that connection to the public sewerage network is unacceptable (CD1.52 pp1-2). This reflects the fact that the pollution risks associated with on site works are likely to be higher than a mains solution (REL 1/1 para4.45, HBC3/3 p165). Whilst HBC comment that this is a limited advantage, it is an advantage nonetheless and it should be taken into account in the overall balance. If it was not a significant point, the EA's policy would not be as it is.
- 3.7.32 HBC and JT planning witnesses accept that HIA only needs to show that satisfactory arrangements for foul water drainage are capable of being achieved either via off-site connection to Boroughbridge WWTW or by on-site treatment – not both.
- 3.7.33 In the event that SSCLG considers that on-site treatment should be ruled out in principle, it is within his power to do so (HBC3/3 para3.6). This could be done by a suitably worded condition and, if necessary, by removing reference to on-site treatment from the description of development permitted. Strictly speaking, this would not involve amending HIA's scheme since the application to make an amendment to include on-site works ultimately has to be determined by the SSCLG (albeit that this Inspector has already indicated that he is satisfied that the amendment is *Wheatcroft*-compliant and could therefore be accepted) (INSP2, INSP4). But in any event, just as the inclusion of the on-site option is *Wheatcroft*-compliant, so too would be its exclusion.
- 3.7.34 It would not be appropriate to exclude on-site treatment because:

- (1) There is adequate control against adverse environmental effects in that on-site treatment cannot take place without an environmental permit from the EA. They plainly would not grant a permit unless it could be shown that on-site treatment would have unacceptable environmental consequences – and would not do so unless there was an unforeseen change of circumstances regarding the ability to deliver an off-site solution (HBC/3/8 para3.3);
- (2) A condition could be imposed requiring that, in addition to an EA permit, on-site treatment could not take place without the approval of HBC. This would ensure that HBC would have control over the matter; and
- (3) As with their response to REL's proposed on-site solution, JT's objections fail to appreciate that at this outline stage it is not necessary to demonstrate final technical details of what would be involved, but rather to demonstrate with reasonable certainty that a satisfactory scheme can be achieved at the detailed planning and design stage. For the reasons outlined in HIA's December 2010 Regulation 19 submission, and in HIA/118 (note dated 28 Jan 2011), it is indeed possible to conclude with reasonable certainty that a satisfactory on-site solution could in principle be achieved for the HIA scheme. Nothing said in JT117 demonstrates that an acceptable on-site solution cannot be achieved.

(vi) Employment

- 3.7.35 No one scheme has a significant advantage over the others in respect of employment. There is no evidential basis for KH RAMS' speculation that the HIA proposal would draw employment away from local businesses. That runs contrary to the view of HBC's case officer, whose report considered that the HIA scheme would have clear benefits in terms of employment generation (CD3.2 p 10).
- 3.7.36 No weight should be given to JT's planning obligation making undertakings relating to the sourcing of employees and materials locally (JT203). Regulation 122 of the Community Infrastructure Regulations 2010 makes clear that a planning obligation may only be taken into account in granting permission if it is necessary to make the development acceptable. This test would only be met if it was concluded that, but for this obligation, one of the other sites fared better in the planning balance and should get permission ahead of JT. That would not be the case.

(vii) Other matters raised by KH RAMS

- 3.7.37 The alleged birdstrike threat to RAF Dishforth was considered at both previous inquiries and each Inspector reached the firm conclusion that there was no merit in the point (CD12.3 para14.121, CD12.1 paras10.6.78-82, HIA1/2 paras6.51-55 & HIA 1/7 paras2.13-21). As before, there is no objection from Defence Estates, despite KH RAMS approach to them (KH4/1 para5.2.1). They do not even express the view that a Bird Hazard Management Plan condition would be appropriate, but HIA would be content to accept one if it were thought necessary. KH RAMS did not consider the efficacy of a condition notwithstanding the CAA Advice Note in their appendices. Their reliance on the statistics of bird strike incidents at Dishforth between 2000 and 2009 was misplaced. The ten recorded incidents include near misses, covered all incidents relating to aircraft based at Dishforth regardless of whether they happened some distance away, and included incidents of bird remains being found on the airfield which only

"possibly" resulted from a birdstrike. Not one incident is recorded as causing any injury (KH4/2 AppL p48 etc). In the full knowledge of these statistics, the MOD and Defence Estates have concluded that there is no basis for objecting to the HIA proposal.

- 3.7.38 KH RAMS' argument that the HIA proposal would increase the risk of crime in Kirby Hill was rejected by the two previous Inspectors (CD12.3 para14.130 & CD12.1 para10.6.71) and there is no basis for a different conclusion now (HIA1/7 paras2.8-9). The police were consulted upon the application and did not raise an objection (Officer's report at CD3.2 page 3). If the NYCC staff rear access condition was not to be imposed, the only means by which anyone could enter and exit the MSA would be via the motorway. If rear staff access were to be provided, it could be made secure through an access card system (NY300 para18). Either way, there would be no scope for 'undesirables' to exit into Kirby Hill village.
- 3.7.39 As for public perception of harm, KH's witness conceded in cross examination that, if it is concluded on the basis of evidence that a development would not cause harm, the mere fact that some residents fear that it might cannot justify refusing permission. Whilst justified public concern can be a material consideration in some circumstances: e.g. *West Midlands Probation Committee v. Secretary of State for the Environment* (1998) 76 P.& C.R. 589, on which KH RAMS rely (HIA112), it is equally true that unjustified public concern cannot form a valid basis for refusing permission: e.g. the Stalbridge Dock decision (HIA/111 paras53-57).
- 3.7.40 The nature of these arguments demonstrates that KH has entrenched itself and no amount of detailed evidence would move its members; they seem unable to consider the scheme objectively. Despite its failure to consider the impacts of the competing proposals, KH feels able to submit in closing that, if there is a need for a new MSA, *"there is in our view a clear priority to the alternative sites"*(KH300 para3.3.1). Thus KH's case is that, if there is to be an MSA, it should go anywhere as long as it is not near Kirby Hill.
- 3.7.41 KH's declared support at most amounts to just 15% of the local electorate (their 2002 'mandate' was signed by 725 of the 4,793 electors within the parish council wards which KH purports to represent) (KH101 para3.2.5) & KH101 para3). The number of local residents who felt strongly enough to respond to the consultation on the current application was even less: just 2.9% of the local electorate (140 people). Thus the overwhelming majority of the community have expressed no objection at all to the HIA scheme despite its high profile.

(viii) Legal issues relating to the Environmental Statement and Regulation 19 information

- 3.7.42 The suggestion that HIA's appeal cannot lawfully be allowed owing to legal EIA issues is without merit. MSAs are Schedule 2 development under the EIA Regulations (EIA Regulations para 10(p)). This means that EIA is not mandatory. It is only required if it is considered *"likely to have significant effects on the environment by virtue of factors such as its nature, size of location"*: Reg. 2(1). The process for establishing this is through the local planning authority or the SSCLG, as the case may be, issuing a screening opinion under Reg. 4.

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- 3.7.43 An ES was submitted in August 2002 in association with the scheme that was considered at the 2002/03 public inquiry (CD3.28). The 2002 ES was consulted upon and was the subject of lengthy consideration at the 2002/03 inquiry. The 2004 IR, with which the Secretary of State agreed, concluded that there would be no material impacts in relation to certain matters covered by the 2002 ES, including noise and air quality (CD12.1).
- 3.7.44 Prior to the submission of the current application, HBC issued a screening opinion on 6 August 2008 which stated: "It was concluded that any subsequent application for an MSA on this site should be supported with an updated Environmental Statement to the August 2002 Environmental Statement considering the likely significant environmental effects, in respect of traffic and highway issues, agricultural land, landscape character and visual resources, archaeology and heritage, ecology, and nature conservation and heritage."
- 3.7.45 HIA's subsequent planning application was accompanied with an environmental statement (the 2008 ES) aimed at providing the information required by HBC. HBC accepted the application as valid and considered that the requirements of the EIA Regulations had been met. There is a dispute of fact as to whether the application was accompanied with a compact disc copy of the 2002 ES (HIA say it was but HBC have no such recollection), but it is common ground with HBC (through cross examination of their planning witness) that submission of the 2002 ES was not necessary.
- 3.7.46 No-one questioned HBC's screening opinion or its decision to validate HIA's application. None of the parties to this inquiry raised any point in their statements of case, or in proofs of evidence, that the EIA for the 2008 application was legally deficient (their comments were confined to criticising the conclusions drawn in the 2008 ES). REL suggested for the first time in cross examination of HIA's planning witness that the 2002 ES ought to have been submitted at the same time as the 2008 application and that the alleged failure to do so rendered the EIA legally deficient. KH RAMS and JT followed that line after Christmas.
- 3.7.47 The point has no merit. REL appear to recognise this now as they do not pursue the point in closing submissions (REL300). HBC are also content that there is not a problem. As JT and KH RAMS still cling to the point, it should be explained why it is not a good point.
- 3.7.48 The EIA Regulations specifically provide for the situation of which REL/JT/KH RAMS complain. It is the Regulation 19 procedure. Regulation 19(1) provides: "Where the relevant planning authority, the Secretary of State or an inspector is dealing with an application or appeal in relation to which the applicant or appellant has submitted a statement which he refers to as an environmental statement for the purposes of these Regulations, and is of the opinion that the statement should contain additional information in order to be an environmental statement, they or he shall notify the applicant or appellant in writing accordingly, and the applicant or appellant shall provide that environmental information; and such information provided by the applicant or appellant is referred to in these Regulations as "further information"." Regulation 19 then proceeds to set out the consultation requirements for such 'further information', which Reg. 19(2) also applies to additional environmental information provided voluntarily by the applicant/appellant.

3.7.49 Accordingly, if the ES accompanying the 2008 application was considered to be inadequate (whether because it did not include the 2002 ES or for any other reason) HBC had power to request further information. It did not do so, having reached the view that the 2008 ES was adequate. Subsequently, once HIA's appeal was lodged, the Inspector or SSCLG could have requested further information under Regulation 19. Such a request was not made. Finally, as a 'belt and braces' approach, HIA included the 2002 ES with its December Regulation 19 submission (along with explanatory text cross-referencing to the conclusions of the 2002 ES relating to noise and air quality). By virtue of Regulation 2(1) of the EIA Regulations, the December 19 submission is part of the "*environmental information*" to which the Secretary of State must have regard prior to determining the appeal in HIA's favour (Reg. 3).

3.7.50 Further, and in any event:

- (1) At all material times the Council retained copies of the 2002 ES and, as HBC's planning witness stated, if any member of the public had asked to see the 2002 ES upon seeing the advertisement for the 2008 application and/or reading the 2008 ES, they would have had an opportunity to do so.
- (2) KH RAMS, who purport to represent local objectors to the HIA scheme, clearly had access to the 2002 ES well in advance of the inquiry since Mr Pickering's evidence quotes from it and refers to figures in it (KH2/1 paras 4.3.4, 15 & 16). This is hardly surprising given that the 2002 ES was itself consulted upon and was the subject of detailed consideration at the 2002/03 inquiry at which KH RAMS was a party.
- (3) The 2002 ES has been a core document at this inquiry, available to all parties and observers, since 3 December 2010 (CD3.28).

3.7.51 So the situation that REL/JT/KH RAMS complain about has caused no conceivable prejudice to anyone (HIA117).

3.7.52 Nor is there any merit in the suggestion that there was inadequate consultation for December Regulation 19 submission. Paras (3)(f), (4) and (7) of Regulation 19 provide for a consultation period for 21 days for further information submitted pursuant to Regulation 19. HIA voluntarily chose to extend this period to 28 days. Moreover, all the Inquiry participants, and any members of the public, have had the opportunity to submit evidence and submissions right up until the final week (precisely 6 weeks since the Regulation 19 submission was advertised).

3.7.53 In any event, more extensive consultation would have achieved nothing since the core of objectors attending the inquiry would not have changed their minds. Indeed the inquiry demonstrates this. Ultimately, even if the Inspector or the SSCLG consider on reflection that the environmental information submitted about the HIA scheme is not adequate, they have the power under Regulation 19 to request further information. It is therefore not a matter that goes to the heart of the appeal.

3.7.54 Even if it were correct that there were some EIA issue that could not be remedied by Regulation 19 or some other technical legal point that would prevent HIA's appeal being allowed (MOT300 para223(i)), that does not mean that any other site should be granted permission if SSCLG concludes that, aside from this legal point, HIA's scheme is the best one. The straightforward solution would be to dismiss all the appeals. HIA could and

would resubmit its application, accompanied by a new ES, thus remedying any legal EIA issue. In light of the otherwise favourable conclusions of SSCLG, HBC would have little choice but to allow the resubmitted application. In all likelihood this would take no more than six months. If SSCLG agrees that HIA's scheme is the best of all the competing proposals, then the long-term advantages of the scheme would justify that short wait.

3.8 Summary and conclusion

- 3.8.1 There is a need for a new MSA on this stretch of the A1(M). This is a material consideration which outweighs any conflict with the Policy T7 of the Local Plan.
- 3.8.2 Having regard to the guidance in C01/08, HIA's scheme would clearly best serve the needs of users of the SRN and thus best protect the safety of the travelling public. This is a consideration that should be given very substantial weight.
- 3.8.3 HIA's scheme also has the following additional advantages over the sites:
 - (1) it would be the most sustainable site in transport terms, involving the shortest vehicle trips both for customers accessing from the motorway and (if the NYCC staff access condition is imposed) the greatest realistic opportunities for non-car access by staff. Therefore of all the competing schemes it would best contribute to the Key Planning Objectives of PPS1S;
 - (2) it is not burdened by the substantial land ownership issues from which the JT proposal suffers, which in the best case scenario is likely to involve significant delay thereby prolonging the period in which the need for a new MSA goes unmet, and in the worst case might threaten the delivery of the scheme altogether;
 - (3) it is not "*wasteful*" of best and most versatile agricultural land, whereas SSCLG might conclude that the JT proposal is rather over-hungry for a one-sided junction site; and
 - (4) it is the only site capable of meeting the EA's preference for connecting to the public sewerage network as opposed to discharging treated foul water effluent into the ground (a limited advantage, but an advantage nonetheless).
- 3.8.4 The only potentially significant point that HBC levies against the HIA proposal (aside from the lack of need) relates to landscape. But the JT and REL sites are tarred with the same brush, or at least a very similar one: HBC does not see the same "*significant gap*" between REL or JT and HIA as that between all three of them and Leeming Bar, and HBC consider that all three perform "*very poorly*" in landscape terms (HBC1/2 paras 7.2.16, 8.2.15, 9.2.15). The landscape criticisms of HIA are significantly overstated, but if HBC's landscape evidence is accepted in its entirety, the extent of the gap between REL/JT and HIA in landscape terms does not outweigh the significant advantages that the HIA proposal would have over those two schemes, particular in terms of best meeting the need for an MSA and best protecting the safety of the travelling public. And no matter what conclusions are drawn as to the landscape advantages of Leeming Bar, they cannot make up for the fact that it would be 1.3km away from the SRN and that is simply too far.

Ministerial Statements

- 3.8.5 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12). From the Ministerial Statement, the fundamental objective is to promote sustainable economic growth and employment: that lends significant support to a new MSA. An efficient and effective SRN is fundamental to the economic prosperity of the whole country. A vital component of this is the network of core MSAs to serve users of the SRN; it being self evident that reducing fatigue related accidents through provision of MSAs would lead to an efficient and effective SRN. (DOC12.2)
- 3.8.6 The Statement provides general support for an MSA, but provides greater support for HIA's scheme as it: would attract the greatest turn-in rates being on-line; would serve a substantial number of A19 SRN users leaving or joining the A1(M) at the Dishforth junction; and is the only scheme that would provide for the full range of abnormal loads required by C01/08. The scheme would also be delivered at the earliest opportunity. (DOC12.2)
- 3.8.7 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement predominantly relates to motorway truckstops. However, the expressed objective to increase competition for MSAs would be clearly achieved by a new MSA between Barton and Wetherby (DOC13.2).
- 3.8.8 For all these reasons, as elaborated during evidence and cross-examination at this inquiry, it is submitted that HIA's appeal should be allowed.

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4. Jaytee (Rainton) LLP (JT) promoting the Ripon Services MSA Proposal

4.1 The Site and Surroundings

(SOCCG at CD14.8 and plans TSP-000/011 (JT201) & PWB 02 (JT3/3 p60)

- 4.1.1 The application site, which is currently in agricultural use, lies in the southwest quadrant of the upgraded junction of the A1(M) and the A61 Ripon to Thirsk Road, some 5.5km from Ripon. It has an area of 18.80ha, which includes the land required to construct the access.
- 4.1.2 The site is roughly triangular in shape. Its eastern boundary is formed by the A1(M), beyond which is agricultural land with Rainton village further east. Its western boundary is formed by the A61, beyond which is agricultural land that includes the REL site. The southern boundary is not defined by vegetation or fencing. Melmerby lies to the northwest, Melmerby Industrial Estate to the west, and Baldersby to the north east beyond the A1. The A1 and the A61 embankment provide some screening from views to the east, west and north. The agreed distance between Wetherby MSA and Baldersby junction is 17.305 miles, and the distance between Baldersby junction and Barton MSA is 22.317 miles (CD14.11 Table DM-3 Northbound)
- 4.1.3 The Harrogate District Landscape Character Assessment (CD8.3) shows the site as being within Area 81 'Dishforth and Surrounding Farmland' (CD8.4).
- 4.1.4 The site is open in character, sloping gently from south to north, with site levels ranging from 44.6m to 50.0m AOD. Agricultural land lies to the south. A balancing pond associated with the A1 improvements lies just to the north, within the same quadrant of the junction. The site forms part of an open undulating agricultural landscape containing some isolated blocks of woodland and occasional hedgerow trees and affording long distance views to the North York Moors and Nidderdale Moors.

4.2 Planning Policy

- 4.2.1 The Development Plan and relevant policies coincide with those for REL's and HIA's proposals [see paras 3.2.1-14 above]. JT indicates that the RSS is likely to remain part of the development plan for some time and should be given weight accordingly. It is a strategic document that provides no site specific guidance. The policies of the RSS do not introduce any new considerations which are not already dealt with in JT's evidence (JT7/6).

4.3 Planning History

- 4.3.1 There is no planning history relevant to this site.

4.4 The Application Proposal (CD5.1 and plans at JT201)

- 4.4.1 The application is in outline form, with all matters reserved except for means of access, and is dated 6 May 2010. On 17 August 2010, HBC planning Committee resolved that, in the absence of a direction from the SSCLG, it would have refused the application for the following reasons (HBC1/3 pp123,124):
 1. *The provision of a motorway service area is provided for within the District by a facility at Kirk Deighton (now known as Wetherby Services). In the absence of any overriding need the development would cause demonstrable harm to interests of acknowledged importance and would conflict with Policy T7 of the Harrogate District Plan.*

2. *The proposed development would adversely affect the landscape character of the area materially altering the countryside to the north of the village and would therefore conflict with Policies C15, T7 (criterion F), C2 and HD20 (criterion B) of the Harrogate District Plan and Core Strategy SG3.*
 3. *The proposal would result in the loss of some of the best and most versatile land in the District and would conflict with the advice in PPS7 Sustainable Development in Rural Areas.*
 4. *The Local Planning Authority considers that the application has failed to demonstrate that foul water from the site can be adequately drained without causing risk of pollution to ground and surface water and would therefore conflict with Core Strategy policy SG4.*
 5. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposals would not create conditions prejudicial to highway safety on the local highway network (A61) in conflict with policy T7 (criterion C) of the Harrogate District Plan.*
 6. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposal will not create conditions prejudicial to highway safety within the application site in conflict with policy T7 (criterion C) of the Harrogate District Local [Plan].*
 7. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposal to accommodate staff journeys to the site are sufficient to comply with sustainable travel policies in conflict with Harrogate District Core Strategy policy TRA1 and the guidance in PPG13.*
- 4.4.2 The application form shows that some 200 full time jobs would be created (CD5.1). During the Inquiry amendments were made to the roundabout geometry and access. The final set of application drawings is at JT201, which includes the site layout (drg. No.TSP/315/001 RevZ2) and illustrative landscape master plan (drg. No. PWB7 RevA). The proposal is for a junction MSA that includes an amenity building, a filling station, and a hotel with 80 beds: the proposed facilities and buildings are explained in detail in the SOCG (CD14.8 paras4.4-14).

The Case for Jaytee (Rainton) LLP

Part A: Interpretation of Circular 01/2008 and the Need for an MSA

4.5 Introduction

- 4.5.1 On one side of the "need" argument JT, REL, HIA, Carl Les and HDC all agree with the HA that there is a need for a new MSA in the Wetherby/Barton gap. On the other side, HBC and MOT contend that there is no need for an MSA. However, MOT and HBC's common position on need masks a difference between their individual positions. Whereas MOT adopts the position that there is no need for a new MSA or any other roadside facilities, HBC accepts that there is a need for some facilities even if that need does not justify a full MSA.

4.6 Circular 01/2008

4.6.1 Two issues of particular relevance to need arise from C01/08:

- (i) whether the reference to MSAs being 28 miles apart is a maximum distance; and
- (ii) whether there is a threshold, above which it is unnecessary for a developer to demonstrate a clear and compelling need case by reference to the factors set out in C01/08 para58, and if so where that threshold lies.

4.6.2 The construction of C01/08 also gives rise to the important issue of whether the presumption in paras97 & 98 in favour of on-line sites "trumps" any off-line alternative unless it can be shown that there are significant adverse impacts associated with that on-line site. This is addressed in Part B in the context of the Kirby Hill scheme.

(i) Is 28 miles between MSAs a maximum distance?

4.6.3 It is clear from C01/08 that the Government wishes to see a network of MSAs that are not more than 28 miles apart. Para55 says in relation to HGVs that because of speed limiters the distance they can travel in 30 minutes is a maximum of 28 miles. The last sentence of para55 provides that new core MSAs should "... be considered on the basis of a 28 mile (45km) distance, or 30 minutes' travelling time, from the previous core MSA, whichever is the lesser".

4.6.4 The words "*whichever is the lesser*" necessarily make 28 miles a maximum distance for spacing purposes with scope for a lesser spacing. Unlike the absolute minimum distance between facilities of 12 miles imposed by para56, which strikes a balance between meeting the safety needs of motorists and the environmental impacts of motorway developments (see para54), the maximum 28 miles distance between MSAs is purely safety related, reflecting the important road safety function that MSAs perform by providing opportunities to the travelling public to stop and take a break during their journey (C01/08 para6).

(ii) The threshold for demonstrating need

4.6.5 The Wetherby to Barton gap (measured at 39.622 miles between the centre points of the southern over-bridges (CD14.11 p6)), is well above the 28 miles maximum gap that the Government wishes to see between MSAs. However, there is no convention that reference points should be at over-bridges – HA, in its National Report reviewing SRN service areas, chose the centre of the MSA as the reference point; whilst for junction MSAs the reference point was the car park entrance (CD11.12 para2.15).

4.6.6 If HA had applied that approach here, the distance from the centres of the main car parks at Wetherby and Barton would be 40.19 miles; showing the artificiality of the argument advanced by MOT/HBC that the distance is less than 40 miles. Further, for signing roadside services the HA rounds the distance to the nearest mile; using that convention, HA considers the gap between Wetherby and Barton to be 40 miles. In either case it far exceeds the 28 mile maximum. (JT2/2 AppF para3.15)

4.6.7 The different interpretations as to the requirement to demonstrate need for an infill MSA range from: (1) where the distance between Core MSAs is more than 28 miles; to (2) where the distance between Core MSAs is more than 40 miles; to (3) where the distance between Core MSAs is irrelevant.

- 4.6.8 HA's first witness indicated that the intention of C01/08 was to relieve developers of the burden of having to demonstrate a need for an MSA if the gap between two existing MSAs was 40 miles or more. Accepting that the reference to infill MSAs was confusing he said that it was the SSfT's intention to amend C01/08 to make this clear. It is this interpretation of the policy that has caused HBC and MOT to take issue with the distance calculations and argue that because the measured distance is 39.622 miles (i.e. less than 40 miles) the need for a new MSA between Wetherby and Barton cannot be determined on the basis of distance alone; and that the developers must also show that there is a compelling need and safety case in terms of those other factors set out in C01/08 para58.
- 4.6.9 MOT argues that whenever a new MSA is proposed between two existing MSAs (no matter how far apart) then that is an "infill" site and the developer is required to demonstrate a need against the para58 factors. A simple example shows that this interpretation of C01/08 should be rejected: if a new MSA was proposed between existing MSAs 78 miles apart (39 miles from each), the developer would have to show need against all the para58 factors, despite the fact that the distance between proposed and existing MSAs would be almost 40% greater than the Government's policy intention of a maximum of 28 miles. That would conflict with the intention to relieve developers of the burden to show need where the gap in provision is above the maximum of 28 miles.
- 4.6.10 Moreover, given that MOT's planning witness says that there has been no significant change between the policy position at that time and C01/08, his interpretation of C01/08 is inconsistent with the approach MOT adopted at the 2002/03 Inquiry where its case is recorded by the Inspector as follows:
- "3.5.9 Government policy in paragraph 4 of HA269 gives priority to the completion of a network of MSAs at intervals of approximately 30 miles throughout the national motorway system. Paragraph 5 allows for 'infill' MSAs between '30-mile' sites to be permitted only exceptionally where certain clear tests have been satisfied. It follows that the application of current policy to the circumstances of this case will require each proposal to be assessed, in the first instance, according to its ability to complete the overall network of 30-mile sites.*
- 3.5.10 In this case, there was no dispute that the 30-mile network was not complete so that there was a need within the terms of HA269. Equally, there was no suggestion that any of the requirements that might justify an exceptional 'infill' siting between 30-mile locations should be considered for any of the reasons set out in paragraph 5 of HA269."*
- 4.6.11 There is no logical basis for HBC's belief that a clear and compelling need and safety case has to be demonstrated below a 56 mile limit. That is twice the maximum distance of 28 miles. It is inconsistent with the Government's policy objective of encouraging the private sector to deliver roadside facilities for safety reasons and would mean that any developer would have to demonstrate that there was a need judged against the para58 factors even though the distance alone would mean that motorists were having to travel twice the maximum distance MSAs should be apart and drive for an hour or more to do so.
- 4.6.12 The requirement to show a clear and compelling need and safety case against the para58 factors only arises when a new MSA is proposed between

existing MSAs that are apart by less than the maximum of 28 miles (JT7/2 paras5.21-40). That is consistent with the Government's intention that the balance between (a) providing motorists with opportunities to stop and rest; (b) the safety and traffic flow implications inherent in the introduction of new traffic movements on and off the motorway; and (c) the environmental impact of development alongside the motorway and the need to limit such development, is struck by having a network of MSAs no more than 28 miles/30 minutes drive time apart.

- 4.6.13 On this analysis, any gap between existing MSAs above 28 miles/30 minutes drive time would of itself demonstrate need and is consistent with the position that need only has to be additionally considered against the other para58 factors when the gap is less than 28 miles. The difference between JT and HA as to the interpretation of C01/08 is only of importance if the gap is less than 40 miles.

4.7 Need

- 4.7.1 The distance between Wetherby and Barton is so greatly above the 28 mile maximum spacing for core MSAs that the distance between those fixed points alone sufficiently demonstrates a need for a new MSA in that gap. This holds true if the gap is 40 miles or "only" 39.622 miles.
- 4.7.2 HA has consistently maintained that there would be a need for a new MSA between Wetherby and Barton following the completion of D2B Phase 1, as is clear from (a) its letter to HDC and HBC dated 26 February 2009 (CD11.1, HA1/3); (b) its objection to policy BC5 of the draft Hambleton Allocation DPD allocating Motel Leeming as an MSA; and (3) its position as set out in its SoC (CD13.19) and subsequent evidence.
- 4.7.3 A number of A1 facilities have closed as a result of Phase 1 of D2B, which leaves no opportunity to rest southbound unless drivers detour 2.6km to the bypassed Motel Leeming. The Skeeby Little Chef/Travel Lodge and High Brough Moor petrol filling station are available northbound, but both are within 2 miles of Scotch Corner. All parties (possibly excepting KH) assess need using Wetherby and Barton, as a consented MSA, as the fixed points. Whatever plans MOT have to increase parking and/or improve existing facilities at either end of the gap, they will do nothing to provide motorists with an opportunity to stop and rest within the gap.
- 4.7.4 Thus, the distance between Wetherby and Barton alone sufficiently shows the need for a new MSA in that gap. Nonetheless, to assist the decision making process, JT has considered what other evidence there is to support the need for an MSA in the gap.

(i) *Ability of existing roadside facilities to cope*

- 4.7.5 The surveys carried out by JT were simple accumulation surveys; driving between sites, counting parking cars and observing conditions up to 30 minutes. They were taken over six days including a Bank Holiday weekday and a September school holiday period weekday (JT2/2 paras3.24-27). Very significant weight can be attached to this evidence because it was challenged by neither MOT nor HBC (JT2/2 paras3.24-55). The surveys were done at times of peak demand, with reference to C01/08 para58 (second bullet) which specifies to "*at times of peak demand*". The empirical evidence shows that the existing services are under pressure notwithstanding that the Wetherby MSA was only opened in 2008.

- 4.7.6 Scotch Corner TRSA main car park provides some 64 spaces, and the lodge car park can hold a further 185. On the one occasion when the lodge car park was surveyed, it was over 80% full at a time when the main car park was over 100% utilised. Given the high levels of utilisation, the search for spaces would have been slow and a degree of congestion would also be occurring within the lodge car park. HA has no proposals to sign Motel Leeming after the A1(M) upgrade works are complete, and use of it would require a detour of over 2.6km. Inevitably, many users will transfer from Motel Leeming to Scotch Corner and Wetherby, intensifying the pressure on these existing busy sites. (JT2/2 paras350,253)
- 4.7.7 That those services are under pressure (and will get worse) is reinforced by:
- (1) JT's highways witness' indication that the 90% practical capacity figure identified in his written evidence (JT2/2 para3.39) is based on an optimally laid out car park and congestion would occur at lower levels where the layout is sub-optimal;
 - (2) the car park layout re-arrangement and increased number of parking spaces at Wetherby notwithstanding that it only opened 3 years ago;
 - (3) the regular need for parking marshals to be in attendance at Wetherby both before and after implementation of the re-arrangement in (2);
 - (4) MOT's planning application to increase the parking and extend the amenity building at Scotch Corner, clearly showing that even MOT appreciate that something has to be done to relieve the congestion it experiences; and
 - (5) the bypassing of Motel Leeming and the resulting 2.6km diversion means that former users of those services will add to the pressure at Wetherby and Scotch Corner/Barton (CD12.1 para10.1.19).
- 4.7.8 MOT argued that the parking provision at Wetherby can be expanded by the provision of hundreds more spaces which already have planning permission. Apart from the fact that it would do nothing to allow a motorist to stop in the 40 mile gap, MOT's witness could not say if MOT had actual plans to do so. In any event that car parking, behind the lodge building with many spaces a considerable distance from the amenity building, would be neither convenient nor attractive and could deter motorists in need of a break.
- 4.7.9 Moreover, expanding the existing facilities operated by MOT would not assist in achieving the Government's aim of encouraging greater choice in the provision of service facilities notwithstanding that choice encourages drivers to take breaks more frequently (C01/08 para7).
- 4.7.10 MOT's planning witness stated that, even if a clear and compelling need case was demonstrated, none of the applications should be granted permission because of the environmental harm that each one would cause. However, MOT did not appear and test the evidence presented by each of the MSA applications.

(ii) Accidents

- 4.7.11 Inevitably the accident data is historic and relates to the A1 before Phase 1 commenced. However, the evidence is a material consideration showing that the A1 had a large number of accidents associated with it – one of the reasons for the D2B scheme was to reduce accidents. Moreover, with the cancellation of Phase 2, the A1 from Leeming Bar to Barton will not now be

improved and all the accident savings intended will not now be delivered. Therefore the accident history remains relevant to the north of Leeming Bar.

- 4.7.12 From CD11.9 (corrected on 3 November 2010), between 2005 and 2008, the A1 between Dishforth and Barton had a record of fatal and serious injury accidents above the national average (19.7% and 13.9% respectively) with a similar excess on fatal and serious casualties (13.9% and 10.7%). A significant percentage of the vehicles involved were HGVs (CD11.9 IN-03 Tables 2,3&4). Fatigue was a possible or very likely cause in 11% of all accidents between Wetherby and Barton compared to a national average on motorways of 6% where fatigue was a factor (CD11.9 Table9 & para1.19) – almost double the rate. As regards fatal and serious accidents, fatigue was recorded as being possible or very likely in 50% of those accidents.
- 4.7.13 C01/08 says that research shows that up to 20% on monotonous roads (especially motorways) are caused by tiredness (CD1/14 para53). A1D2B Phase 1 extends the motorway north of Wetherby by about 12.5 miles with the attendant risk of fatigue related accidents increasing; cancellation of Phase 2 will do nothing to improve the existing poor accident record between Leeming Bar and Barton. This further justifies the provision of an MSA in the gap.

(iii) Type and nature of the traffic using the A1

- 4.7.14 In 2004, the traffic flows between Dishforth and Barton ranged between 42,900 and 56,200 AADT. HA's latest forecast (CD14.5.3 Table1) predicts there to be 75,682 AADT north of Wetherby in 2012 increasing to 90,231 in 2022. These flows reduce the further one gets north of Wetherby, but at Baldersby junction the prediction is still 53,990 in 2012 and 62,361 in 2022. These are very substantial flows of traffic on an important strategic route to Scotland; the A1 is a busy road.
- 4.7.15 North of Wetherby, HGVs account for about 23% of all A1 traffic in 2012 and 2022. Past Baldersby junction, the HGV content is about 27% of the traffic in 2012 and 2022 (CD14.5.3 Table1). These figures compare with the national average for HGV traffic of about 12% (CD14.5.3 Table1, JT2/2 para3.73). The increasing percentage of HGVs against a falling base flow the further one travels up the A1 underlines the importance of the A1, and also indicates that many make longer distance strategic trips whether turning onto the A66 at Scotch Corner en route for Scotland or continuing up the A1 to the North East.

4.8 The position of MOT and HBC

- 4.8.1 MOT does not advance any case or present any evidence that competition would make the existing services at Wetherby, Scotch Corner or Barton unviable or hinder any investment plans for those sites. MOT's case that there is no need for any further services in the Wetherby to Barton gap is consistent with an objective of preventing commercial competition and protecting its position.
- 4.8.2 HBC accepts that there is need for at least some additional roadside services (HBC1/2 para6.5.7) and says *"as a whole there is an element of unmet need for additional MSA provision along the A1 between Wetherby and Barton..."* (HBC1/2 para6.5.21). This no doubt reflects the loss of services that were alongside the A1 before upgrade works commenced, but it is contradictory then to argue that there is no need for an MSA.

- 4.8.3 HBC's acknowledgement of need is also reflected in its support for policy BC5 of the Hambleton Allocations DPD which allocated Motel Leeming as an MSA. The chronology for HBC's support for that policy is important. In its letter of 26 February 2009 (JT7/3 pp23-25) HA said in response to the HIA application and the inclusion of policy BC5 in the draft Allocations DPD that:
- "Taking account of the new Policy and the fact that the existing Leeming Bar services will be bypassed by Phase 1 of the A1 upgrade scheme, the Highways Agency would advise the Local Planning Authorities (in accordance with paragraph 29 of the Circular) that there will be a requirement for a new core MSA between the existing facilities at Wetherby and Barton when Phase 1 of the upgrade is open to traffic.*
- In conclusion, given the policy limits that MSAs should not be less than 12 miles apart the Highways Agency hereby inform both Harrogate Borough Council and Hambleton District Council that on completion of Phase 1 of the A1 Dishforth to Barton upgrade (currently expected to be in 2012) there will be a requirement for a new Core MSA between Boroughbridge and Leeming. The mid point, and hence the preferred location in Policy terms, is in the vicinity of Sinderby, on the Hambleton/Harrogate District boundary. However, no proposal for such a facility has been put to either planning authority or the Highways Agency."*
- 4.8.4 Despite the clear invitation by the HA to HBC to discuss the matters raised in its letter, HBC neither took up that offer nor responded suggesting that it disagreed with the HA's clear views as to the need for a new MSA.
- 4.8.5 In December 2009, HDC published its Allocations DPD. Draft policy BC5 allocated the Motel Leeming site *"for use as a Motorway Service Area serving the upgraded A1(M) ..."* with three criteria relating to the access, design and landscaping which the allocation of the site was said to be subject to (HBC1/3 p195). Policy BC5 was not contingent upon the need for an MSA being demonstrated (in contrast to HBC's Policy T7 (HBC1/3 p188)) and was clearly promoted on the premise that there was a need for a new MSA in the Wetherby/Barton gap. Thus, by supporting draft policy BC5 and not proposing any policy amendment to make it contingent upon need being demonstrated, HBC plainly accepted that there was a need for an MSA (not simply some other type of roadside services) as late as December 2009.
- 4.8.6 HBC's planning witness tried to suggest that in its consultation response on policy BC5 HBC did not accept that there was a need for an MSA. That cannot be correct. First, HBC acknowledged that despite the grant of permission for Wetherby there continued to be pressure for further MSA facilities between Wetherby and Barton. Second, it saw Motel Leeming as an opportunity to meet any outstanding need on a brownfield site. Third, the development of Motel Leeming as an MSA would *"Importantly ... avoid the need to develop much more sensitive and inappropriate sites at other locations along this section of the A1"*. Thus, it plainly saw Motel Leeming as an opportunity to meet the need for an MSA in the gap but outside of its planning area.
- 4.8.7 No doubt it was in HBC's interests to support policy BC5 in 2009 as that policy (had it been approved) would have helped it to resist the HIA application on the basis that there was no need for a further MSA in addition to the one allocated at Leeming Bar. In the event, the Allocations DPD Inspector deleted policy BC5 because there was not a sufficiently robust or

reliable evidence base to conclude that policy BC5 was the most appropriate MSA option when considered against the reasonable alternatives (HBC/1/3 pp203-204). However, the examining Inspector clearly accepted there was a need for a new MSA and said that:

"2.72 Part of the A1 running through Hambleton is being upgraded and a new Motorway Service Area (MSA) will be required to serve this stretch of the A1(M) between existing MSAs. This is not all within Hambleton, and proposals have been made for MSA sites outside this district, some of which have emerged recently. It may be therefore that the most appropriate location for the new MSA is not within Hambleton itself."

- 4.8.8 Nothing materially has changed since HBC supported the inclusion of policy BC5 in the DPD as regards need except that a number of sites better placed to meet the need have come forward in HBC's area; and HBC can no longer look to rely on a new MSA site being allocated in Hambleton to meet the need it acknowledged to be present in December 2009.

4.9 Inspector's Report 2004 (CD12.1)

- 4.9.1 HBC and MOT rely on the issue of need having been determined conclusively in 2004IR, but fail to acknowledge that since 2004 there have been material changes in circumstances; in particular, the publication of C01/08 (reducing spacing from 30 to 28 miles) and the fact that new sites (Ripon Services and Baldersby Gate) have come forward. The 2004IR conclusions were reached in the context of the sites as then proposed, which is particularly significant when reading the Inspector's conclusions on whether the need identified at that time would best be met by a single or a two site strategy.
- 4.9.2 In setting out his conclusions on a one-site strategy the 2002/03 Inspector put most weight on spacing in considering need (CD12.1 paras10.1.6&24) and that the measure of distance of the various proposals from the fixed points (CD12.1 para10.1.22) was heavily influenced by the mean variance from the then 30 mile spacing the Government wished to see. However, he noted that the calculation of the mean variance was *"only a rough guide"* and that *"an additional 10 miles or so on any one gap is a considerable proportion of the 30-mile standard; indeed getting on towards an 'infill distance'". Such a distance could therefore be heavily weighted against the proposal if some form of weighted mean variance were employed.*" (CD12.1 para10.1.39). He also concluded that whilst the gap between Barton and Flaxby (which is north of Wetherby) was unlikely to justify a further MSA *"there would be more pressure for another site in the 41 mile- gap to Barton from [Wetherby]"* (CD12.1 para10.4.41).
- 4.9.3 A further indication of his concern that the gap between Wetherby and Barton would be too great is evident from the reliance he put on Motel Leeming as helping to meet the need created by that *"rather long northern gap"* until it was bypassed (CD12.1 paras10.1.42,47&52). In rejecting MOT's argument that Motel Leeming and not Barton should be taken as the northern fixed point (CD12.1 para3.5.23), the Inspector was also rejecting Motel Leeming as a possible MSA.
- 4.9.4 That Inspector did not consider any site further north of Wetherby than Kirby Hill and the reason for rejecting a two-site strategy, which combined Wetherby with another site, was that (a) with a Wetherby/Kirby Hill combination the distance would be *"too close for good uniform spacing"*;

whilst (b) a Wetherby/Skelton combination *"would have a distance of 41 miles to Barton"* (CD12.1 para10.1.46).

- 4.9.5 His reliance on Motel Leeming continuing to provide facilities in the short to medium term in concluding that the need identified at that time could be met with a one-site strategy is reflected in the then FSoS' Decision Letter where, in preferring Wetherby to Flaxby, he said *"the choice between the two schemes is finely balanced. However, he considers that for some years, until Leeming Services are bypassed, [Wetherby] would be better placed to meet the need"* (CD12.2 para124 & 26-28).
- 4.9.6 Any argument that the 2005 decision conclusively determined the long term need for MSA provision is untenable in the light of the reliance put on Motel Leeming to meet the short term need in the 41 mile gap north of Wetherby MSA (CD12.1 para10.1.27, CD12.2 para28). Consequently, the 2004IR and FSoS's Decision left open the question of what would happen after Leeming Bar was bypassed although they recognised that the gap of 41 miles might well justify a further MSA.

Part B: Merits of the Competing MSA Applications

4.10 Introduction

- 4.10.1 This section deals with HIA's and REL's cases, which have been supported by evidence and tested in cross-examination at the Inquiry. The planning merits of the LES proposals to upgrade Motel Leeming are analysed by JT (JT7/2 pp103-120). However, LES has not taken the opportunity to cross-examine JT's witness on this evidence, nor has there been an opportunity to test the evidence submitted on their behalf. Inevitably, less weight should be attached to LES' evidence and greater weight given to JT's.
- 4.10.2 Motel Leeming is cut off from the A1 and potential users face a 2.6km detour using local access roads. That would deter motorists from using the facilities and run contrary to providing motorists with the opportunity to stop and rest for highway safety reasons. Quite apart from JT's planning criticisms of the proposals, an MSA at Leeming Motel would not meet the identified need and if planning permission was granted the result would be harmful development which does not meet motorists' needs and therefore does not improve highway safety.
- 4.10.3 JT is now satisfied on the evidence that XLB's application is for a truckstop and not some stalking horse for an MSA. Consequently it has not sought to cross-examine that evidence. JT has no objection to that scheme provided that: the SSCLG is satisfied that the proposed development would meet a need for specialist truckstop facilities which cannot be met at an MSA; XLB is precluded by legal agreement from operating its existing site as a truckstop; and XLB is prohibited by legal agreement from having signing from the A1 (there is no basis for the prohibition on signing being only for 5 years in the light of the case presented by XLB).

4.11 HIA - Kirby Hill

- 4.11.1 A full analysis of the merits of HIA's application is at JT7/2 pp84-103. There are four key issues: (i) HIA's reliance on the presumption in C01/08 paras97 & 98 in favour of on-line sites; (ii) Inevitability of harm; (iii) The landscape/visual impacts of the Kirby Hill scheme; and (iv) Foul drainage issues.

(i) Presumption in favour of on-line sites

- 4.11.2 HIA relies heavily on the general presumption set out in C01/08 paras97 & 98 in favour of on-line MSAs and argue that planning permission ought to be granted for Kirby Hill "... unless there are overriding planning considerations that are of a sufficiently compelling magnitude to justify choosing an alternative proposal which by comparison is sub-optimal in terms of the Circular" (HIA101 para2).
- 4.11.3 The perceived in principle advantages of on-line sites over junction sites relate to safety and congestion matters C01/08 paras97-98). But there is no evidence before this Inquiry that either Baldersby junction site would be materially less safe in highway terms than Kirby Hill, and no comparative analysis of the sites. HIA's highways witness accepted that the creation at Kirby Hill of four new slip roads to the A1(M) would have attendant safety risks because of the associated weaving movements and higher mainline speeds, but made no comparison between that and the increase in risk of accidents by traffic using the *existing* junction at Baldersby.
- 4.11.4 It is not enough to assume that on-line sites are safer than junction sites, as the relative safety risks between adding an additional arm to the western dumbbell roundabout needed for access into REL's site and the addition of a new roundabout for JT's site demonstrates. The difference between those two scenarios was shown in cross examination of REL's highway witness to be an insignificant additional ¼ of one accident per year. If HIA wished to rely on the presumption as giving it an advantage it was incumbent to demonstrate with evidence that introducing new slip roads on and off the motorway would in practice be safer than using the existing junction at Baldersby. No-one has done so, so no weight can be attached to the general presumption HIA relies on so heavily.
- 4.11.5 JT conducted its assessment on the basis of turn-in rates of 8% for A1 northbound, 8% A1 southbound, and 4% for A61 and local access road (JT2/2 table5.2). As regards congestion, evidence in JT104 and JT106 (accepted by HA and NY) that in 2022 Ripon Services would neither cause nor exacerbate congestion at Baldersby junction, even using the sensitivity test's unrealistically high turn in rates of 15% (A1 northbound traffic), 10% (A1 southbound traffic) and 10% (local A61 traffic). Thus it cannot be said that the potential advantage of on-line sites over junction sites not to cause congestion is an actual advantage here.
- 4.11.6 There are several points to make about HA's preference for Kirby Hill as an on-line site. First, HA has changed its position: in letters to HBC and HDC of 26 February 2010 (HA1/1 App2), HA indicated that it did not wish to express a preference in the allocation of a particular site and that any contending site would have to be "... *considered on its particular merits, both in terms of highway and planning policies and impacts on their surroundings*".
- 4.11.7 Although written in response to the HIA application as well as draft policy BC5 of HDC's Allocations DPD, the letters did not suggest that the general policy presumption in favour of on-line sites should be applied to Kirby Hill. However, it did make clear that C01/08 para59 stated a preference for new MSAs to be roughly half way between core MSAs. Thus, within the HA's area of search (Boroughbridge to Leeming), it said: "The mid point, and hence the preferred location in Policy terms, is in the vicinity of Sinderby." The rationale for mid-point locations is obvious: it avoids unequal gaps

between MSAs and from an operator's perspective is commercially desirable with resultant benefits for road safety.

- 4.11.8 Whilst Baldersby junction is not at the exact mid-point, it is as close to it as is practicable. The gaps from Ripon Services to Wetherby to the south and to Barton to the north are 17.3 miles and 22.3 miles (JT2/2 para3.18). In contrast, Kirby Hill is at the extreme southern end of the gap and at 12.4 miles barely more than the 12 mile minimum distance from Wetherby; leaving a gap of 27.2 miles between Kirby Hill and Barton in both directions.
- 4.11.9 Second, in his proof, HA's first witness relied on the C01/08 general policy presumption for on-line sites to express a preference for Kirby Hill over the other sites (HA1/1 para6.214). However, he made it clear both in his written evidence (HA1/1 para4.99) and in his oral evidence in chief on site specific matters that the preference expressed for Kirby Hill was on the basis of all other things being equal; recognising that all other things are unlikely to be equal. He had taken no account of the environmental impacts of the competing developments. However, all other things are not equal, and when the environmental impacts are taken into account the presumption is plainly displaced.
- 4.11.10 Third, in the context of the cases before the Inquiry the highways and transportation reasons underlying his reliance on the general policy presumption in favour of on-line sites are not supported by HA's evidence. In particular, HA's second witness said and/or accepted that:
- (1) Except for the traffic flows north and south of Dishforth, HA's consultant had not provided evidence to support the general policy presumption. However, HA's first witness did not attach much weight to the additional traffic passing Kirby Hill. That is unsurprising because HA's second witness also accepted that the most logical growth rate to have applied to the traffic flows south of Dishforth was the D2B growth rate and not the NTM rate which the HA actually applied. Applying that 2022 flow south of Dishforth would be 83,642 vehicles AADT rather than 90,640 – a reduction of some 7,000 vehicles. (JT2/6 paras9.10-11);
 - (2) the introduction of new merges and diverges onto the A1 associated with Kirby Hill had the potential to increase the risk of accidents but HA had not analysed what that increase would be compared to the increased risk associated with the greater use of the Baldersby junction;
 - (3) the operational assessment of the junction and access roundabout in 2022 if Ripon Services opened would not lead to or exacerbate any traffic congestion in the junction (JT104, JT106);
 - (4) the realistic expected turn-in rate for the on-line Kirby Hill site was about 8% compared to a realistic rate of 6–8% for Ripon Services; and
 - (5) JT's witness had correctly analysed the percentage of abnormal loads that would be able to access Ripon Services (JT104, JT106). This is important because the C01/08 requirement for abnormal parking bays able to accommodate loads that are 30m long and 6.3m wide reflects the wide variety of abnormal load sizes but that there are few abnormal loads that are both 30m long and 6.3m wide (JT2/6 paras6.1-6).
- 4.11.11 Moreover, HA's reliance on Kirby Hill being able to comply with all design standards is misplaced. Very substantial engineering works would be

required to construct the southbound merge and diverge under the A168 and Ripon Road. The evidence presented by MOT and REL shows that the stopping sight distance is less than required and will require a Departure application to be made and approved.

- 4.11.12 Fourthly, there was no substitute for HA's first witness who was clearly unwell. JT's (and REL's) disagreement with his evidence that Kirby Hill is sequentially preferable has been unequivocal and it is unsatisfactory that the HA's evidence on the issue cannot be tested. Given its role and participation in this Inquiry it is most surprising that, having expressed a preference for Kirby Hill for highways and transportation reasons, HA has neither found a substitute in its large organisation nor offered an explanation why there is no-one within the HA who can give that evidence.
- 4.11.13 In the absence of a witness able to answer questions on this important and controversial issue, the only reasonable inference from HA's manifest unwillingness to field a witness is that (a) it does not now support the view that Kirby Hill was to be preferred because it was an on-line site; or (b) it does not attach any real importance to this view. The consequence is that little weight can be attached to its written site specific evidence – as the Treasury Solicitor accepts (HA106). From that starting point, what little weight can be given to that untested evidence is reduced further by the evidence that was given by the second HA witness (of JMP Consultants Ltd, the HA's term consultants), and tested in cross-examination.
- 4.11.14 On the evidence before the Inquiry there are no significant highways or transportation advantages associated with Kirby Hill compared to Ripon Services even though Kirby Hill is an on-line site. There is, therefore, no evidential basis for applying the general presumption in favour of on-line sites in the context of HIA's application: no weight should be attached to the HA's preference for Kirby Hill because it is an on-line site.

(ii) Inevitability of harm?

- 4.11.15 HIA asserts that on-line sites inevitably cause environmental harm and that there is an implicit acceptance of such harm in the presumption for on-line sites. That takes C01/08 para97 out of context because paras54 & 98 are clear that there is a need to limit development alongside motorways because of the potential harm that such development would have on the environment including the open countryside. The evidence disproves HIA's assertion.
- 4.11.16 HIA's landscape witness relied on Stroud District Council's decision to grant planning permission for a twin-sided on-line MSA on the M5 adjacent to an AONB in order to demonstrate the acceptability of on-line sites despite the inevitability of the harm they cause. However, the Gloucester Gateway application shows that on-line sites do not inevitably cause harm. There, the landscape assessors concluded in relation to the landscape impact of the proposal that: "It can be seen that the impact [sic] are generally slight adverse or negligible/slight adverse with only a few character types having a negligible impact. This is consistent with the fact that the development is being proposed within a rural area, away from the settlement boundary, and adjacent to the sensitive landscape of the Cotswold AONB and the area of sensitive high ground of Robinswood Hill" (HIA2/3 App3 paras10.12&16)

4.11.17 That Committee Report considered the other potential environmental impacts of the scheme. Then, given the accepted need for the Gloucester Gateway MSA and the limited impact it concludes that:

“22.3 the proposed development will affect the rural setting, however it is considered that the proposed landscaping scheme will help to mitigate any medium to long term effect. The site is not within the Cotswold Area of Outstanding Natural Beauty, however it does border it. It is concluded that the proposal is sensitive to its landscape setting and it will have a slight adverse impact on the landscape designation. This has been supported by the independent landscape assessment as carried out by Nicholas Pearson Associates Ltd.

22.4 The design of the buildings and site layout has been landscape led and has been congratulated by the South West Design Panel. It is considered that the detailed design reflects sustainable concepts alongside landscape mitigation measures that will seek to minimise adverse impacts on the landscape setting.

22.5 ...

22.6 On balance it is concluded that the regeneration and highway safety benefits of the scheme outweigh the slight concerns over landscape impact and that the application is clear and soundly based.”

4.11.18 Thus, the Gloucester Gateway decision - far from demonstrating that on-line sites inevitably cause environmental harm - shows that if appropriately located and well-designed then even an on-line MSA can have little or no adverse environmental impact.

(iii) Landscape/visual impact

4.11.19 Not only is there no advantage in highways or transportation terms as an on-line MSA but Kirby Hill would have significant adverse landscape and visual impacts whether the development is assessed on its own merits or in comparison with the other MSA sites.

4.11.20 HIA claims that the current scheme has responded to the criticisms made in 2004IR. However, that response has been to introduce an engineered bund which at 9m high at its highest point, 450m long and up to 120m wide is higher and significantly longer/wider than the mound found to be damaging to the landscape in the previous scheme rejected by 2004IR and by FSoS in 2005. The size of the mound is so big that it would require approximately 100,000 m³ of material to construct (HBC2/2).

4.11.21 Apart from the now bigger mounding, the previous scheme was not materially different to the present scheme. In summary, in relation to landscape impact, the previous Inspector and FSoS concluded that:

- (1) the existing landform did not create a bowl effect relied on by HIA in 2002/3 (and relied on again by Mr Rech) (HBC2/2 para10.6.42);
- (2) the openness and large scale of the landscape would not materially mitigate the landscape effects of the proposed development (HBC2/2 para10.6.42);
- (3) the proposed woodland planting would virtually surround the built development and would have an even greater visual impact in the landscape than a solid block of planting (HBC2/2 para10.6.43);

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- (4) the built development and its surrounding woodland planting would considerably harm the character of the landscape in this area (HBC2/2 para10.6.44);
 - (5) the proposed earth mounding (then with a maximum height of 8m) would cross the natural contours of the land in a most unnatural fashion and would clearly be out of character in the landscape (HBC2/2 para10.6.45) (similar impacts would happen now, although the effects would be more significant as the engineered mounding would be higher, longer and wider than those previously proposed); and
 - (6) the proposals would significantly harm the character of the surrounding landscape (HBC2/2 para10.6.46).
- 4.11.22 HIA points out that 1998IR reached a different conclusion on the landscape effects. But 2004IR reported that that Inspector differed from the views of the previous Inspector because they were based “... *on somewhat different evidence*” (HBC2/2 para10.6.45). Moreover, HIA’s scheme would result in the removal of some 0.8ha of the maturing planting from the previous Darrington to Dishforth improvement scheme, adding to the landscape damage caused by the scheme.
- 4.11.23 Further still, slackening the outer eastern face of the mound has meant that the inner face would be as steep as 1:1 and at 9m above existing ground levels and would require engineered support. HIA provided no details of how that would be achieved or what it would look like and relied on the use of gabions at Oxford MSA in support of its approach. However, that example provides no useful comparison. There, the gabions are about 1.5m high with a gentle slope above and HIA has been unable to point to any example of an MSA which has as part of its development such a high and steep sided mound. The cross-sections provided by HIA (dwg No. 1500-SK-05) in response to the Inspector’s request do not provide any comfort and graphically demonstrate the extent of the engineering operations required.
- 4.11.24 So far as the visual impact of the Kirby Hill scheme is concerned, there is no material distinction between the effects of the current scheme and the 2003/4 scheme. The 2004IR conclusions were that: there would be clear views of the development against the backdrop of the North York Moors and Hambleton Hills that the landscape proposals would have little effect in reducing (HBC2/2 para10.6.49); there would be clear views to and from Skelton Windmill (Grade II listed) which would take many years to mitigate (HBC2/2 para10.6.53 & 57); the occupiers of properties in Kirby Hill village would have clear views of the MSA buildings which it would take many years to screen (HBC2/2 para10.6.54); and the MSA would introduce a sizeable area of lit development and the introduction of lighting would be visually harmful to the appearance of the area (HBC2/2 para10.6.55).
- 4.11.25 The FSoS accepted the Inspector’s conclusions on the landscape and visual impacts of the Kirby Hill scheme (CD12/2 para99). There is no reason to deduce that they ‘got it wrong’, despite HIA’s landscaping witness’ view that they did. All the landscape witnesses, save for HIA’s, were unanimous in their view that Kirby Hill would have a significant adverse impact on the landscape and cause visual harm. That HIA has persisted with a landscaping scheme that depends on very significant engineering operations and extensive woodland tree planting to provide visual screening is indicative of the inappropriateness of the site for an MSA in the first place.

(iv) Foul drainage

- 4.11.26 HIA's proposal is to drain foul water to Boroughbridge WWTW and as an alternative it seeks to amend its application to include planning permission for an on-site WWTW. Some 800m of new sewers would be needed to connect to Boroughbridge, and its physical capacity would have to be increased to accommodate the increase in flows (JT6/4 App3 pp19-21). If the foul water is to be treated on-site then HIA will have to construct one or more private treatment works, the positions of which have changed during the course of the Inquiry.
- 4.11.27 Whichever solution HIA pursues, these infrastructure improvements are an essential and integral part of the development for which HIA seeks consent and which, as EIA development, has to be environmentally assessed in accordance with the EIA Regs. However, contrary to the EIA Regs, there has been no adequate assessment of the effects on the environment of its foul water drainage proposals.
- 4.11.28 The only document purporting to be an "environmental statement" submitted with the application and advertised in accordance with the EIA Regs was the ES Update 2008 (CD3.5). Section 12 of CD3.5 purports to consider the impact of drainage but as regards foul drainage simply identifies the proposal to drain to Boroughbridge before saying at para12.5: "A foul water connection would be requisitioned from Yorkshire Water, who was commissioned to undertake a feasibility study into the possibility of discharging effluent to their existing sewerage treatment works at Boroughbridge."
- 4.11.29 The only feasibility study actually undertaken is not in connection with the current scheme but the scheme that was refused permission in 2005 and there has been no feasibility study undertaken in connection with the current scheme. This is so notwithstanding that YW made it clear as long ago as 27 January 2009 (JT6/4 App3 pp19-21) that:

"The proposed development would drain to Boroughbridge Waste Water Treatment Works which is currently at the limit of its capacity and any such additional loads would cause the works to fail an agreed standard of effluent quality. Yorkshire Water therefore OBJECT to the development at this time because of the risk of consent failure and consequent effects on the environment. The developer must demonstrate how the issue of sewerage treatment will be dealt with. I would therefore suggest they contact YWS in this regard so that we can better assess the impact on the works. Note: I understand the developer will be undertaking a new feasibility study to address the current issues highlighted in this letter, however no revised feasibility study has been submitted to date and therefore our concerns have not been addressed.

... It is possible that foul water from the site could discharge to the public foul/combined water sewer recorded in Kirby Hill at a point approximately 800 metres from the site. However, feasibility work needs to be undertaken with regard to the capacity of the existing sewerage network. We believe the connection will need to be pumped and controlled by telemetry to avoid pumping when the local station is actively pumping. There will be a need for the Applicant/Developer to requisition the necessary upgrade to the existing sewage pumping station(s) at Kirby Hill..."

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- 4.11.30 At 9 December 2010, YW's position has not fundamentally changed in that (a) capacity improvements to the public sewer and the Boroughbridge WWTW would be required although the exact nature of those improvements would have to be determined through a new feasibility study; (2) the developer would be expected to fund any infrastructure improvements; and (3) the necessary funding for those improvements should be appropriately secured. (HBC104, CD14.19 App last letter)
- 4.11.31 Although YW appears prepared to withdraw its objection provided a *Grampian* condition is imposed, it also requires the necessary funding for any improvements to be secured. HBC's planning witness said that it was preferable to deal with the situation by way of a s106 agreement, but none was on the table from HIA notwithstanding YW's proviso. Moreover, although YW suggests in its letter that a *Grampian* condition could be imposed to ensure that the necessary infrastructure works are completed and commissioned prior to the development becoming operational and that the additional sewerage and new plant could be constructed using YW's PD rights, there is a fundamental legal and/or policy difficulty with this approach.
- 4.11.32 The development is "EIA development" within the meaning of regulation 2(1) of the EIA Regs and the sewage works are an integral element of that development. Consequently, the PD rights for development by or on behalf of sewerage undertakers in Part 16 of the GPDO are removed by article 3(1) of the GPDO and, therefore, planning permission is required for those works. Those works are unknown and HIA has not included them within its current application or sought to assess them. Indeed, no updated feasibility study has been put before the Inquiry. The development cannot be salami sliced to avoid individual components of the development being environmentally assessed – see **RSPB v Swale Borough Council**.
- 4.11.33 Therefore, it would be neither lawful nor consistent with the SSCLG's policy relating to the imposition of *Grampian* conditions (Circular 11/95 paras38-41) to grant planning permission for the development subject to such a condition where (a) an integral element of the development has not been included in the planning application and which has not been environmentally assessed; (b) a separate planning application would have to be made for an essential part of the development; and (c) there is no evidence before the Inquiry from which to conclude that the actions required by the condition can be fulfilled within the life of any permission granted for the MSA.
- 4.11.34 If, as HIA says, it is practicable to discharge foul flows to the public sewer there would be no need for HIA to pursue an alternative on-site treatment works and the uncertainty of HIA's ability to discharge to the public sewer and Boroughbridge WWTW (which would also require a new sewer to be laid under the A1 to connect the twin sites) is highlighted by HIA's persistence in seeking to amend its application to include an on-site treatment option.
- 4.11.35 The same issue arises in relation to HIA's proposed alternative for an on-site WWTW as for its off-site solution but with the following further difficulties. First, the original application did not include an on-site treatment works and HIA's planning witness accepted that references to infrastructure could not reasonably be construed as including such works when the only means of foul drainage being contemplated at the time was off-site via the public sewer. Therefore HIA require consent from the SSCLG formally to amend

the application to include those works. For the reasons set out in JT's submissions to the Inspector (INSP4A) and for the further reasons set out below, the SSCLG should refuse HIA's proposed amendment to include on-site treatment works.

- 4.11.36 Second, the September 2010 Regulation 19 Submission (CD3.26) failed to identify where the on-site treatments works proposed would be located. These were only identified in CD3.26.1 submitted during the course of the Inquiry and then the location of them was subsequently changed in December 2010 – see below.
- 4.11.37 Third, CD3.26 does not contain any assessment of the environmental impacts of the on-site treatment option. HIA's planning witness agreed that the ES was silent on the impacts of any on-site works and that paras3.18 and 3.19 of the Regulation 19 Submission comprises the extent of any assessment. Those paragraphs are insufficient and do not even begin to assess the impact on the environment (including, for example, the impact on ground water quality).
- 4.11.38 Fourth, and contrary to what was said on behalf of HIA at the Inquiry, the Submission was not advertised before the start of the Inquiry (HIA116). In that letter, HIA admitted that it had failed to publicise the Submission. On its face that letter says that HIA would advertise the Submission having failed to do so previously. However, it was disingenuous because HIA did not simply advertise the Submission which the parties to the Inquiry were aware of (and in JT's case cross-examined HIA's planning witness on), although there is no reason to think that members of the public were similarly aware. Instead, HIA advertised in the Ripon Gazette on 24 December 2010 and put into the Inquiry a day or so before Christmas a substantially different document with significant additional information which it says supersedes the September 2010 document. Notwithstanding that most people would inevitably be off-work and or away over the Christmas and New Year, it only gave until 21 January 2011 for responses.
- 4.11.39 That Regulation 19 has been used to put in new evidence intended to remedy the significant failings in its assessment of the on-site works exposed during the examination of its case is particularly obvious as regards drainage where CD3.29 includes a new Appendix 3. That Appendix contains a Preliminary Groundwater Assessment to support HIA's alternative on-site water treatment plants which have been re-located from the position shown on CD3.26.1. This plainly was commissioned and included *after* HIA had presented its case at the Inquiry in an attempt to address the deficiencies exposed by JT in cross-examination of its planning witness.
- 4.11.40 Whilst, no-one can prevent HIA publicising that document it would be contrary to natural justice for HIA to be able to rely on the document when considering the planning merits of its application. Although the Inspector permitted that document to be put into the Inquiry (INSP4), for the reasons set out above HIA's proposed amendment to include on-site treatment works should be refused and the information relied on by HIA in support of those works excluded.
- 4.11.41 Fifth, the assessment of HIA's on-site treatment option is inadequate (see JT6/5); a view endorsed by EA (HBC3/8). HIA's response received on Saturday 29 January 2011 still failed to demonstrate that the on site treatment proposed can be achieved particularly as the proposal is now to

place a water treatment plant under an area of car parking and next to a 9m high wall with no stand off for footings or maintenance (HIA118) (see JT117). Thus: (1) there is no quantitative assessment of the impact of the infiltration of treated sewage effluent on the underlying Sherwood Sandstone aquifer; (2) it is proposed to drain treated effluent to ground via two infiltration basins, one either side of the motorway. However, the preliminary assessment of the impact of the infiltration of treated effluent on groundwater levels below the site is based on one large infiltration basin receiving the total volume of treated effluent and the assessment is not representative of what is actually proposed. This is especially significant due to the thinner unsaturated zone on the eastern side of the motorway and the proposals to reduce ground levels by approximately 2m in the vicinity of the proposed drainage basin on the eastern side of the motorway; and (3) there is no information provided in the Preliminary Groundwater Risk Assessment to quantify the estimated quantities of effluent arising from the operation of the MSA. (HBC3/8 para3.4)

- 4.11.42 HIA's ES submitted in support of the current scheme (ES Update 2008 (ESU)) (CD3.5) purported to be an "update" of the 2002 ES prepared for a different and rejected scheme. Although the ESU sought to rely on the 2002 ES, there is no evidence that the 2002 ES was ever submitted with HIA's current application, publicised or put on the planning register with the application as HBC's planning witness confirmed. Consequently, the only way a member of the public would have been aware of the 2002 ES was if having read the ESU they had then asked for it. That plainly does not comply with the EIA Regs. When this was exposed in cross-examination by REL of HIA's witness, the response was to include as CD copy of that document "*for reference*" as an appendix (App10) in the December 2010 Regulation 19 Submission (CD3.29 para1.2).
- 4.11.43 The difficulty is that if the 2002 ES relied on in the ESU is part of the ESU, then advertising it on 24 December 2010 and stating that comments should be received by 21 January 2011 does not comply with the publicity requirements given for consultation under the EIA Regs of an environmental statement (even if it complies with Regulation 19). Not only has HIA created the kind of paper trail deprecated by the House of Lords in Berkley, but the ESU is so deficient that it cannot properly be said to be an ES at all.
- 4.11.44 Thus, not only has HIA sought to amend its application and to assess the impacts of that amendment in a legally impermissible way, but the Preliminary Ground Water Assessment included in CD3.29 does not adequately assess the environmental impacts for the reasons set out in JT's response to it (JT5/5, JT6/5). The EA is also concerned by the inadequacy of HIA's assessment.
- 4.11.45 Notwithstanding HIA's belief that foul water can be drained off-site, it has continued to pursue its amendment to its application to include an on-site WWTW. If it really was confident in being able to drain off-site then it would be unnecessary to seek consent for a controversial amendment. The only reasonable inference is that its outward confidence of being able to discharge off-site does not reflect its private views.
- 4.11.46 JT does not accept that because HIA has secured agreement with HBC and YW that it can drain foul flows to Boroughbridge there is no objection in principle to its proposed development on drainage grounds. Even if it were

the case, so long as HIA seeks planning permission for development that includes on-site treatment works, the impact on, *inter alia*, the quality of groundwater as a consequence of those on-site treatment works has to be adequately assessed. HIA cannot reasonably say that it is unnecessary to determine what the environmental impacts of the on-site treatment works would be because it is proposing to drain foul flows off-site. If it wishes to be granted planning permission for development that includes on-site treatment works which potentially pose a risk, *inter alia*, to groundwater quality it must satisfy the SSCLG that what it proposes does not pose an unacceptable risk. HIA has not done so (HBC3/8 para4.2-3).

- 4.11.47 Moreover, it cannot avoid the requirement properly to assess the environmental impacts of the development for which it seeks planning permission by the imposition of the conditions it has put forward in HIA/205. If planning permission was granted for development that included on-site treatment works which had not been adequately assessed, the first condition (which is also unacceptable to HBC) would allow HIA simply to get HBC's written consent to submit an on-site drainage scheme even if the impacts of on-site treatment works had not properly been assessed. The result would be that having been granted planning permission for on-site treatment works, the principle of on-site drainage would have been established notwithstanding the absence of any proper assessment and HIA will have completely bypassed the proper planning and environmental assessment process.
- 4.11.48 With the alternative condition proposed by HIA, the principle of on-site drainage would also have been established by the grant of any planning permission that included in its description on-site treatment works. Thus, although the second condition would preclude HIA from applying to HBC under the planning permission for its written consent for an on-site drainage solution, there would be nothing to prevent HIA from applying to HBC under section 73 Town and Country Planning Act 1990 to carry out the development without complying with that condition. In those circumstances, where the principle of on-site drainage had been established by the grant of a planning permission for those works, it would be difficult for HBC to "row back" from that principle and refuse permission on the basis that on-site drainage was unacceptable. As HBC made clear it would wish that any planning permission which may be granted would have "cut out of it" any planning permission for on-site treatment works. That is achieved by taking out of the description of the development the inclusion of on-site treatment works or not allowing HIA to amend its application in the first place to include on-site treatment works.

Conclusion on Kirby Hill

- 4.11.49 The Kirby Hill scheme has no highways or transportation advantage by being an on-line site. Moreover, it would have significant adverse landscape effects and the assertion that such effects are already accounted for by being an on-line site is demonstrably bad as evidenced by the Gloucester Gateway decision. There is real uncertainty as regards its drainage proposals which, whether on or off-site have not been adequately assessed. Further, its ESU fails to comply with the EIA Regs and the deficiencies are not cured by the submission of any Regulation 19 material. It should properly be refused planning permission on its own merits and compared to the Ripon Services scheme is demonstrably inferior to that scheme

4.12 REL – Baldersby Gate

- 4.12.1 Baldersby Gate enjoys the same locational advantages as Ripon Services in terms of meeting the need for a new MSA between Wetherby and Barton. However, it has the following principal disadvantages relative to Ripon Services: (i) its landscape impacts are greater than that of Ripon Services; (ii) inadequate environmental assessment; and (iii) deliverability.

(i) *Landscape impact*

- 4.12.2 Unlike Ripon Services which is bounded on 2 of its 3 sides by the A1 (and Baldersby Junction) and the A61, Baldersby Gate is surrounded on 3 of its 4 sides by open countryside. If developed, the MSA literally would *“jut out into what is an agricultural landscape”* (JT3/2 para10.3.7).
- 4.12.3 To try to mitigate the resultant significant harmful landscape effects, REL proposes to lower the developed part of the site by on average 1m (up to a maximum of 2m in places) and to construct a 1.6m high bund around 3 of the 4 sides. On top of this they would plant semi-mature trees. None of this was apparent in the ES (CD6.12) and was only revealed in cross-examination of REL’s landscape witness on REL3/2 para4.7 – who accepted that even with the use of bunds and semi-mature planting there would still be an adverse impact in the early years because it would not be possible to integrate the development into the landscape (CD6/12 para11.8.17). That is inconsistent with his proof where he said that the landscape proposals *“... would be beneficial from the first year of implementation”* (REL3/2 para6.24).
- 4.12.4 REL’s assertion that it was clear from the buildings having a maximum height of 51m AOD that the site would be excavated across the developable area is wrong. None of the witnesses for the other parties was aware of the excavation proposal and there is no topographical information in the ES against which to judge the maximum height of the proposed buildings to know if excavation would be required.
- 4.12.5 Even lowering the site, the creation of bunds and the use of semi-mature planting, in Year 1 there would be significant adverse landscape effects. In later years, adverse landscape impacts would continue at Baldersby Gate because of the lack of containment around the site. It would always be seen as an extension into the countryside. HBC’s planning witness accepted that the excavation of the site should have been assessed in the REL’s ES but had not been. He also accepted that there has been no assessment of the effects of excavation in REL’s December 2010 Regulation 19 submission.
- 4.12.6 Despite the evidence given by REL’s landscape witness in November 2010, REL put a document into the Inquiry on 14 January 2011 purporting to be a cut/fill balance (REL116). JT objects to the submission of this document being put into evidence for the following reasons:
- (1) although that witness was asked to produce the cut/fill calculation which in evidence he said had been done and he had seen, REL116 plainly is not that calculation as the note is dated after he gave evidence;
 - (2) neither the document nor any part of the contents were put to any of JT’s witnesses in cross-examination notwithstanding that JT did not finish its case until 8 December 2010;

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- (3) no adequate explanation was given as to why REL116, dated 7 December 2010, was not circulated until 14 January 2011. An explanation was given that the “final” note was not completed until 11 January, the plan not produced until 14 January, and that the date of 7 December 2010 on the note in REL116 was erroneously left over from an earlier draft. JT has asked for the instructions given to SLR that are referred to in the first paragraph of the note and the earlier drafts of the letter to verify what was said on REL’s behalf but REL has refused to disclose them. This inevitably discredits the explanation given by REL; and
 - (4) as a matter of natural justice, REL should not now be permitted to submit new evidence into the Inquiry which it could and should have been put to JT’s witnesses and which JT has not had an adequate opportunity to test.
- 4.12.7 If REL116 is accepted as evidence in the Inquiry, little weight can be given to it because of the criticisms set out in JT115. Moreover, it merely reinforces the concern about the lack of any proper assessment of REL’s proposals.
 - 4.12.8 Contrary to REL’s evidence that the maximum excavation depth would be 2m, REL116 shows (1) an area of the site where finished development would be 2m below existing ground (in orange); and (b) a larger area where finished development levels would be up to 2m below existing ground (in purple). As REL116 note makes clear, no allowance has been made for building foundations. If finished levels were below 2m the initial excavations would necessarily be deeper still – to an unknown depth.
 - 4.12.9 This further deficiency of the original ES was not remedied by the December Regulation 19 submission. Moreover, REL116 states that the car parking areas would be terraced. Not only was this news to the Inquiry and to HBC’s witness, who was unaware of any MSA where the car-parking is terraced to introduce level differences between parking rows, but this has clearly been introduced in order to try and achieve a cut/fill balance.
 - 4.12.10 REL116 is thus a poor attempt to justify after the event what REL’s witness said in evidence and lacks credibility. However, what REL116 does firmly demonstrate is that REL’s scheme has not been thought through and REL is trying to adapt as flaws are exposed. Further, it is now apparent from REL116 that the proposed mounding is intended to be around all four sides of the site and not three sides as the Inquiry was informed in cross-examination.
 - 4.12.11 To compound matters REL has sought to submit further evidence in REL124. Again, it is far too late to submit this evidence. JT has not been able to consider this further material in the time available before closing submissions and objects. Without prejudice to its objection, REL124 attaches yet a further drawing Drwg H001 dated December 2010 in addition to Drwg H003 (attached to REL116) which plainly could and should have been disclosed weeks ago. It was not included in REL’s Regulation 19 submissions notwithstanding JT’s criticisms made back in November 2010 of the absence of any information about the extent of the excavations. No reason why it was not submitted much earlier has been given by REL. Moreover:

- (1) when the Inspector asked for an explanation why REL116 was only being submitted on 14 January 2011, the Inquiry was told that it was only issued on 11 January and Plan H003 finalised on 14 January. However, REL124 now says that the draft SLR letter dated 7 December 2010 was finalised on 5 January 2011, so the Inquiry was badly informed;
- (2) in the light of the inadequate explanation given to the Inquiry on 14 January (which it turns out was not true), JT asked to be provided with the Instructions that were given to SLR and the drafts of their letter before it was finalised in January. Neither the Instructions nor the drafts have been disclosed and the only reasonable inference to draw from that failure is that if REL did disclose them they would be adverse to REL's case and/or reinforce concerns that no cut/fill balance exercise had been undertaken before SLR were commissioned to do so in December 2010 and/or demonstrate that the information could have been disclosed much earlier;
- (3) the CAD drawings requested in JT115 have not been provided and no explanation has been given why the calculations could not have been provided before now;
- (4) the information now given, if accurate, reinforces the observation made in JT115 that the initial excavations would be in excess of the 2m claimed by REL's witness and shows that it would exceed 3m in places;
- (5) Drawing H001 (attached to REL124) makes it clear that there would be a 1.6m bund around all 4 sides of the site and not 3 as was said in evidence, which begs the question of what both the ES and he actually assessed if he did not know that the bund would be so extensive; and
- (6) it is plain that REL has attempted to retrofit the design of the scheme to try to achieve a cut/fill balance after JT exposed that there would be a need to export from the site considerable quantities of material. One obvious example of this is the proposal now to terrace the car parking which is not a feature seen at MSAs. Another is the extension of the 1.6m landscape bund along the A61 boundary (i.e. the fourth side).

Inadequate environmental assessment

(i) Excavation of the site

- 4.12.12 Even though REL published a substantial Regulation 19 document as late as 22 December 2010 that further information makes no reference to the extensive excavation of the site or the creation of bunds around 3 of the 4 sides of the site (let alone all 4 sides). Nor does it assess the impact of that cut and fill operation. In any case, as just explained, the cut/fill information in REL116 and REL124 should be excluded from the Inquiry and, if allowed, given no weight.
- 4.12.13 In the absence of any reliable information from REL, JT's unchallenged calculations to understand how much material would have to be excavated and how much could be retained on-site provide the Inquiry with the best evidence available. Excavating the developable area to an average of 1m would produce about 84,000 m³ of spoil of which about half could be retained on-site if the bunds were no higher than a maximum of 1.6m. That would equate to about 6,000 tipper lorry loads of soil of which half (3,000)

would have to be taken off the site thereby generating some 6,000 lorry movements. There has been no assessment of the implications of those lorry movements (JT115 para1.5).

- 4.12.14 That would be close to the 100,000 m³ of material required for HIA's enormous mound at Kirby Hill calculated by HBC's landscape witness. Even if HBC's witness did not think that now knowing this information would change his view of the landscape impact Baldersby Gate would have in the first 3-5 years, he accepted that the construction impacts would be very great. None of the implications on the environment of excavating and disposing of this soil has been assessed in the ES, REL's evidence or even REL's Regulation 19 Report December 2010 (CD6.36).

(ii) Drainage

- 4.12.15 REL's foul water drainage proposals have changed through the Inquiry such that it has now been compelled to apply to amend its application to include in the description of the development an on-site WWTW. To accommodate this, the police post in the original application would be omitted. It was clearly understood when REL submitted its application that it proposed to drain foul water to the private treatment works at Melmerby (REL1/10 letter 21 June 2010, HBC1/2 para9.5.1). For reasons that are unclear, REL subsequently proposed to drain foul water to the public sewer/WWTW.
- 4.12.16 On 10 August 2010, YW informed REL that the nearest public sewer network/treatment facilities did not have adequate capacity to accommodate the foul flows and that the flows should be directed to Ripon WWTW. However, they were also told (a) that improvement works might be required to Ripon WWTW; and (b) a new on-site pumping station and off-site pumping main connecting to the WWTW 6.4km away would be required (REL1/10 letter 10 August 2010). In its subsequent letter dated 14 October 2010 (REL1/10), YW has made it clear that:

"It appears that Ripon WWTW does not have available capacity for the proposed foul water discharge from the proposed motorway service area. The WWTW population equivalent that it serves is currently 18,820 and we believe this application would increase the load to the works by 16%. Hydraulically the extra flow would not be an issue but the biological treatment capacity of the aeration lanes are inadequate for such an increase. It is likely that this increase would trigger a review of the Works consent to discharge issued by the Environment Agency and that a considerable amount of work would be required to ensure compliance with water quality regulations. Yorkshire Water has not included the need for treating waste water from the MSA within its current investment plan and so would be looking to the developer to fund the required improvements. Until a full feasibility study is commissioned I cannot give likely cost estimates for these works.

We are also concerned about the length of transfer pipeline to Ripon WWTW, likely to be up to 6.4km. It is likely that pumping will be required over all or part of its length and this, combined with the pipe's small diameter could lead to issues of septicity and odour escape along the sewer."

- 4.12.17 REL's planning witness was adamant in his evidence, and a number of questions were put to JT's planning witness by REL consistent with REL's position, that its primary solution was to drain foul water to Ripon WWTW;

and that REL was satisfied that this was technically feasible. Indeed, at that stage it was made clear that REL was not applying to amend its planning application to include an on-site WWTW.

- 4.12.18 The foul drainage infrastructure is an integral part of the development for which REL seeks consent and the impacts on the environment of the significant works required to increase the biological treatment capacity of the WWTW and the laying of up to 6.4km of new pumped sewer should have been assessed in its ES but were not. These works would require planning permission for which there is no application and, as an integral part of EIA development, cannot be constructed under PD rights. The environmental impacts of the necessary drainage works plainly have not been assessed in REL's ES (no doubt because discharge to Ripon WWTW was not contemplated when the application was submitted) nor is there any assessment in its ES Further Information Report December 2010 (CD6/36).
- 4.12.19 REL's failure to assess the impacts of its off-site foul water drainage solution cannot be overcome by the imposition of a *Grampian* condition. The necessary works are no doubt "technically feasible" but, as REL's witness acknowledged, entering into the necessary agreements to lay the sewer would take some considerable time before the works can even begin and there is no evidence before the Inquiry of any realistic possibility of the actions required by any *Grampian* condition actually being met within the life of the permission if granted.
- 4.12.20 The implications of the required drainage works have been considered by JT's drainage witness (the only specialist to put in evidence) and he is clear that the failure to assess the impacts on the environment of REL's off-site solution breaches the EIA Regs. Consequently, SSCLG cannot lawfully grant planning permission for the Baldersby Gate scheme as originally submitted.
- 4.12.21 However, REL has abandoned its proposal to discharge foul flows to Ripon WWTW in favour of on-site treatment (CD6.36: 22 December 2010) because it now accepts that the length of new main required 6.4km makes connection to Ripon WWTW unfeasible (CD6.36 para1.1.7). JT identified the impracticality of that solution in its evidence at the start of the Inquiry.
- 4.12.22 Notwithstanding REL's wish to amend the application, the press notice advertising the December 2010 Further Information Report does not include in the description of the development any reference to on-site WWTW. No-one except those who have attended the Inquiry would know that REL now propose to deal with foul water on-site rather than off-site. Not even those who had attended the Inquiry to hear REL's case would have known.
- 4.12.23 Further, the omission of any assessment of the on-site treatment works in REL's ES is a significant deficiency and reinforces the compelling arguments for not allowing REL now to amend its application to include on-site treatment works. JT made submissions objecting to the applications by REL and HIA to amend their planning applications during the course of the Inquiry to include, in particular, the inclusion of on-site WWTW (JT102, JT103). Of course, at the time that those submissions were made and the Inspector made his ruling REL had not asked to amend its application to include on-site treatment works and had provided no details.
- 4.12.24 The absence of any assessment in REL's ES of the impacts of on-site drainage is not cured by the publication of CD6.36. Although that document

is premised on the application being amended to include on-site WWTW, the press notice advertising the Regulation 19 material makes no reference to the fact that the application has been amended. On the contrary, it simply repeats the original description of the development in the ES (CD6.36 para1.3.2) included in the application and as HBC's witness accepted, no-one reading the press notice would have known that REL had amended its application but would have assumed that the information was simply additional to that submitted in relation to the original development.

- 4.12.25 Moreover, the reference to "infrastructure" in the description of the development in the press notice cannot reasonably be construed as including an on-site WWTW given REL's planning witness' concession that the exact same description in the original application could not be construed to include works that were not contemplated. Even if the press notice had been clear that the Regulation 19 information related to an amended application, it only gave 25 days for consultation responses which would not meet the EIA Regs.
- 4.12.26 The inappropriateness of REL's misuse of Regulation 19 can be tested in this way. If an application for planning permission had been made to HBC for EIA development which was not called-in and which, after being validated had been amended by the applicant to include on-site treatment works itself requiring environmental assessment, there is little doubt that HBC would have required the application to be re-advertised to allow the public to be consulted properly on the scheme as amended. However, because REL has amended its scheme late into the Inquiry and attempted to publicise the environmental assessment of the amendments using Regulation 19 it has unlawfully avoided the publicity requirements that apply to ESs submitted with applications for EIA development.
- 4.12.27 In the circumstances, the ES accompanying REL's application is so deficient by failing to assess the impacts of an on-site WWTW that it cannot properly be said to be an ES for the purposes of the EIA Regs and that its publication in December 2010 of its Regulation 19 submission could not as a matter of law and/or did not as a matter of fact remedy the defect.
- 4.12.28 Except for the further work on the operational assessments of the Baldersby Junction roundabouts and the Ripon Services access roundabout necessitated by the HA's change in HGV flows north of Dishforth, JT is the only applicant who has not had to try to plug gaps in its scheme exposed during the course of the Inquiry. In any event there remain real issues as regards REL's proposals as set out in JT6/6. In particular, the equipment proposed would not achieve the treatment standards required and the surplus effluent that would arise is in excess of 370m³/day – it has not been demonstrated that this volume can be utilised on the site (JT6/6 para2.15).
- 4.12.29 If the SSCLG refuses to allow REL's proposed amendment to include the on-site treatment works then it is clear that REL's proposals are not feasible. Thus, in its ES Further Information Report (CD6.36) at paras1.1.6 to 1.1.8 it said:

"1.1.6 In relation to foul water drainage, the outline planning application as submitted was presented on the basis of a mains foul drainage approach. Post application discussions and correspondence with the sewerage undertaker, Yorkshire Water, identified a specific proposal

involving the construction of a pumping main within the highway to the Waste Water Treatment Plant (WWTP) at Ripon.

1.1.7 Subsequently, this proposal was reviewed and is considered to be impracticable in the context of an outline application due to issues associated with the length of the pumping main involved. As a consequence, the outline application is now proceedings in the basis of an alternative on-site private waste water treatment works.

1.1.8 In the light of the above the Applicant is presenting an amended, illustrative layout to the Inquiry which is shown at Figure 1.1."

- 4.12.30 Consequently, if its amendment is refused, REL plainly now accepts that discharge to the public sewer is not feasible. Therefore, that planning permission would have to be refused because (a) it would be wrong to grant planning permission for a scheme which the applicant itself acknowledges cannot feasibly dispose of its foul sewerage; and (b) where, in any event, the proposal to discharge foul flows to the public sewer and treatment works have not been assessed.

Summary on Baldersby Gate

- 4.12.31 Development of the Baldersby Gate site would require very significant excavation and the creation of bunds on at least three and probably all four sides of the site together with semi-mature planting to mitigate the landscape effects and even then it is accepted on its own case that there will be adverse effects. The extent of the initial excavation is unclear and has not been assessed but it points to Baldersby Gate being an inherently unsuitable site given the amount of excavation and containment works required just to mitigate the landscape impacts partially. REL has failed to assess as part of its ES the effects of the drainage proposals; and the publication of Regulation 19 information in support of an amendment to its application to include on-site treatment works has not remedied the deficiency of the ES which cannot properly be said to be an ES given the lack of assessments of its drainage proposals. Permission should be refused where there is a better alternative.

Part C: Extant Reasons Relied on by HBC for Refusing JT's Application

4.13 (i) Need

- 4.13.1 By the close of evidence HBC now relies on 3 reasons only; the first relates to need. On JT's evidence, there is a need for a new MSA and, if this is accepted, the environmental impacts of developing Ripon Services relied on by HBC plainly do not outweigh that need. Thus, even if Local Plan policy T7 were interpreted as imposing a prohibition on another MSA within Harrogate District as HBC contends, it would not be a sensible outcome to refuse planning permission on the basis of policy T7 if a need for an MSA was established and that need was not outweighed by the environmental impacts. HBC's planning witness accepted that if the SSCLG concluded that there was a need for an MSA then this need would outweigh the first part of the Policy T7, which seeks to restrict the number of MSAs in the district to one.

4.14 (ii) Impact on landscape character

- 4.14.1 HBC's objection is confined to the impact on the landscape character of the area. It rightly does not argue that visual impact is a reason for refusal

given its evidence that the impact on users of the A1/A61, limited public footpaths, minor roads or dwellings would be no greater than slight adverse in years 3–5 and would decline with time (HBC2/2 paras16.6.2-6 & 16.7.2). That JT's witness assessed the visual impacts as being less does not matter because it is common ground that the scheme's visual impact would not justify refusing planning permission.

- 4.14.2 However, that Ripon Services can be seen from so few sensitive receptors is relevant to the assessment of its impact on the landscape. JT's typical criteria for assessing the significance of landscape effects include whether the development would impact on certain views into and across the site or are visually intrusive (HBC2/3 p90). Further, a number of factors are material in assessing the landscape impact that Ripon Services would have. First, the landscape here is not nationally designated for its natural beauty or quality; nor is it given any local landscape designation. That does not mean that it has no intrinsic merit, but it does mean that the weight given to any landscape impact is less than in a designated area.
- 4.14.3 Second, the site is an open intensively managed arable field containing no landscape features. Consequently, any loss would be confined to the field itself which HBC's witness describes as a "local landscape feature" (HBC2/2 para16.4.1)
- 4.14.4 Third, the existing A1, the lit Baldersby Junction and A61 are part of the landscape baseline, as are the tens of thousands of vehicles using those roads every day. As HBC's witness accepted, the high-sided HGVs (over 20% of the A1 traffic) are particularly visible and draw the eye; he said that traffic passing in opposite directions was particularly distracting. From any viewpoint of the site to the east of the A1 it would be seen in the context of moving traffic, much of it high-sided. Even from the west and the A61, the site would be seen with the A1 and its moving traffic as a back-drop.
- 4.14.5 Fourth, the undulating topography and local ridgelines screen the site from many viewpoints. As HBC's witness accepted, from his identified viewpoints the site could only be seen in his photographs 48 and 49 taken from the Baldersby Junction overbridge itself. Even if Ripon Services were developed, except for motorists on the A1, A61 and the overbridge there would be no clear views of it, with motorists having the clearest view: "By far the clearest and most open views... would be from the A61/A1(M) junction, from the motorway, especially for northbound traffic and from the A61 as it passes the site" (HBC2/2 para16.3.3). Motorists are numerous, but are low sensitivity receptors travelling quickly. Those who see the development would not be surprised to see an MSA adjacent to the motorway.
- 4.14.6 Fifth, even though the landscape is expansive, it is no part of HBC's case that Ripon Services would have any adverse effect on the long distance views of the Moors and Dales. Its case is that the alleged harm would be to the "local landscape" (HBC1/2 para8.4.2).
- 4.14.7 Sixth, HBC's witness accepted that the landscape baseline includes woodland blocks, and JT's witness pointed out a number of such blocks that, including those seen by drivers on the A61 Ripon Road. Thus, the landscape proposals would not be out of keeping.

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- 4.14.8 Seventh, HBC has expressed no criticism of JT's landscape mitigation strategy, which does not rely on dense screen or linear planting to hide the development. Instead, it integrates the planting into the landscape and the proposed planting for the Baldersby Junction (JT3/2 para5.2.1-7). Although HBC's witness described the site as being overprovided relative to the development proposed this is not a negative in landscape terms. He accepted, in contrast to the other sites, Ripon Services would have wide landscaping buffer strips between the boundaries and the hard surfaced elements of the development of between 55 and 120 metres, which is a positive aspect of the scheme.
- 4.14.9 Eighth, there is no criticism of JT's night time light assessment; JT is the only party to have undertaken such an assessment by qualified lighting engineers (JT3/3 AppH). That report concludes that the overall impact arising from a lighting scheme for the service area would be negligible to minor adverse, thus there would be little change in the night-time environment resulting in a neutral/slight adverse effect (JT3/2 para6.5.8).
- 4.14.10 There would be a slight/moderate adverse landscape effect in the short term (JT3/2 para6.3.3) which would be slight beneficial by year 15 (JT3/2 para6.3.4). HBC's witness agreed that there would be a slight/moderate adverse impact in years 3–5 (HBC2/2 para16.5.1). Although he had not carried out a formal assessment of the landscape effects in later years, he accepted that the impact would only be slight adverse at year 15. Therefore, the small difference simply relates to the longer term effects.
- 4.14.11 HBC's witness was clear that the physical containment of JT's site compared to REL's site meant that Ripon Services would have a lesser impact on landscape character. Unlike Baldersby Gate, Ripon Services would not have to rely on extensive excavation, ground modelling and screen planting to mitigate its impact.
- 4.14.12 There was no great discrepancy between the assessments of landscape witnesses as to the impact of Ripon Services and the differences can be accounted for by subjective judgment. The exception was MOT's witness. Her evidence should be treated with caution for a number of reasons. She seemed unaware that the discrepancies between JT's and HBC's assessment of the site's visual envelope was because HBC took as a reference point the elevated Baldersby Junction whereas JT was looking at the visibility of the site itself. Next, she was forced to correct her evidence in relation to the significance of the effects she purported to transpose from JT's Figures 8 and 9 (JT3/3 pp68&69).
- 4.14.13 Finally, some of her viewpoints are incorrectly shown (MOT4/3 p40): the views from Rainton bridge (viewpoint 7) are heavily restricted because of the high equestrian parapet; and viewpoint 6 is not taken from a public footpath but from a permissive path – if it had been taken from New Road it would have shown that the site was screened by a hedgerow along the road side. Thus, her evidence gives no reliable basis for assessing the landscape impacts.
- 4.14.14 REL emphasises the short length of dual carriageway and the roundabout that JT's scheme would introduce. However, all landscape witnesses have taken account of this and, save for HIA's, conclude that Baldersby Gate still has the greater landscape impact. This is unsurprising as the baseline already includes the junction and its lighting.

- 4.14.15 HBC's planning witness' interpretation of HBC's landscape witness' evidence was that Ripon Services would cause substantial harm to the local landscape. However, that was not a description the latter used; he properly used significance criteria in expressing a judgment about the level of harm. Even if the planning witness' assessment of a slight to moderate harm in the first 3-5 years can reasonably be equated to amounting to significant harm, the slight landscape harm in the longer term accepted by the landscape witness cannot possibly be equated to the substantial harm that the planning witness believed there would be, and that would justify refusal on this ground.
- 4.14.16 Had he realised that the longer term harm assessed by the landscape witness would only be slight, he could not reasonably have concluded that that harm would be substantial. This is reinforced by the fact that such harm as there is could only be appreciated from a limited number of viewpoints where the majority of the receptors are low sensitivity and the landscape has neither any national nor local landscape designation.

4.15 (iii) Loss of best and most versatile agricultural land

- 4.15.1 Except for Motel Leeming, all MSA proposals would result in the loss of some BMV agricultural land. However, such loss should be given limited weight as the FSoS did in granting planning permission for Wetherby services (CD12/2 para97). HBC accepts that this issue is of more limited weight than the other issues; it is only advanced because of the alleged absence of need (HBC1/2 para8.3.3). HBC's planning witness accepted, if need is established, that the loss of 18ha of BMV land would not be a freestanding reason for refusing planning permission. Nor does he suggest that Ripon Services is inefficient in its use of land. As he said, the additional loss of agricultural land (if any) associated with Ripon Services compared, for example, with Baldersby Gate has to be weighed against the benefits of the landscape scheme that taking the additional land allows to be created.
- 4.15.2 JT's scheme would involve the smallest permanent loss of BMV land as it has the smallest developed area; comparisons with Kirby Hill are misleading. Although the whole site is relatively large (18.80ha), all of which would be BMV agricultural land, the developed area is relatively small (7.37ha). The landscaped areas plainly would be taken out of agriculture but that land also plainly has the potential to revert to agricultural use. That is consistent with the modern approach to protecting resource from irreversible harm. (JT7/2 p171 Table9-1).
- 4.15.3 The main environmental impact relied on by HBC to say that permission should be refused relates to the impact on the landscape character of the area. However, that is no higher than slight to moderate adverse in the short term (3-5 years) and slight adverse in 15 years. That modest level of impact would not justify refusing permission for an MSA where it had been concluded that a new MSA was needed in the gap.
- 4.15.4 In addition, a number of benefits are associated with the Ripon Services scheme including (a) an improvement in biodiversity as the range of habitats is increased; (b) economic benefits from the jobs that would be created including a commitment to employ local people; (c) the sustainability measures to be incorporated into the scheme including the sustainable sourcing of materials, a high BREEAM rating and excellent on site energy generation credentials (JT7/1 para6.1).

4.16 Other issues

(i) Entry path curvature (raised by MOT)

- 4.16.1 Although JT had demonstrated to NY that the access roundabout was acceptable, NY's highway consultants have looked at the position again. The further analysis has vindicated JT's assessment and is reflected in the SOCG (CD14.20) and subsequent note from NY (NY104). There is no validity in MOT's criticism.

(ii) Land ownership (raised by REL)

- 4.16.2 No one asks the SSCLG to resolve the land ownership dispute between REL and JT; it would be unnecessary to do so because its only planning relevance relates to the delivery of the scheme.
- 4.16.3 It is no part of REL's case that if planning permission is granted for Ripon Services and the ownership dispute is resolved in favour of Mr Potter as the owner of the Baldersby Gate site, that a land deal would not be done. On the contrary, he has not objected to JT's scheme and having entered into an option agreement with REL plainly does not have any objection in principle to an MSA being constructed at the Baldersby Junction. Consequently, as REL's planning witness accepted, the issue is simply one of time and the reality is, as recognised by HBC's witness, that if planning permission is granted for Ripon Services the land ownership situation could quickly change because it is really just a matter of money. HBC's witness rightly attached little significance to the matter as a planning issue believing it to be more important to get the right location than worrying whether there may be a delay in the scheme coming forward.

(iii) Archaeology

- 4.16.4 Written objections to the three mainline schemes have been received on behalf of the Friends of Thornborough Henges to the effect that the MSAs would harmfully affect a landscape of international significance (the Ure-Swale catchment) (WR133,WR134). Such matters were dealt with in chapter 10 of its ES submitted as part of its planning application, where it was concluded that, with appropriate mitigation, the overall significance of impact on archaeological and cultural heritage would be slight adverse (CD5.3). After consultation, NY confirmed that it was satisfied with the work that was carried out in accordance with PPS5, Planning for the Historic Environment, and agreed to a strip and record as suitable mitigation for the site. This matter would be addressed by a condition.

(iv) Adequacy of JT's environmental statement (raised by REL)

- 4.16.5 JT's ES was properly advertised with the application submitted to HBC in May 2010, and no party has criticised its adequacy. No point was put to JT's witness that the drainage would be inadequate. Although HBC's witness agreed with REL that the assessment in the ES of JT's on-site drainage proposals was limited, there plainly was an assessment of the effects which anyone could have commented on if they had concerns including a table in the ES. EA did respond (HBC1/3 Tab6 p81) objecting to the proposal because the scheme involved the use of on-site drainage and it took the view that an inadequate assessment of the risks of pollution to ground and surface water had been provided.

- 4.16.6 In response, JT undertook and provided the EA with the additional assessments it required to address its objection and which has ultimately led to the EA withdrawing that objection (HBC3/6 para4.2). That is exactly the process which Sullivan J held was lawful in **R (Davies) v Secretary of State [2008] EWHC 2223**.
- 4.16.7 The additional assessments have been available since 23 November 2010 at the latest (HBC3/3, HBC3/7). No witness criticised or commented on the adequacy or contents of the assessments. Consequently, there can be no genuine criticism of JT's ES nor can it be said with any degree of legitimacy that a party has been in some way prejudiced. Any suggestion that JT should have published the additional assessments pursuant to Regulation 19 would be entirely misconceived as that information is neither "additional information" nor "any other information" as defined by Regulation 19(1) and Regulation 2(1) respectively. Even if it was "any other information", the publicity requirements in paras (3) – (9) are disapplied where that other information is "provided for the purposes of an inquiry or hearing held under the Act".
- 4.16.8 REL says that there has been "a 20% increase" in the developed area between the layout plan submitted with the application to the final layout plan. As a percentage of the total site area the amendments that have been made and which have led to an increase in the developed area is less than 5% (JT114). More importantly, the increase in area has been known to everyone; and no party has presented evidence to the Inquiry that the increase in developed area would have any greater impact than was assessed in the ES. Indeed, in relation to the most important environmental issue (i.e. the impact on landscape) none of the landscape witnesses suggested that the increase in developed area within the site meant that they had revised their assessment of the likely effects.

(v) Impact on Public Rights of Way (raised by MOT)

- 4.16.9 Proposals in the vicinity of the roundabout have been made at the request of the HA. NY and the Ramblers Association do not object to the proposals, and the other consultees (eg the British Horse Society) have made no response. The inference must be that there is no objection to the proposals.

(vi) Flooding and Surface Water

- 4.16.10 The development has a low risk of flooding and there should be no significant residual effects during construction or operation (CD5.3 section 12). Permeability tests show that the ground is sufficiently permeable to dispose of surface water from the site via infiltration beneath the attenuation basin, the HGV parking facilities and the car parking facilities (JT6.1 para2.8). The drainage system will also implement Sustainable Drainage Systems as promoted by PPS25.

Residential amenity

- 4.16.11 A number of chapters of the ES deal with residential amenity, including chapter 6 on noise, chapter 7 on air quality and chapter 9 on visual and landscape impact. The scheme has been designed to ensure that there would be no material impact on the nearest residential properties and the technical chapters to the ES confirm this (CD5.3 para3.58).

4.17 Conclusion

- 4.17.1 Other MSA promoters have attempted to patch up the shortcomings of their schemes as the Inquiry progressed. That demonstrates and reinforces the submission JT made at the outset that only its scheme has properly been thought through from inception and fully assessed (JT101). It comes as no surprise that the JT scheme is the only one which Ripon Town Council and Hutton Conyers Parish Council supports. Only JT has not had to amend its application to include development it had not originally applied for. The process of examination has simply reinforced that if planning permission is granted for Ripon Services the development that comes out of the ground will be what has been assessed. It is the scheme that would best meet the imperative of giving motorists the opportunity to stop and rest for safety reasons with the least environmental impact.

Ministerial Statements

- 4.17.2 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12). Importantly the Minister's Statement says that "he will attach significant weight to the need to secure economic growth and employment". MSAs by their very nature will secure economic growth at a strategic level for all SRN users; and the facilities provide local employment opportunities. The site can meet identified need in a prompt manner (DOC12.3).
- 4.17.3 Ripon Services, Kirby Hill and Baldersby Gate will result in a significant investment in the locality supporting economic growth in general terms. However, Ripon was the only one to agree to seek to employ staff locally and to source goods and materials from local suppliers thereby creating indirect job opportunities. The Statement reaffirms the Government's position in relation to the presumption in favour of sustainable development; in this regard, Ripon services would cause least landscape harm and unchallenged evidence was given as to the ecological benefits in relation to these other schemes (DOC12.3).
- 4.17.4 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement accords with JT's position at the Inquiry on the truckstop at XLB. It also indicates that the Minister is looking at ways to increase competition and improve the quality of MSAs. That would be achieved by introducing a new MSA between Barton and Wetherby. The statement also refers to localism, highlighting that significant local concerns is a material consideration. In this regard the Kirby Hill proposal attracted more local opposition than any other site (DOC13.3).
- 4.17.5 It is rare for a development of its size in the countryside to have as little environmental impact as Ripon Services has. Given a need for a new MSA in the 40 mile gap, Baldersby Junction, at roughly half way in that gap, is in the right location in highway and transportation terms. And of the two sites on the junction, Ripon Services is clearly the best. It properly should be granted planning permission.

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5. Refined Estates Limited (REL) promoting the Baldersby Gate MSA Proposal

5.1 The Site and Surroundings

(SOCG at CD14.9 and plans T3287-0030 & 0031 (REL201) & REL3/3App1)

- 5.1.1 The application site lies in the northwest quadrant of the upgraded junction of the A1(M) and the A61 Ripon to Thirsk Road, some 5.5km from Ripon. It has an area of 13.36ha and is part of a large field currently in agricultural use.
- 5.1.2 The site is roughly square, with the eastern boundary defined by the A61 embankment, and the northern boundary by a hedgeline; the remainder of the boundary is not defined by vegetation or fencing. The interchange roundabout at the junction of the A1(M) and the A61 creates a localised elevated area within a landscape which otherwise has few vantage points. As the site is a neighbour to the Ripon Services site, it has a similar relationship to the surrounding villages, although it is closer to Melmerby [see para4.1.2 above]. The agreed distance between Wetherby MSA and Baldersby junction is 17.305 miles, and the distance between Baldersby junction and Barton MSA is 22.317 miles (CD14.11 Table DM-3 Northbound)
- 5.1.3 The Harrogate District Landscape Character Assessment (CD8.3) shows the site as being within Area 81 'Dishforth and Surrounding Farmland' (CD8.4).
- 5.1.4 As with the Ripon Services site, the site forms part of an open undulating agricultural landscape containing some isolated blocks of woodland and occasional hedgerow trees and affording long distance views to the North York Moors and Nidderdale Moors. The site is generally flat, although the surrounding land rises gently to the west to a low local ridge.

5.2 Planning Policy

- 5.2.1 The Development Plan and relevant policies coincide with those for JT's and HIA's proposals [see paras3.2.1-14 above]. REL indicates that the prospect of future revocation does not significantly reduce the weight to be given to the RSS insofar as it is relevant to the considerations of the proposals before the Inquiry (REL1/11).

5.3 Planning History

- 5.3.1 There is no planning history relevant to this site.

5.4 The Application Proposal (CD6.5 and plans at REL201)

- 5.4.1 The application is in outline form, with all matters reserved except for means of access, and is dated 7 June 2010. On 17 August 2010, HBC planning Committee resolved that, in the absence of a direction from the SSCLG, it would have refused the application for the following reasons (HBC1/3 pp124,125):
 1. *The provision of a motorway service area is provided for within the District by a facility at Kirk Deighton (now known as Wetherby Services). In the absence of any overriding need the development would cause demonstrable harm to interests of acknowledged importance and would conflict with Policy T7 of the Harrogate District Plan.*

2. *The proposed development would adversely affect the landscape character of the area materially altering the countryside to the north of the village and would therefore conflict with Policies C15, T7 (criterion F), C2 and HD20 (criterion B) of the Harrogate District Plan and Core Strategy SG3.*
 3. *The proposal would result in the loss of some of the best and most versatile land in the District and would conflict with the advice in PPS7 Sustainable Development in Rural Areas and criterion D of policy T7 of the Harrogate District Local Plan.*
 4. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposals would not create conditions prejudicial to highway safety on the local highway network (A61) in conflict with policy T7 (criterion C) of the Harrogate District Plan.*
 5. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposal will not create conditions prejudicial to highway safety within the application site in conflict with policy T7 (criterion C) of the Harrogate District Local Plan.*
 6. *The Local Planning Authority considers that the information submitted in support of the application is not sufficient to allow the Local Highway Authority to establish that the proposal to accommodate staff journeys to the site are sufficient to comply with sustainable travel policies in conflict with Harrogate District Core Strategy policy TRA1 and the guidance in PPG13.*
 7. *Insufficient information has been provided to satisfy the Local Planning Authority in consultation with the Environment Agency that the proposed development will not pose an unacceptable risk of pollution to groundwater and would therefore conflict with policy SG4 of the Core Strategy.*
- 5.4.2 During the Inquiry amendments were made to the roundabout geometry and access (drg. No. 22280-6F) and amended illustrative site layout (T3287-0043), which amendments I accepted on 14 January 2011 (INSP5). The proposal is for a junction MSA that includes an amenity building, a filling station, and hotel with up to 80 beds: the proposed facilities and buildings are explained in detail in the SOCG (CD14.9 paras4.3-9). REL indicates that it is difficult to be precise about the number of jobs that will be directly associated with the proposed MSA; it is expected that 100 people might be employed over a 24 hour period (REL1/1 para3.108).
- 5.4.3 The scheme originally intended to drain foul drainage to Ripon WWTP, but in October 2010 YW deemed such a solution to be unfeasible. The further information for an on-site solution is in the ES Further Information Report of December 2010 (CD6.36). That solution was agreed in a SOCG between REL and HBC (CD14.9.1). The EA concludes with reasonable certainty that an acceptable on-site foul drainage solution can be achieved and adequately controlled under the pollution control framework. The EA has withdrawn its objection, and YW confirms that it has no objection to the proposal on this basis (CD14.9.1 para1.6). The amendment is opposed by JT. The final set of application drawings is at REL201.

The Case for Refined Estates Limited

5.5 Scope of the Inquiry – The Issues

Grounds of Refusal

- 5.5.1 HBC's Planning Committee issued seven putative grounds of refusal at its Committee meeting on the 17 August 2010 (CD6.34). Grounds 4, 5, 6 and 7 have been withdrawn, so grounds 1, 2 and 3 remain extant.
- 5.5.2 Implicit in Ground 1 is that a need must be established for an additional MSA. In the absence of need, policy T7 can prevent further MSA development. However, REL does not agree with the argument that even if need were established and all the criteria were complied with the "only one site" principle would prevail, and the "one site" is Wetherby. In that situation, the force of the policy must be minimal in the context of the independent assessment of need.
- 5.5.3 S.38(6) of the 2004 Act enables the development plan to be overridden where material considerations indicate a contrary position should be taken. Need is that material consideration in this case. Need is the subject in part of C01/08, which will be dealt with later.
- 5.5.4 Ground of Refusal 2 seeks to examine impact on the landscape character. This policy is examined in the context of a need having been established. Finally Ground of Refusal 3 deals with the loss of BMV land. HBC's planning witness accepted that on its own this would not be sufficient to warrant refusal, where the land take had been minimised.
- 5.5.5 Before turning to deal with these grounds of refusal, HBC refers to additional policies from the Local Plan as well as the Core Strategy (HBC/1/2 pp.53-62). HBC's witness accepted that no Core Strategy policies were relied upon in the putative grounds of refusal. However the following points are made in relation to these policies.
- (i) *Policy SG3 Settlement Growth – Conservation and the Countryside:* If there is a 'need' for MSA development here, national policy requires this need to be met where the planning balance justifies it and is contemplative of that need being met where it arises, i.e outside settlements.
 - (ii) *Policy SG4 Settlement Growth - Design and Impact:* HBC's witness confirmed that he had no criticism of the design of the MSA in itself although there was an issue on the impact on landscape character. There is also no issue on residential amenity. This policy also seeks no unnecessary loss of greenfield land. There is no criticism of REL's scheme on this point. However JT's land take for a single site MSA is over 5ha more land than REL and is virtually identical to the land take of the Kirby Hill proposal for a twin sided MSA. JT's land take is unnecessarily large and falls foul of this policy (and others).
 - (iii) *Policy TRA.1 Accessibility:* Motorways do improve accessibility. The proposal is for necessary infrastructure pursuant to that objective, required by National Policy. A travel plan has been agreed securing sustainable operation (CD6.35).
 - (iv) *Policy EQ1: Reducing Risks to the Environment:* This policy was complied with.

(v) *Policy EQ2 The Natural and Built Environment and Green Belt*: None of the sites is in Green Belt. The designers of the REL scheme have taken into account the up to date landscape character assessment. Whilst the application is outline and detailed landscaped conditions have been agreed, it has not been suggested that REL's landscape scheme would not achieve the results it claims. The conditions do provide the opportunity for refinement if thought necessary at the detailed stage.

(vi) *Policy C1: Inclusive Communities*: No issue arises from this policy

5.5.6 Regarding the RSS, Policy T4 provides a measure of additional support for the HGV element of MSA provision and policy T1 is broadly supportive of the principle of an MSA on this part of the SRN. There are other relevant policies, but these are closely related to Government policy and reflected in local policies (REL1/11)

5.6 The need for a New MSA

Circular 01/2008 (CD1.14)

- 5.6.1 The introduction to C01/08 contains a number of important paragraphs which set the context for the assessment of need. 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. Government advice is that motorists should stop and take a break of at least 20 minutes every two hours (CD1.14 para6). It is particularly to be noted that HGVs drivers are subject to a statutory regime; they must take regular stops as a matter of law or they may face prosecution. The Government's objective is to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue related accidents ..." (CD1.14 para7).
- 5.6.2 Whilst it is accepted that the proposal is not a destination in its own right, MSAs result in an "... improvement to safety resulting from refreshed and alert drivers" (CD1.14 para14).
- 5.6.3 Importantly, the HA needs to have regard to the "potential road safety benefit of a service area in reducing driver fatigue" (CD1.14 para30). This is particularly pertinent when a new stretch of motorway is either just open or to be opened, and there is not empirical evidence available for that reason. It spotlights the fallibility of arguments to the contrary (i.e no view can be taken on safety performance or benefits) and is consistent with a practical and common sense approach.
- 5.6.4 The determination of need is linked inextricably with spacing. C01/08 para55 is the critical paragraph dealing with the 'primary network'. There, it is plain that any application for a new MSA must meet the longstanding space criterion. The reduction from 30 miles to 28 miles was implemented to accommodate the specific requirements of HGV drivers. HGV drivers must have the opportunity to stop at intervals of 28 miles or every half an hour, whichever is the lesser.
- 5.6.5 This requirement of policy is solely determined by the need to have the opportunity to stop at defined intervals or spacing. It is that mandatory provision which gives rise to the safety benefits sought in the public interest. Hence any new application must be considered on the basis of the 28 mile distance, i.e no more than 28 miles between MSAs. The specific

issues raised in C01/08 para58 are irrelevant to the establishment of 28 mile spacing. However, it is that paragraph that has caused the problems at the Inquiry.

- 5.6.6 Objectors maintain that para58 applies to core MSAs which establish the primary network and that a compelling need and safety case has to be proved. This is wrong. An infill site is one which does not comply with para55 either because it is in excess of 28 miles or less than 28 miles. Either way, it does not meet the specific requirements which the establishment of the primary network demands i.e it is not a core MSA. Where a proposal is outside the parameters of the 28 mile spacing, then the para58 'considerations' need to be addressed. The first of those is the distance between adjoining roadside facilities – that is because an infill site falls outside the 28 mile spacing requirement. An infill site between 'primary network' MSAs will therefore be between 12-14 miles of that 28 mile spacing. Para56 specifically provides that "the absolute minimum distance between facilities on the same route is 12 miles".
- 5.6.7 As the HA's first witness puts it: "Infill MSAs in the context of paragraph 58 ... of Circular 01/08 relate to situations where the basic policy objective of 28 miles or thereabouts in paragraph 55 has already been achieved so there needs to be some further justification" (REL1/1 para3.68).
- 5.6.8 His views on infill are echoed by HBC's report dated July 2002 (CD8.5). It is emphatically REL's case, consistent with the FSoS' view in his 2005 decision that a compelling need "in the context of paragraph 58 is not required" (CD12.2). That witness terms the para55 requirements to establish the primary network as "policy derived need". Such need is safety based seeking to guarantee by spacing the ability of motorists and HGV drivers to have the opportunity to stop at 28 mile intervals or every half an hour whichever is the lesser. It is of itself an essential requirement of national transportation policy.
- 5.6.9 The HA has been of the view that there is a need since at least February 2009. In his proof HA's first witness states:
- "5.162 The rounded distance in miles between Wetherby and Barton is 40 miles. Paragraph 55 of the circular stresses the importance of the need for drivers to have the opportunity to stop every 28 miles or 30 minutes travel time, whichever is the lesser. The existing A1(M) south of Dishforth is not congested and the upgraded section north of Dishforth is expected to be free flowing, therefore it is reasonable to expect drivers will be able to travel 28 miles within 30 minutes.*
- "5.163 Therefore having due regard to paragraphs 28 to 31, paragraph 55 and paragraph 59, it is the HA's contention that on completion of Phase 1 of the A1 D2B upgrade, there will be an unequivocal need for a new MSA on the A1(M) in North Yorkshire. (CD1.14 paras36,37)*
- 5.6.10 This 'unequivocal need' is identified in relation to C01/08 paras28-31, 55 and 59. It specifically and correctly does not include para58 as part of its justification because it was inappropriate to do so. Para59 is referred to because the gap is 40 miles and any new MSA has to be a core 'MSA'. However, an exercise was carried out against the background that an unequivocal need had been established by reference to para55 and that

independently of it a need existed if one applied the tests in para58 in this case; HA carried out the same exercise (HA1/1 para5.164).

- 5.6.11 In its conclusion on need, the HA again makes it clear that there is a need under para55 and that if reference is made to para58, a need is also established independently of para55 (HA1/1 para5.187-188). Thus the HA are clear about the unacceptability of a 40 mile gap contrary to para55 and that in any event the considerations of para58 are met.
- 5.6.12 If REL's understanding of HA1/1 is incorrect and/or the SSCLG considers that a proposal for a C01/08 para55 compliant MSA triggers the need to address the considerations applicable to an 'infill' MSA then REL's position is set out in REL1/1 paras3.74-90 and in REL2/1.
- 5.6.13 In summary, the key elements are: (i) The distance to adjoining roadside facilities. This is 40 miles and is well in excess of national policy enshrined in para55 that the maximum spacing should be 28 miles; and (ii) Evidence (such as queuing on the roadside facility approach roads or lack of parking spaces at times of peak demand) that nearby roadside facilities are unable to cope with the need for services (CD12.1 para58).
- 5.6.14 REL does not advance that the Wetherby MSA cannot cope with the current level of demand placed upon it. However, the contention that it would be consistent with national policy that any MSA should or could cope with a 40 mile stretch of motorway is untenable. That approach would obliterate the Government's longstanding spacing policy.
- 5.6.15 Additionally, although regarded as a fixed point, Barton is yet to upgrade to MSA status. In practical terms, the gap is beyond 40 miles until the extant consent is implemented. Also, the Phase II upgrade cancellation will extend the time taken for that part of the journey due to its lack of improvement and the likely increased delays through congestion. Add to this the effective bypassing of Motel Leeming by the current upgrade and the picture is one of dangerous under provision.

Evidence of genuine safety related need for the proposed facilities such as for example higher than normal incident of accidents attributable to driver fatigue.

- 5.6.16 Objectors say that, as the Phase I upgrade is recently opened, no accident data are available. It would be irrational to conclude, that accidents would not arise in the future. The critical issue to weigh against the absence of data is the absence of MSA provision over a 40 mile stretch. The answer is self-evident in the context of the Government's rationale for 28 mile spacing which is based on safety grounds through the reduction of accidents.

Type and Nature of Traffic Using the A1

- 5.6.17 The A1(M) is a major road artery, where over 20% of the traffic comprises HGVs and therefore subject to the statutory rest regime. About 90,000 vpd use this stretch of road. There is no doubt that such traffic should not be expected to travel 40 miles in breach of the 28 mile spacing. Even if it were a requirement that these considerations were relevant to a para55 core MSA, it is clear that a need would be made out. The HA use different growth rates south and north of Dishforth Junction. This is not logical on the same route. If the same growth rate were applied the 2022 traffic flows

would be 90,640 vehicles AADT south of Dishforth junction (Kirby Hill) and 84,260 north of Dishforth (Baldersby junction) (REL2/7 para2.4).

5.7 Which Location Best Meets the Need?

- 5.7.1 The HA and the promoters of the MSA schemes agree that a need exists. Meeting the need is inextricably linked with spacing, i.e. its location in distance terms to the nearest MSA. This is evidenced in several ways:
- 5.7.2 (1) HA's letter to HDC dated 26 February 2009 (HBC1/3 tab 17). This was in respect of Motel Leeming where HA was exercising its powers as a consultee in advising the HDC; HA clearly saw an off-centre location as a disadvantage.
- (i) *"The midpoint and hence the preferred location in policy terms is in the vicinity of Sinderby on the Hambleton/Harrogate boundary."*
- (ii) *"The site will be off-centre being accessed from the new junction that will be hard against the minimum 12 mile limit between MSA's."*
- (iii) *"Thus in summary, at present Motel Leeming site has few if any advantages as a core MSA site for the upgraded A1(M), but potentially has a number of disadvantages. These are in no particular order of priority: -*
- The site is off centre being 13 miles to Barton and 28 miles to Wetherby.*
- Kirby Hill is 12 miles to Wetherby and 28 miles to Barton.*
- (iv) *Ideally the selected site would be midway between the existing core sites."*
- 5.7.3 (2) Extract from Hambleton's Allocations DPD: "The site is not near the central point between neighbouring MSA's – none of these characteristics categorically rule out an MSA here, but do lead us to the view that this may not necessarily be the most appropriate site ..." (HBC1/3 Tab16 para2.73). Given these considerations and the recognised difficulties associated with accessing Motel Leeming from the new motorway, it is plainly the least preferred of the three locations (Baldersby junction, Motel Leeming and Kirby Hill). Of the two remaining, Baldersby junction is clearly the most centrally located site.
- 5.7.4 (3) Furthermore HA recognises that the sites at Baldersby junction best meet the midway spacing: "The Baldersby sites are located at a junction some 17 miles north of Wetherby and therefore closer to the mid point between Wetherby and Barton rather than Kirby Hill or Motel Leeming" (HA1/1 para5.168).
- 5.7.5 However HIA relies on C01/08 para97, which provides, inter alia, that *"there is a presumption in favour of on-line sites"*. HIA also asserts that HA supports it in this contention. However, HA's support is far more qualified: *"Consequently, were all other things equal, the HA would favour the development of the Kirby Hill site. However, it is recognised that all other things are unlikely to be equal and that the inquiry must give consideration to factors that lie outside the HA's own policies"* (HA1/1 para4.43).
- 5.7.6 The HA should have looked at its own policies which include the policy preference for mid located MSAs which best meet the public's need, and its objection to being hard up against the 12 mile limit to the next MSA. The

HA does not address the inconsistency of its policy approach. In this case Kirby Hill is poorly located in terms of meeting the policy preferred location within the 28 mile/40 mile gap.

- 5.7.7 Furthermore, para97 raises a number of issues which underpin the presumption. The HA does not address these to justify its position. They are as follows:
- (i) No evidence is adduced by HA in relation to the Baldersby Gate proposal that it would generate undesirable trips from the local area if it proved attractive to local residents (C01/08 para97). It is not advanced that the MSA is a destination in its own right. There is no capacity problem at the Baldersby junction. There is no evidence whatsoever that this point could justify the para97 presumption being made;
 - (ii) Similarly the distance of Baldersby Gate from the motorway is not advanced as a negative factor by HA. The HA clearly forgets that on this point Kirby Hill is not providing a lodge on either site whereas REL is. The distance from the motorway is well within the search criteria advanced by the HA for the location of MSAs; and
 - (iii) There is then the generalised contention that vehicles leaving the motorway need to negotiate the junction and then rejoin the motorway. This it is alleged would increase the risk of accidents occurring and may cause congestion at the roundabout or exacerbate an existing problem.
- 5.7.8 On this last point, this is a brand new junction with no existing problem and there is no evidence to show that the MSA would cause congestion. There are no figures produced relating to the likelihood of accidents on the junction and no attempt to compare the creation of new accesses (in the case of Kirby Hill) on a free flowing motorway. This is particularly surprising in the light of Circular 2/07 (CD1.15). Whilst there is a general presumption against creating additional accesses to motorways, junction sites do not create new accesses. The HA does not show that the creation of new accesses to motorways are inherently safer than entering or leaving from an existing junction. What is known is that the new junction meets all the HA's safety and design requirements and has its support in safety terms.
- 5.7.9 Based on data from the previous Inquiry, REL's transport assessment employed turn-in rates of 15% of A1 northbound traffic, 10% southbound, and 3.5% for A61 in both directions (CD6.13 Vol2 ch6). HIA asserts that Kirby Hill would attract a greater turn in rate. This is not accepted. The proximity to Wetherby (hard on the 12 mile limit) means that Wetherby will continue to attract trade from the motorway which might have otherwise gone to Kirby Hill. This is one of the reasons why mid gap spacing is so important in the context of para55. No assessment or allowance has been made by the HA in its para97 stance.
- 5.7.10 The presumption should be considered determination of the issue of spacing; as the HA did in February 2009 (CD11.1). Once spacing is determined whether or not single or double sided MSAs are chosen will depend on a range of issues. HIA's contention that this presumption overrides the planning balance is not accepted by REL or HA.
- 5.7.11 REL's case in relation to the Baldersby junction versus Kirby Hill debate is that:

- (i) Kirby Hill is not mid gap located and not policy consistent for that reason. It is inconvenient to the travelling public by virtue of the fact.
- (ii) Its proximity to Wetherby is not good planning. If the presumption is to be followed it is axiomatic that such an MSA must be in the right place.
- (iii) Its wrong location is an operational reason expressly contemplated by para98 for preferring a junction site and not adopting the presumption.
- (iv) The benefit of a shorter access distance has no value if the MSA is in the wrong place to start with.

5.7.12 Access to both Baldersby Gate and Ripon Services would be made from the same junction. However, access to Ripon Services would involve greater diversion from the A1(M) including the negotiation of a new roundabout on the A61. Baldersby Gate in contrast is as well located to the junction as it is possible to get. In locational terms, of the two sites, Baldersby Gate must be preferred

5.8 Landscape – Nature and Effect of Impact on Character of the Area

5.8.1 Turning to the second putative reason for refusal: consideration of the landscape issues arises when a need for an MSA is established. REL considers that such need has been established. That is not the end of the story as C01/08 recognises: *"However the LPA will continue to determine the planning merits of any proposal"* (C01/08 para31). Harm to the landscape character of the area is a material consideration that could override the need for the MSA. In REL's case it does not.

Landscape Policy – Background

- 5.8.2 Policy T7 (CD8.2.1) requires the existing landscape of the surrounding area to be safeguarded and/or enhanced. It is implicit in this requirement that if a need is to be met there will be some harm. But does that harm materially affect what is described in the surrounding area? Does the mitigation proposed coupled with the relevant planning conditions safeguard the surrounding area? If a need exists for an MSA but the MSA is deemed to harm the landscape character, such harm has to be weighed against the inability to protect the travelling public's safety as required by national transport policy.
- 5.8.3 Policy C2 also seeks to protect landscape character. Such protection is linked to the Harrogate and District Landscape Assessment. This is SPD guidance and is a material consideration. Policy C15 referred to in the ground of refusal is no longer extant (see HBC1/2 para5.3.6). It has been replaced by Core Strategy policy SG3. *"This policy applies strict control over new development in the countryside in accordance with national planning policy."* (HBC1/2 para53)
- 5.8.4 National Policy seeks to protect the countryside, and it also seeks to protect the public travelling on the national network of motorways and has a tried and tested policy of spacing of MSAs to secure that objective. Whilst there is a potential tension, these two aspects of National Policy are not mutually exclusive.

What is the character of the area?

- 5.8.5 The character assessment SPD (Area 81) covers the area in which the competing sites are located (REL3/3 App9B). The character area is 48km² and is a 'large scale arable landscape'. It bears the stamp of modern agricultural practice of removing tree cover and hedges. These traditional features are now described as 'intermittent' in the area. Indeed 'very little woodland cover or individual tree cover' is described as a 'key characteristic'.
- 5.8.6 The A1/A1(M) runs through the centre of the character area. This is described as: "... a prominent feature that cuts through the character area and is highlighted as a result of linear planting which is associated with it." and "The A1 itself is an important historic route and follows the course of the Roman Road (Dere Street) that may follow the line of a prehistoric route."
- 5.8.7 HBC's landscape witness indicated that intensive farming practices had not helped the landscape, a sentiment echoed in the Area 81 assessment where it is put this way: *"Intensive farming practices have impacted upon the historic features of this landscape which make little contribution to landscape character visually, but which are important in providing information relating to the historic development of this landscape"*.
- 5.8.8 The guidelines for the future are fourfold: (i) to maintain extensive views across and beyond the area; (ii) to integrate existing development; (iii) to reinforce the diverse landscape pattern of field systems; and (iv) to conserve historic features of the landscape.
- 5.8.9 The landscape comprised in character area 81 does not have any national, regional or local designation, so it is the least sensitive of landscape areas in which to meet the need for an MSA. That is not to say the landscape is in itself unattractive.
- 5.8.10 The landscape strategy is to use landscaping to reinforce the already very close physical and functional relationship of the site to the upgraded A1(M) by day and by night. Secondly, the boundary landscaping would reduce the visibility of the proposals and the junction, notably from the west, whilst also ensuring that the development appropriately reflects the landscape character of its surroundings. (CD6.12 para3.8.2).
- 5.8.11 There are also listed buildings within the character area and conservation areas, but none is affected by the REL proposal. There is no impact on residential amenity identified in the grounds of refusal or pursued at the inquiry by HBC.

5.9 The Baldersby Gate/REL Scheme

- 5.9.1 The Visual Analysis Plan (REL3/3 App4 FigA4.1) identifies the natural ridges in the area. One extensive ridge wraps around the western boundary of the appeal site, preventing views of it. It is largely because of this ridge that there is virtually no inter-connection with other development. The elevated Baldersby junction, with its conspicuous lighting columns, forms part of the character of the A1(M) corridor. The proposal would be below the level of the junction at 51 AOD and read as part of existing infrastructure, particularly from the junction and the A61.

- 5.9.2 Two further ridges to the north/west provide natural screening. Since the site and development are below the junction, views from the A61 to the west are over the development. The likely receptors of such views would be motorists either immediately approaching the roundabout or on it. FigA4.1 also identifies the more significant blocks of woodland in the area. The landscape master plan shows where the now deleted police post was to have been (REL3/3 App6). It is this site where the private WWTW works would be located. The control building is significantly smaller than the police post would have been and the tanks are located under ground.
- 5.9.3 The perimeter landscaping would be on gently graded low level mounds. The planting scheme avoids a block woodland appearance and in combination with the natural ridges, the development would be successfully integrated within the approved landscaping scheme of the junction and motorway. Within the site there is significant additional landscaping including within the car parking area. To achieve the development height limit of 51 AOD, soil would be redistributed around the site.
- 5.9.4 Chapter 3 of the REL ES of May 2010 deals with the development proposals. Section 3.3 deals with site layout and levels. Paragraph 3.3.4 provides *inter alia*: "*Levels will be adjusted within the site as required to ensure that the maximum development height is not exceeded. Excavated material will be used on ground modelling within landscaped areas notably those around the edges of the site.*"
- 5.9.5 Thus it is quite clear what REL's intentions were. What was assessed was the development in the context of the indicated limitation of building height at 51m AOD. There would be a cut and fill balance achieved with ground contouring up to 1.6m high. No one has indicated that the landscape scheme would not achieve the results claimed. In a few instances semi mature stock will be used. REL's planting specification is unchallenged, and no public footpaths are affected (REL3/3 Apps 7 & 5). Notably, Melmerby Parish Council does not object. JT have sought to make an issue of the ground modelling at Baldersby Gate. The response to the points raised are as follows:
- (i) REL does not accept that there would be additional associated traffic, but even if there were, HA's second witness indicated that he was not concerned. JT says of its own EA "*given the proximity of the site to the strategic road net work no specific capacity assessment of the impact of construction traffic has been undertaken*" (CD5.3 para5.42).
 - (ii) Ground modelling of up to 1.6m around the site as part of a properly designed landscaping scheme would be barely perceptible from key view points. Indeed it was never suggested to REL's landscape witness in cross examination that it was.
 - (iii) As is clear from the EA and a physical examination of the site, some level adjustment would be required to enable the construction of the access. This would also create an opportunity to integrate the proposal into the landscape within the self-imposed constraint of 51m AOD maximum development height. The approach of REL on this issue can be contrasted with that for JT, whose proposals are simply dropped on to the existing site resulting in buildings around 5m higher than Baldersby Gate. Nothing indicates in JT's material that any serious

consideration has been given to their scheme in other than two dimensions.

- 5.9.6 Just two residential receptors within 1km of the site, Hutton Grange Cottages, would afford views of some elements of the MSA. Such views would be restricted to rear first floor windows of the two properties and comprise the southern parts of the western site boundary and south western corner of the site only. Within 2km of the site, an additional 2 detached properties and two rows of terraced properties would afford minor glimpses, oblique views from first floor windows of the MSA. The MSA landscape mitigation planting would not only provide filtering and ultimate screening of the MSA, but would provide filtering of views towards the elevated junction. There would be no significant views of the MSA from any public rights of way within 5kms of the site. (REL3/2 para3.28). The visual impact would be 'slight'; that visual harm would be in the planning balance. The MSA would be perceived as part of the pre-existing infrastructure i.e the roundabout with the skyline unbroken by the proposal.
- 5.9.7 The landscape ground of refusal asserts that the proposal would adversely affect the landscape character of the area. HBC says that the character of the site must be adversely affected and that would be permanent. The designer's skill is to limit that harmful effect as far as possible to the confines of the site; but 'the character of the area' is not limited to the site itself. This site is not elevated, and it is not argued that the mitigation would be an alien feature in itself. Thus, whilst there would be built development on arable land, the scale of any adverse impact would not spread significantly beyond the confines of the site. It would not materially affect the wider character of the area to the extent that meeting national transport policy should be denied. The proposal would generate surprisingly few, and limited, impacts.

5.10 The Kirby Hill/HIA Scheme

- 5.10.1 To all intents and purposes the Kirby Hill sites are identical to those promoted before, so whatever problems existed before will necessarily fall to be considered again. There are in principal problems associated with HIA's scheme. The first is the relation of the southbound site to Kirby Hill village; it adjoins the access road into the village. Its impact is consolidated by its sister site on the opposite side of the A1(M). There was criticism in 2004IR of the length and form of the mounding then proposed (CD12.1 para10.6.45). The mounding proposed now would be higher, at about 9m high, with its length almost tripled and have a steep gradient (HIA119 cross section). It would be manifestly out of character.
- 5.10.2 HIA's master plan indicates that the landscape mitigation proposals would remain fundamentally the same, particularly in the way in which they would be read in the landscape (HIA202 tab4). The scheme still relies on an enclosing woodland; principally unchanged on the northbound site, and not significantly different on the southbound. Although an area of woodland/planting has been removed, it would continue to read as a large new area of woodland. The 2004IR says that "*the built development and its surrounding woodland planting would considerably harm the character of the landscape in this area*" (CD12.1 para10.6.44). The proposal is so similar in effect to the previous proposal that the comments in 2004IR concerning Kirby Hill are still applicable, including that the introduction of lighting for

the MSA would visually harm the appearance of the area (CD12.1 para10.6.55).

- 5.10.3 The proposed woodland planting is required to contain, so far as is possible, the potential harmful effects of the lighting. Although the existing B6265 roundabout is already lit, the A1 here is not, and the introduction of a substantial new lighting proposal would not be seen as a minor increment to existing road lighting. The proposed lighting would be harmful, and any reduction in the woodland screening would serve to exacerbate this harm. As the nature of the extensive woodland planting itself would be inappropriate in this landscape, there is clearly a conflict between these two elements of the design because, if a landscaping scheme was to be designed to respond to the previous Inspector's comments, then this would provide less containment in respect of the internal lighting. (REL3/2 paras7.19-25)
- 5.10.4 The Harrogate District Landscape Character Assessment 2004 indicates that the Kirby Hill and the Baldersby junction sites are all within the *Dishforth and Surrounding Farmland* character area (CD8.4). The split Kirby Hill site consists of gently rolling arable farmland bound by short cut hawthorn hedges with intermittent mature hedge trees. Young trees flank the site boundaries with the A1(M), providing screening of the two site areas from the overbridge during summer months. There are younger trees on the embankment of the elevated junction. There are few local landmark features, and few areas of woodland, apart from those associated with the A1 (M) corridor. The most prominent landscape feature is Skelton Windmill, which occupies a prominent position, standing on much higher ground than most of the surrounding landscape. (REL3/2 paras28-31).

Potential Effects on Residential Properties at Kirby Hill

- 5.10.5 Over 230 properties within 1km of HIA's site would be potential residential receptors in relation to the proposals: primarily located in Kirby Hill village and near Skelton windmill. The B6265 approaches the site over higher ground from the west, providing open views towards the HIA's site. Those properties located on the northern edge of Kirby Hill and on the higher land at Marton le Moor would most likely experience the greatest visual effects of any Kirby Hill MSA (REL3/2 para7.53 table8.1).
- 5.10.6 The closest property would be Providence Lodge, the primary façade of which is orientated to the northwest, towards the southbound site. The existing view from this façade comprises arable land in the foreground with views of the B6265 road corridor and arable fields beyond. The A168/B6265 junction is obliquely visible. Detached properties at The Grange stand on the north western edge of Kirby Hill. Those properties adjacent to the B6265 afford direct views from side windows and oblique views from front façade windows towards the southbound site; a business premises is also visible in the intervening view. (REL3/2 paras34,35).
- 5.10.7 The rear façades of the bungalows on the northern edge of Manor Drive afford views over the arable land, with an oblique view of the southbound site beyond the intervening business premises. Properties along Church View have more open views towards that site, which is visible from rear and side façades. There are currently no built features within the middle distance, but there are distant views of RAF Dishforth. Three properties on the north eastern built edge of Kirby Hill off Church Lane (The Larches, Homewood, and Kirkway) also have views across the open arable landscape

- in a northerly direction from the rear façades of the property. (REL3/2 para7.36).
- 5.10.8 To the west of the A1(M) there are a number of detached properties within 0.5km of the site. High Moor Lodge and High Moor are orientated north west to south east and afford oblique views of the proposed MSA site and the existing A168/B6265 junction. The A1 corridor is barely visible from these properties due to the location of the road corridor in cutting below the surrounding landscape. Dale View, The Garth, Newlands, Fairfield, and Sunny Lea are on higher ground than the proposed site of the MSA. They are orientated north to south, with no direct views towards the A1(M) corridor. Oblique views towards the northbound MSA site area are available from rear façades of the properties on the northern side of the B6265, with views towards the southbound MSA site area beyond. (REL3/2 paras7.38,39).
- 5.10.9 The properties mentioned are within 0.6km of HIA's development site. The extent of the view available towards the site varies greatly due to the intervening landform and vegetation, and the orientation of the properties. The most open and direct views are those from the Church View properties. In addition, Skelton Windmill affords open and direct views over the twin sites as it is on much higher ground (52m AOD against 35-40m AOD). The windmill is five storeys high with windows on each storey which overlook the site. The view incorporates open rolling arable landscape and the more distant urban areas of RAF Dishforth and Boroughbridge. Long views are available towards the North York Moors National Park. (REL3/2 para7.40).
- 5.10.10 The buildings, and in particular the lighting, of the completed HIA development would be highly visible within the open landscape from properties on the northern edge of Kirby Hill and from those near Skelton Windmill. This area of the A1 corridor is unlit at night, and car headlights in the A1 cutting are not visible from properties. The MSA would be further highlighted in the landscape by the extensive woodland planting which would surround the site once established. The woodland would interrupt the existing open views in a northerly direction from properties on the northern edge of Kirby Hill and views in an easterly direction from properties in the vicinity of Skelton Windmill. (REL3/2 para7.41).
- 5.10.11 The proposed woodland would interrupt views of the Windmill from Millings Lane and parts of Boroughbridge Road, and interrupt intervisibility between the Windmill and the listed Church of All Saints, and between the Windmill and properties at Church View. Thus HIA's proposal would result in significant adverse visual effects upon the residential properties identified. (REL3/2 para7.42).
- 5.10.12 Cumulatively (at least) these points render the Kirby Hill site unsuitable and this unsuitability is emphatically echoed by the residents of Kirby Hill. The previous Inspector summarises the position in CD12/1 between paras 10.6.40 and 55. The conclusion in 2004IR was that the then scheme inserted into this landscape would have a significantly detrimental effect on both the character and visual appearance of the surrounding landscape (CD12/1 para10.6.103). That conclusion is apposite given the current HIA scheme.

5.11 The Ripon Services/JT Scheme

- 5.11.1 Notwithstanding similar landscape benefits to the adjacent REL site, there are fundamental differences associated with the JT proposal, the existence of which militate against Ripon Services and strongly favour Baldersby Gate. Firstly, JT's scheme would require an additional prominent and elevated roundabout on the A61 200m from the new Baldersby junction roundabout. The newly re-aligned A61 would have to be dug up and a 200m stretch of dual carriageway constructed to connect the two roundabouts.
- 5.11.2 These highway elements, with the accompanying lighting, would extend the influence of major infrastructure development along the A61, where it would not be contained or screened by the landscape proposals. The Baldersby junction lighting is 12m high, so it must be assumed that the additional lighting would be at the same height; and that lighting would be significantly closer to residential properties alongside the A61. Therefore, the JT scheme would have a significant additional effect on the character of the local landscape and on views when compared with the effects arising from the Baldersby junction, and the negative effect would be greater than that which would arise from the REL scheme. (REL3/2 para7.59).
- 5.11.3 It is not only the addition of the new lighting that is so damaging, it is also the cumulative effect of both high level prominent roundabouts during the day and when illuminated at night. Residents of Hutton Grange Cottages and from the north eastern edge of Melmerby would observe a perceptible increase in the amount of light from the Baldersby junction area (REL3/2 para7.70). The JT scheme would also have a significant effect on views from the country lane known as Shambles Lane, where local topography would not serve to screen the development. Clear views into the scheme would also be visible from the overbridge where Shambles Lane crosses the A1 (REL3/2 para7.71). It is difficult to see how a roundabout could have anything other than a permanent effect.
- 5.11.4 The second fundamental difference between the two schemes is the land take. Compared to the Baldersby Gate landtake of 13ha, the JT scheme would take in excess of 18 ha of land; very similar to the Kirby Hill twin sided site. There is no justification for this. The conclusion that an unnecessarily high land take is contrary to national and local policy is inevitable. The reversibility of BMV land argument is contrived and wrong.
- 5.11.5 The third fundamental difference is the prominence of the buildings to be constructed. No mounding is proposed on the JT site and the buildings would be constructed at ground level. The drawing at REL111 shows how the JT site developable area has increased by 20%, and a cross section through the site shows that the buildings would stand 5m higher than the level of the main roundabout (REL114). They would be visible over a wide area including to the west and extremely prominent. By comparison, REL's proposal would be at 51 AOD, below the level of the roundabout. The increase in the developable area from 5% to 20% of the JT site must place doubt on the integrity of the original scheme as assessed in the EA. REL does not believe that the revised scheme has been assessed (and that what was originally claimed as the developable area is now significantly different from what is now claimed). HBC's witness indicated that he judged the difference to be significant. For these reasons, Baldersby Gate should be preferred in landscape terms.

5.12 Loss of Best and Most Versatile Agricultural Land

5.12.1 No more land than is necessary should be taken for MSA development. If that is the case then this factor is not likely to be a determinative reason for refusing permission in itself. The position is different when the land take is excessive. JT's proposal takes over 5ha more land than REL's. Its land take is very similar to that of Kirby Hill, a twin sided development. There is no justification for this excessive land take and it is a proper basis for refusal as contemplated by Reason for Refusal 3. Policies require minimisation of take. That has not been done, so that ground for refusal takes on a more important role.

JT's Environmental Statement

5.12.2 REL has reservations about the validity of JT's EA.

- (i) Drainage: It is accepted that Ripon Services drainage proposal has been signed off and that there is a reasonable prospect that a scheme could be achieved pursuant to the drainage condition; but the few lines in JT's EA on drainage do not comprise an assessment (CD5.3 paras12.62&12.76). What would have constituted a sound basis for assessment is not in the EA, but in the Appendices of document HBC3/4. However it is required to be properly assessed in the EA and advertised and it has not been as has REL's drainage. The failure of JT to assess and/or utilise Regulation 19 means that the public have been prejudiced.
- (ii) The Development Area: The area shown for development has significantly increased from the area considered in the EA; a point agreed by HBC's planning witness. The Inspector ruled that there was no significant difference related to the assessment of the impact of the buildings (INSP3). REL considers that the increased development area should have been assessed and advertised through the Regulation 19 procedure. JT elected not to do so. The purpose of Regulation 19 is to enable the public to be notified of a change and to make representations. Within the confines of the Inquiry it is accepted that the matter has been examined. Public notification is a different point, and the public have been prejudiced when there was no need to do so.

5.12.3 The failure individually and collectively to utilise Regulation 19 means there is an inadequate environmental assessment which means planning permission cannot be granted.

5.12.4 JT deliberately constrained itself to assessing a very specific scheme in their EA (CD5.3 para2.11). It is now sought to amend that specific scheme by retrospectively inserting its final iteration into the EA via a planning condition. Given the intended specific nature of the original scheme and the magnitude of the changes, this cannot be right. If accepted the EA would plainly not relate to the revised scheme. JT has made no attempt to regularise this or any other matter by providing revised or further environmental information in the context of the EA under Regulation 19 or indeed by any other means.

5.12.5 JT's approach seems to be, notwithstanding its intended very specific starting point, that the proposal can be substantially and materially changed relying on non-publicised material that is to be found in various locations in inquiry documentation. None of the additional material has been subject to

any public consultation, a process which they urged upon others. Given the magnitude and materiality of the changes that have been made, the scheme has moved well beyond the parameters that were set in its EA. The absence of any attempt lawfully to amend the EA through Regulation 19 when there was ample opportunity to do so represents now a fundamental flaw in the proposal.

5.13 Deliverability

- 5.13.1 REL drew attention to the FSoS' decision letter in 2005 (REL101 para11) which stated, inter alia: *"... that an early opening for the proposed MSA is desirable and is a material consideration in this case"* (CD12.2 para44). HBC's planning witness accepted that this remains the case. The HA's case is predicated on need. On the assumption that a need is made out, meeting the need efficiently and with certainty is important.
- 5.13.2 REL is a subsidiary of MRH (GB) Limited. That Company's Resolution shows that, in deliverability terms, REL has the funds, will own and operate the filling station and let out the other facilities to leading brands (REL113). The Resolution, funding issues and the deliverability are not at issue and have not been challenged. Neither HIA nor JT have demonstrated deliverability from the financial standpoint. Assumptions have to be made, which are not supported by evidence.
- 5.13.3 There are other aspects of deliverability that need to be considered. In 2008, Potter land was the subject of a CPO for the purposes of the re-alignment of the A61. It is the contention of the owners that some of the acquired land is not reasonably required for the road scheme and should be returned. Some of that surplus land would be required for the construction of the access into the Ripon site. It has been suggested by JT and HBC that the owners would 'do a deal'. However, the option agreement (REL103) made between the vendors and the Appellant is a major obstacle.
- 5.13.4 If the owners' contentions are proved to be correct, land which is required for access by JT will not be in the ownership of the Local Highway Authority and/or the HA. It follows that JT will not be able to secure access to its development in the location shown on its planning application. They could gain access further along the A61 but there is no application before the Inquiry to do so.
- 5.13.5 The following points are made:
- (i) The owners as defined are obliged to pursue actively the re-acquisition of the land that is the subject of the option. This would embrace land that JT needs for its roundabout and/or access. The re-acquisition of the land can either be achieved by agreement or through the necessary and appropriate legal proceedings. Once vested in the owners, under the terms of the option they are not free to dispose of the land to JT or their successors and assigns. In fact the Potters are only able to dispose of the land after the expiry of 12 years. Thus it is not the case, as others contend, that once the land has been re-acquired by the Potter family they are free to dispose of it to facilitate the JT development.
 - (ii) Whilst the Potter family is actively seeking the return of the land the HA has made it clear that they will not begin the process of the consideration of this issue until the planning applications have been determined (REL103, REL120, REL121). Whilst the Potter family may

have to issue holding proceedings in the interim, it is plain that the determination of the issue will not commence until after the results of the inquiry. Therefore, in the event of contentious proceedings, the resolution of the legal dispute will take some considerable time after any decision is made.

- 5.13.6 Returning to JT's contention that REL's drainage proposal is not covered by the Reg19 ES Further information Report (CD6.36). The planning application uses on its face "associated infrastructure". HBC's planning witness agreed with REL that the term "associated infrastructure" embraced private drainage. As it would embrace, for example, works such as the installation of tanks for petrol.
- 5.13.7 *Summary:* Deliverability of a scheme to meet the need is a material consideration. REL is the only MSA developer to indicate that it has funds to ensure the construction of its scheme. Neither JT nor HIA have given evidence to show they can develop their respective sites. The assumptions that have to be made that they can and will are unsupported by evidence. JT comes to the Inquiry not owning the land to construct its access and offer no alternative option. The owners, as defined in the REL option, have already commenced the process of seeking the return of their land. Only REL are clear of obstacles preventing deliverability.

5.14 Conclusions

- 5.14.1 REL agrees with HA's identification of a need for a core MSA between Wetherby and Barton, a distance of 40 miles. Government policy is to establish MSAs at spacings of 28 miles in accordance with C01/08 para55. Para 55 is founded upon achieving and providing safety for the travelling public by facilitating regular stopping to enable rest and refreshment. HGVs are subject to a statutory regime which dictates the need and frequency of stopping.
- 5.14.2 It is Government policy to locate para55 MSAs centrally in gaps. Spacing is the single most important operational factor in Government policy both in the sense of the 28 mile requirement and location within it. An off-centre site hard on the 12 mile limit fails the locational requirement for an MSA. The issue of on-line/ off-line falls to be considered after the determination of the correct spacing location. If there is a choice between off-line and on-line in the context of para55 and the factors identified in para97 are made out and there are no overriding operational or environmental factors militating against an on-line facility then such a presumption could be considered as part of the planning balance. It is not of itself determinative. The HA acknowledges that the para97 presumption and its support for it in the context of Kirby Hill is part of the planning balance. It offers no evidence on that planning balance.
- 5.14.3 Kirby Hill has operational disadvantages because it is off centre and close to Wetherby MSA. It would be wrong in principle and bad planning to place an MSA effectively on the entrance to a small village. The masterplan vividly demonstrates its inappropriateness. The landscape case against Kirby Hill has already been assessed by the former FSoS as significantly harmful to the landscape character of the area. It would also be significantly harmful to the community of the village of Kirby Hill. Refusal on this ground is justified. Such changes as have been made do not overcome the powerful case against permission being granted.

- 5.14.4 JT's site has unique adverse impacts attributable to a large illuminated additional elevated roundabout, the creation of 200m of lit dual carriageway, both prominent in the landscape. The buildings would sit higher than the newly constructed roundabout by height of 5m and would be correspondingly conspicuous to the surrounding area. JT does not own the land required to achieve access. The landowner seeks return of land from the statutory authorities. There is no prospect of the landowner giving up his claim or being able to part with the land for 12 years.
- 5.14.5 REL is in funds to construct the proposal without delay. No other scheme is in this position and no other scheme has shown it could deliver its proposal quickly or indeed at all. Both HIA and REL have utilised Regulation 19 thus facilitating consultation on the amendments and representations if required have been made. JT has similarly amended its scheme, REL says significantly, but has not facilitated consultation to the potential prejudice of the wider public. JT has declined to utilise Regulation 19.
- 5.14.6 JT has not minimised the land take. As a junction MSA its site would take 5ha more than REL and would be virtually identical to the land take of Kirby Hill a twin sided scheme. There is a clear and material breach of policy without justification. REL's site: meets the identified need; minimises land take; does not require an additional elevated illuminated roundabout; does not require 200m of new dual carriageway for access; and is centrally located in accordance with HA policy.
- 5.14.7 All technical objections relating to the REL proposal have been withdrawn including those which related to drainage. The EA is satisfied that there is a reasonable prospect of a satisfactory on-site drainage scheme being constructed and operated from the Baldersby Gate site. JT takes a different view, but the EA has received copies of its observations and have not changed its position. Therefore, the EA remains satisfied that the scheme that is the subject of assessment by them remains sufficiently certain in technical terms to come forward in the usual way. It would indeed be surprising that two schemes signed off by the EA in very close proximity to one another would not be able to come forward.
- 5.14.8 Turning to other matters: the development has a low risk of flooding and there should be no significant residual effects during construction or operation (CD6.36 paras10.6.1-3). The operational facility will include a sustainable drainage strategy. Surface water runoff from hard areas will be piped to a balancing pond. There are proven infiltration rates (CD6.36 paras10.6.15-16). The significance of residual effects on archaeological resources is negligible. As far as nature conservation is concerned, Chapter 13 of the ES concludes that the proposed development will result in an enhancement of the ecological and nature conservation interest of the site (REL1/1 para3.29, CD12 ch12).

Ministerial Statements

- 5.14.9 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12). The Statement is clear in that the Government wishes to add greater positive weight when planning decisions are made to promoting economic growth and jobs to support economic recovery. It says that local planning authorities should, wherever possible, approve applications in respect of sustainable development where plans are

absent, out of date, silent or indeterminate. REL considers Harrogate's policy T7 to be out of date or indeterminate (DOC12.4).

- 5.14.10 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement does not affect REL's case with regard to its approach to the XLB truckstop proposal. In any case, that proposal does not relate to a motorway truckstop. It is important that if the XLB proposal is permitted, it does not change over time into an MSA (DOC13.4).
- 5.14.11 Economic benefits relate to provision of employment and overall economic activity, but also to the degree of certainty that these benefits can be realised as soon as possible; this relates to the "pressing need" in the first paragraph of the Statement. REL has presented evidence during the Inquiry that Baldersby Gate has no exceptional factors to affect its deliverability, unlike Kirby Hill or Ripon Services. In addition, Baldersby Gate is the only scheme to provide evidence that full funding is in place for the scheme (DOC12.4). It is the best scheme, and should be granted planning permission.

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6. Carl Les (LES) promoting the Motel Leeming MSA Proposal

6.1 The Site and Surroundings

(SOCGs at CD14.6, CD14.6.1, CD14.7, CD14.7.1 & CD14.21 and plans SK1004_A (CD14.6 App2) & 79567/35 RevD (LES201))

- 6.1.1 The existing facilities on the application site comprise car and lorry parking, petrol filling station, restaurant, café, hotel, shop and MacDonalds restaurant/ drive through. There is a separate manager's house. They form a collection of built form seen against a backdrop of mature screening vegetation. A mature coniferous woodland belt lies in the centre of the site on a north west to south east line, providing screening from the west.
- 6.1.2 The site also includes a number of trees, hedgerows and other mature shrubs together with a large open area to the south west of the main facilities building which benefits from extant planning consent for further HGV and coach parking. An existing PROW runs along the southern boundary of the site, but this is severed by the A1(M). A bridleway runs northwest to southeast through the site parallel to the A1(M). The site is now cut off from the A1(M) by the upgrading works. Upon completion, access to the A1(M) will be by way of a short link that would connect the A684 to a roundabout on the new local access road. The local access road connects to the A1(M) at the new Leeming junction some 1.3km to the north. The agreed distance between Leeming Bar and Barton MSA is 12.828 miles (39.622 – 26.794) or 20.644 km (CD14.11 Table DM-3 Northbound).
- 6.1.3 The area surrounding the application site is principally flat open countryside with the A1(M) running parallel to the site to the north east and Bedale Road to the northwest. To the south and west of the site there are open fields in arable agricultural use. To the southeast of the site is Bedale Beck, a watercourse which joins the River Swale to the north east. The nearest residential dwelling is at the junction of the A684 and the access road to the existing services. The nearest settlements are Leeming Bar to the east of the A1(M) and Aiskew/Bedale to the west, both on the A684. The wider area is characterised by land in agricultural use.
- 6.1.4 The site lies within a rural setting of large agricultural arable fields, delineated by significant hedgerows and associated trees. These features, combined with smaller woodland blocks, provide a distinct landscape pattern which limits long distant views from the site over the flat flood plain to the south. The site falls within the 'Vale of Mowbray' Natural England's Character Area 24 (CD1.41) which typically has the following characteristics: Low lying agricultural fertile land used for arable crops and permanent grassland; and fields of medium scale enclosed by low hedgerows with scattered, small areas of woodland.

6.2 EIA Regulations

- 6.2.1 HDC screened the proposal in accordance with the EIA Regs on 2 June 2009 and 12 July 2010 and confirmed that an EIA is not required (CD4.29A, CD4.29B). The Planning Inspectorate formed the same opinion on 11 September 2009 (CD4.27).

6.3 Planning Policy

- 6.3.1 In Hambleton District, the Development Plan comprises: the Yorkshire and Humber Plan Regional Spatial Strategy (RSS) (CD2.3); the LDF Core Strategy Document (April 2007) (CD9.1); the LDF Development Control Policies Document (February 2008) (CD9.2); and the Allocations DPD (December 2010) (CD9.12).
- 6.3.2 Core Strategy Policy CP1 is about sustainable development; it seeks among other things to promote and encourage the use of sustainable resources, make efficient use of land and infrastructure and protect the character and quality of local landscape. Policy CP2 seeks to locate development to minimise the need to travel.
- 6.3.3 Policy CP4 indicates that development in the open countryside would only be supported when an exceptional case can be made in terms of Policies CP1 and CP2 of the Core Strategy and one of six identified criteria is satisfied, including:
- i. it is necessary to meet the needs of farming, forestry, recreation, tourism and other enterprises with an essential requirement to locate in a smaller village or the countryside and will help to support a sustainable rural economy; or
 - iv. it would re-use existing buildings without substantial alteration or reconstruction, and would help support a sustainable rural economy ...; or
 - vi. it would support the social and economic regeneration of rural areas.
- 6.3.4 Core Policies CP12 and CP15 indicate that support will be given to the economic needs of Hambleton and its rural communities. Policies CP18 and CP21 require prudent use of natural resources and a safe response to natural and other forces – such as protection from flooding
- 6.3.5 LDF development policy DP1 seeks to protect amenity with regards to privacy, security, noise, disturbance, pollution, odours and daylight. Policy DP3 requires all proposals for new development to include provision for sustainable forms of transport. Policy DP4 requires that development proposals must ensure that safe and easy access is available to all regardless of disability, age or gender.
- 6.3.6 Policy DP6 requires that proposals must be capable of being accommodated by existing or planned services, including surface water, sewage disposal and water and sewerage facilities. Policy DP9 says that permission will only be granted outside Development Limits in exceptional circumstances having regard to the provisions of Core Policy CP4, or where it constitutes replacement of a building, where that replacement would achieve a more acceptable and sustainable development than would be achieved by conversion.
- 6.3.7 Policy DP25 indicates that employment development will be supported in locations outside Development Limits if all of five of its criteria apply:
- i. it is small in scale;
 - ii. it comprises ... appropriate extensions of buildings or existing uses which are otherwise acceptable in terms of other LDF policies;

- iii. the development is not capable of location within a settlement or Development Limits, by reason of the nature of the operation or the absence of suitable sites;
 - iv. it is supported by an appropriate business case which demonstrates that support will be provided to the local economy ... ; and
 - v. the development would not adversely impact on the economy of the Service Centres.
- 6.3.8 Policy DP32 requires that design must be of the highest quality. Policy DP33 requires that landscaping of new development must be an integrated part of the overall design, which complements and enhances development. Policy DP34 requires development proposals to minimise energy demand.
- 6.3.9 Under the previous saved policy L1 of the Hambleton District Wide Local Plan (which was extant when the MSA Inquiry started), the application site is outside settlement limits. That policy restricted proposals outside the development limits but indicates that, inter alia, "other development appropriate to a rural area may also be acceptable" (CD9.8). This policy was replaced by the Allocations DPD (CD9.12); there is now no specific allocation for an MSA at the appeal site; which is outside development limits according to the LDF (LES1/2 para6.54).
- 6.3.10 The main relevant policies of the RSS are referred to at paras3.2.12-14 above. LES also refers to policy YH7 (Location of Development) where part B encourages local planning authorities to adopt a transport orientated approach in identifying sites for development to ensure that development (inter alia) makes the best use of existing transport infrastructure and capacity (LES1/6). LES considers that RSS policies should be given full weight (LES1/6).

6.4 Planning History

- 6.4.1 The application site is currently a trunk road service area (TRSA), having operated as such since 1961. Prior to the submission of the current application a number of planning applications had been submitted, determined and implemented (CD14.6 para3.1):

Application Number	Proposals	Decision	Implemented
93/50049/P	Alterations and Extensions to Existing Motel Complex	Approved	Yes
97/50837/P	Construction of building for retail purposes with lower ground storage accommodation	Approved	Yes
98/50745/TC	Prior Notification to Install 15 metre monopole, antenna equipment and associated equipment	Approved	Yes
99/50810/P	Layout of land and construction of restaurant with Drive Through facility	Approved	Yes
99/50811/A	Display of 8 illuminated signs and 10 non-illuminated signs	No Decision	-
99/50812/A	Display of non-illuminated gantry sign	Approved	Yes
99/50813/A	Display of 2 internally illuminated roof signs	Approved	Yes
99/50814/P	Formation of Car park	Approved	Yes
00/50840/P	Formation of overnight lorry park and security cabin	Withdrawn	-
06/01857/FUL	Extension to existing parking area for use by HGV's and Coaches	Approved	Yes
07/02183/MAMEND	Revised Drawings for 06/01857/FUL	Approved	No

07/02511MAMEND	Minor Amendment to planning consent 06/01857/FUL	Approved	No
07/02896/FUL	Two Storey Extension to existing hotel and shop to form toilets and tourist information centre	Approved	Yes
07/03075/FUL	Extension to restaurant, provision of parking and creation of vehicular access	Withdrawn	-
07/03077/FUL	Provision of HGV and coach park (40 HGV and 7 Coach)	Approved	Yes
07/00101/FUL	Construction of Leisure complex to be used in conjunction with existing hotel (The Lodge at Leeming Bar)	Approved	Yes
07/01492/FUL	Alterations and Extensions to Existing Dwelling	Approved	No

6.5 The Application Proposal (CD4.3 and plans at LES201)

- 6.5.1 The application is in outline form, with all matters reserved except for means of access, and is dated 6 May 2009. HDC at its Committee meeting of 17 September 2009 strongly supported the application; that support is shown in the SOCG between HDC and LES (CD4.1A, CD14.6). The application form shows that there are 51 full time employees at present, it being proposed that there would be 96 full time and 7 part time employees (CD4.3). The written evidence indicates that there are 114 staff currently employed on the site (51 employed by Carl Les and 63 by McDonalds); this would increase to 153 (LES1/2 para7.26). This latter is more recent information and more detailed, so I will assume that it is correct. The final set of application drawings is at LES201 including the updated masterplan layout plan (drg. No. 79567/35 RevD) and the landcape masterplan layout plan (drg. No. 79567/00517 RevD). The application proposal is to upgrade the present TRSA at Leeming Bar Services to an MSA in line with C01/2008, to enable the site to be signed from the upgraded A1(M). The detailed proposals are conveniently tabulated in the SOCG (CD14.6).

The Case for Carl Les

6.6 The Issues

- 6.6.1 The key issues are as raised by the call-in letter dated 13 July 2009 (CD15.2) and by the Inspector at the PIM on 9 November 2009 (CD16.2).

Key Issue (i): The Need for an MSA Facility

- 6.6.2 Where the gap between existing MSAs exceeds 28 miles there is a need for a further facility to enable motorists to stop to rest every 30 miles or 28 minutes (CD1.14 para55). In this case the gap is 40 miles and so there is a need for a further facility. If the spacing between core MSAs is greater than 40 miles then it must be an MSA (and provide the statutory facilities) but if it is less than 40 miles it may be an MRA (CD1.14 paras59,60). The intention is that in the latter case where the distance between Core sites is less than 40 miles a site is not precluded from becoming an MSA.
- 6.6.3 The gap between the Core MSAs at Barton and Wetherby is 39.622 miles (CD14.11); for the purposes of C01/08 this can be taken as 40 miles; and HA takes the same view (CD13.18). The slight difference is not determinative in spacing terms as to whether there is a need for an infill MSA; as is set out in para55 of the Circular by reference to MSAs being considered on the basis of 28 miles or 30 minutes travelling time, whichever is the lesser. MOT indicates that any need can be met by expansion of its

sites at Wetherby and Barton (CD13.13), but that would not satisfy the para55 requirements because the distance and time to travel would still exceed 28 miles or 30 minutes.

- 6.6.4 The Motel Leeming weekday morning peak hour turn-in flows in 2012, would be 5.0 % of northbound and 3.5 % of the southbound A1(M) traffic: total 158 drivers. The corresponding evening turn-in flows would be 8.0 % and 5.0%: total 264 drivers (CD4.23). This would be a substantial number of drivers who would wish to leave the A1(M) for a break in their journey which would be unsatisfied without a new MSA. Thus there is practical evidence of the need for a new MSA as well as a policy requirement for a new facility on the section of the A1(M)/A1 route between Barton and Wetherby.
- 6.6.5 The existence of a site at Motel Leeming for the last 50 years is evidence that there is a need in that location for motorists to stop and rest and without it there would be a gap of 40 miles. The distance between the existing fixed point Core MSAs is sufficient evidence of a need for a new infill facility in order to meet the needs of road users and to enable them to stop at least every 28 miles or 30 minutes travelling time.

Key Issue (ii) The extent to which the development proposed is in accordance with the development plan for the area, having regard in particular to the Hambleton Core Strategy adopted in April 2007 and the Regional Spatial Strategy – the Yorkshire and Humber Plan, published in 2008, together with any relevant saved policies (CD15.2)

- 6.6.6 HDC strongly supports the application and considers it fully to comply with the development plan (CD4.1, CD14.6).
- 6.6.7 Policy L1 of the Hambleton Wide District Plan restricts proposals outside the development limits but indicates that, inter alia, "other development appropriate to a rural area may also be acceptable". LES' proposals comply with that exception: a view that is fully supported in the HDC officers report (CD4.1) and in common ground (CD14.6).
- 6.6.8 The application site is an existing developed site comprising of a number of structures and built form. HDC has consistently approved new development at the site since the adoption of the Local Plan in 1999, including extensions to the TRSA for further HGV and Coach Parking, and extensions to the existing facilities (CD14.6 s3, CD4.10 App1, LES1/3 App2). These were considered to comply with the development plan despite being outside the settlement limits.
- 6.6.9 The current application principally retains the built form of the existing site and where new development is proposed it is fully within the boundary of the current built site and the land which benefits from planning permission (LES1/3 App1 plan). Without considerable alterations, the proposal would improve the layout of the site to provide an MSA. The proposal would enhance the overall appearance of the site with no detriment to the amenity of existing residents and businesses (LES1/2 paras 6.65 & 10.32).

Hambleton LDF Core Strategy

- 6.6.10 The site, as an existing TRSA, is previously developed. HDC has granted planning permissions that allow the expansion of the site. The current proposal would not expand beyond the development already approved and implemented; it seeks to improve the site layout in order to comply with

C01/08. Thus this previously developed site would be efficiently redeveloped without detriment to the built or natural environment and without the need to build on greenfield land.

- 6.6.11 That would be much more sustainable than developing an MSA on undeveloped land or away from areas of employees. Whilst layout, appearance and landscaping are reserved, the improved built form and landscaping would improve the overall appearance of the site (CD4.32 drg No. 79567/35C, LES3/2). Thus, the proposals are in accordance with Policy CP1.
- 6.6.12 The greatest need to travel to the site other than by travellers breaking journeys, is by employees. The revised Framework Travel Plan, agreed by HA and NYCC, would improve employee access by foot, cycle and bus should the site become an MSA (CD4.17, CD14.7). It sets out incentives for employees not to travel to work by private car including provision of shower and changing facilities, covered cycle parking, a grant to employees who buy a bicycle to ride to work, promotion of car sharing and staff collection/drop off schemes where shift patterns do not coincide with public transport.
- 6.6.13 The location of the site, its proximity to a local population and the existing and proposed options for travel to the site by employees are a significant material consideration in the determination of the application and in its comparison with the other proposals. No other MSA proposal submitted can show equivalent sustainable travel options. It is noteworthy that the decision of the previous Inquiry gave weight to the accessibility and sustainability of staff access to sites (CD12.2 para104, CD12.3 para10.6.114, LES1/2 s8). The proposal complies with policy CP2.
- 6.6.14 The proposal is an important enterprise with a need to locate in the open countryside (to serve the A1(M)), it would re-use existing buildings without substantial alteration or reconstruction and without extension beyond the area already permitted for development. It would help to sustain a rural economy through retaining and increasing employment and support the social and economic regeneration of the rural area through the retention of existing jobs and the creation of additional jobs for residents of the local community. Thus the proposal would satisfy criteria i, iv and vi of policy CP4. It also satisfies policies CP1 and CP2, thus it should be supported in accordance with CP4.
- 6.6.15 The proposal aids economic development and rural regeneration. It would promote high quality design and make prudent use of natural resources. It would thus comply with other relevant policies in the LDF core strategy including CP12, CP15, CP17, CP18, CP20 and CP21. (LES1/2 paras6.35-42)

Hambleton LDF Development Policies

- 6.6.16 The existing service area has operated since 1961 and has extended without any objection from local residents. The current proposals would not substantially intensify existing development, or bring new development closer to dwellings or substantially increase any impact on the nearest dwellings. The petrol filling station would increase in size but its overall design would be an improvement (CD4.13 drg. No. PL3100RevA).
- 6.6.17 The proposal would not impact upon privacy of neighbours or generate substantial additional noise or disturbance beyond that of the current lawful

- use of the site. There would be no detrimental impact upon the daylight of neighbours or additional odours. Car numbers would increase, but they would not be located any closer to neighbours than as existing. Lighting would be controlled by condition and would be designed to minimise any impact upon local residents and wildlife (LES1/2 para6.47). The proposal would comply with policy DP1.
- 6.6.18 Imposition of the revised Framework Travel Plan (CD4.17) by condition would improve provision for access and therefore the sustainability of the site, ensuring conformity with Policy DP3. The layout detail is reserved but will address accessibility to all areas of the buildings on site for all. It would conform with the most up to date guidance including that contained in C01/08. the proposal would thus comply with policy DP4
- 6.6.19 The proposal includes additional car parking areas and road areas for access/exit and turning, but nothing is proposed that would substantially increase the size of the facilities on the site. As there will be no further foul flows into the public sewer with any additional flows dealt with in an on-site private facility, YW has no objection to the proposal (CD4.30). Original objections from the EA were withdrawn (CD4.21). No other consultees in respect to utilities and infrastructure objected. Therefore the proposal would comply with policy DP6.
- 6.6.20 Not only is the proposal justifiable against Policy CP4, there are exceptional circumstances in that the proposal constitutes the reconfiguration of an existing built site and not new development on greenfield land. The brownfield Motel Leeming site should be the preferred location for a new MSA in Hambleton over any greenfield site (supporting text to Policy DP9 CD9.2 para3.8.7). Therefore, the proposal would comply with Policy DP9.
- 6.6.21 Policy DP16 refers to specific measures to assist economy and employment. Part xiii supports transport investment including the A1 upgrading proposals and BALB. This proposal is linked to those proposals being an MSA to serve the upgraded A1(M). It would increase employment and assist Hambleton's economy – that would be lost if an MSA was constructed outside the District. Therefore the proposal is supported by Policy DP16. The proposal is also justified against Policy DP25 because it is not capable of being located within development limits by reason of the nature of the operation (criterion iii).
- 6.6.22 The proposal would improve the existing roads/car parking layout, the facilities building and the petrol filling station. It would also introduce substantial new areas of landscaping and wetlands that are fully supported by the Yorkshire Wildlife Trust and HDC. Consequently the proposal would satisfy the general design criteria of policy DP32. (CD4.32 masterplan79567/35C, CD4.13. CD4.13.1, CD4.30, CD4.1 para7.9)
- 6.6.23 Whilst landscaping is a reserved matter, the submitted plans illustrate that it is the intention of the applicant at reserved matters stage to propose a detailed landscaping strategy for the site to improve existing areas with new planting and landscaping that would screen the site. Since the masterplan for the site has been revised, the landscaping plan for the site has also been updated (LES201: 79567/00517/RevD).
- 6.6.24 The site lies in the 'Vale of Mowbray' Character Area 24 (CD1.41). The mitigation strategy would enhance an existing degraded 'urban fringe'

landscape and re-create landscape links of local ecological and amenity value (CD4.26). That would offer increased amenity value for visitors and the surrounding community, framing views and creating a designed landscape with added nature conservation interest through continuity of design (LES2/3 para5.23).

- 6.6.25 The access gaps through the central tree belt on the site would remove only 15% in total of its 270m length; as the woodland management plan takes hold, the effect of development would improve to moderate/beneficial (LES3/4 para2.2). The proposals would deliver environmental, economic and social benefits through the enhancement of the existing landscape and new recreational and ecological features would improve the visual amenity of the site whilst reflecting the recognised landscape character of the area (LES2/3 para4.29).
- 6.6.26 The permitted extension for a parking area for use by HGV's and coaches (CD14.2, s3) includes the provision for lighting which would not be significantly altered by the Motel Leeming proposal. Thus there would be no significant effect on visual amenity outside daylight hours (LES2/3 para5.24). The proposal would satisfy landscape policy DP33. At least 10% of the energy requirement for the site would be provided from renewable sources before the submission of reserved matters; thus the proposal would comply with Policy DP34.

Yorkshire and Humber Plan RSS

- 6.6.27 When the application was considered by HDC, it was considered against the RSS, which was in place at that time, and it was concluded that the proposals would accord with the development plan (CD4.1A). The two main policies of relevance are YH7 and T1. The LES proposal complies with these policies in that it makes best use of existing facilities; it is in a sustainable location with a local employment base that can travel by a range of modes of transport. These two policies and ENV7, ENV9 and ENV10 count against the three other MSA policies. ENV10 counts against the XLB proposal. (LES1/6)

Summary on Key Issue (ii)

- 6.6.28 The proposal would accord with the relevant policies of the Development Plan (LES1/2 paras6.18-63). Whilst the site is located outside of the settlement limits, as an existing TRSA it follows that it is a developed site and that it represents a suitable site for an MSA. There are no suitable sites within any settlement of Hambleton or indeed Harrogate (this matter is also addressed in key issue (iv)). For these reasons, in principle the development proposals are in accordance with the Development Plan including Core Strategy Policy CP4 and Development Policy DP9.
- 6.6.29 The application is submitted in outline only with access to be determined. The masterplan layout for the site 79567/35C (CD4.32) satisfies the detailed Policies of the Core Strategy and Development Policies through an improved layout at the existing TRSA to provide the necessary facilities required at an MSA by C01/08 but without substantial alterations. The proposal would therefore enhance the overall appearance of the site with no detriment to the amenity of existing residents and businesses from the visual appearance and use of the site. Detail of landscaping for the site is shown on plan 79567/00517/Rev C included in LES3/3.

- 6.6.30 A number of policies support the application proposals to retain a major sustainable employment site including CP12, CP15 and DP16. In summary the proposal accords with the Development Plan and HDC agrees on this point in its officers' report and in common ground (CD 4.1, CD14.2).

Key Issue (iii) The extent to which the proposed development is consistent with the advice in PPG 13: Transport and DfT Circular 01/2008 on motorway service areas

- 6.6.31 Currently, Leeming Bar Services operates a restaurant and conference facilities, and has a licence to sell alcohol. These parts of the site may be considered to attract people who are not using the SRN to travel to another destination. Whilst the restaurant would be retained for use by road users, to comply with C01/08 a condition will require that the majority of the conference facilities (conference facilities retained at 200m² as allowed by C01/08), the events and the sale of alcohol will cease (CD14.6).
- 6.6.32 The inclusion of a McDonalds drive through or any facilities that it is proposed to offer would not result in drivers using the A1 (M) or any trunk road to access the site given the distances they would need to travel to the site from the nearest junction with the A1(M): the nearest junction to the north is 10km away (Catterick) and to the south is 16km (A61). Also, McDonalds Restaurants in Ripon and at Catterick Garrison are closer to these junctions than to Leeming Bar. Whilst local traffic may visit the site they would not do so by using the SRN. Therefore in the context of C01/08 para15, an MSA at the application site would not be a destination in its own right (CD14.7).
- 6.6.33 The MSA would not include any development in excess of that permitted by C01/08, further the current 400m² of conferencing facility on site would be scaled back to 200m². Therefore, it is not considered that an impact assessment is necessary.
- 6.6.34 It is common ground with HDC (CD14.6) that the application proposals accord with the Development Plan; further, there are no material considerations to indicate why the application should not be approved in accordance with C01/08 (CD1.14 para28). HBC's SoC confirms that none of the proposals within its boundary is in accordance with the Development Plan, so Motel Leeming is the only current MSA proposal that can be concluded to be in accordance with the Development Plan. Therefore in strategic planning terms Motel Leeming is unquestionably the most suitable.
- 6.6.35 The HA is interested in facilities located partly or wholly within 400m of the motorway boundary or developments exceeding 2 hectares in area that include fuel and refreshments and are situated within 1km of a junction. Motel Leeming satisfies the first criterion, so it is a site that the HA is particularly interested in with regard to developing proposals for roadside facilities (CD1.14 para34).
- 6.6.36 Promoters of service area schemes are expected to show that they have taken account of the need for high standards of design in formulating proposals (CD1.14 para41). The detailed designs of the site (layout, scale, appearance, and landscaping) are reserved matters and not being determined in this application. The alterations to the existing layout of the site proposed are indicated on the revised masterplan (LES 201 drg No. 79567 revD). This layout has been prepared to ensure that the necessary

standards of C01/08 are achieved: there are no objections to the Motel Leeming proposal from either HA or NY as the local highway authority (CD14.7, CD14.7.1). The proposals would provide an attractive facility for motorists and provide them with confidence that when they stop, their needs will be met.

- 6.6.37 Parking for the abnormal load specified in C01/08 could be provided, but the proposed roundabout junctions and the local access road would be a constraint on the largest abnormal loads specified in C01/08. While there are limitations on abnormal load movements due to the proposed external highway arrangements, the majority of abnormal load vehicles could reach the site – the limit would essentially be the 85th percentile length/width dimensions of abnormal loads using the A1(M). The SOCG indicates that neither HA nor NY have any objections to the scheme. Thus the standard of design and facilities are acceptable (CD14.7.1, LES2/2 s7).
- 6.6.38 Where infill sites are proposed, they should be located roughly halfway between MSAs unless an off-centre location is more suitable either in operational, safety or spatial planning terms or in its ability to meet a particular and significant need (CD1.14 para59). In spatial planning terms, Motel Leeming is the most suitable location. It is a longstanding TRSA that requires only moderate development to comply with C01/08. There would be no significant additional environmental effects of the site becoming an MSA and it can meet all other requirements of C01/08. Whilst it is not halfway between Barton and Wetherby, in planning terms it is a suitable site as it involves least environmental impact and is sustainable being located adjacent to an existing settlement which is served by public transport and is accessible by walking and cycling for employees. The other MSAs being promoted would not be suitable for spatial planning reasons.
- 6.6.39 There is a need to limit development alongside motorways to mitigate the impact upon the environment including open countryside (CD1.14 para54). In this context the redevelopment of an existing site is clearly and unquestionably preferable to the development of undeveloped land in the open countryside, particularly where the facility can satisfy all the other requirements of C01/08. Motel Leeming is the only MSA application that did not require EIA (CD4.27). This indicates that it would have the least environmental impact and is something that should weigh heavily in its favour.
- 6.6.40 There is a presumption in favour of on-line MSA facilities (CD1.14 para97). A junction site may be considered where it can clearly be demonstrated that the construction of an on-line MSA would have an adverse impact or could not be delivered due to planning, operational or environmental constraints (CD1.14 para98).
- 6.6.41 Key issue (iv) and the alternative site assessment show that there are no suitable locations for an on-line MSA facility between Barton and Wetherby as they could not be delivered due to planning and environmental constraints (CD4.25). The proposed on-line site by HIA at Kirby Hill cannot be delivered due to substantial planning constraints (LES1/2 s8). Motel Leeming is the only deliverable MSA.
- 6.6.42 In section 4 of its statement of case (CD13.18), HA refers to there being three types of MSA site namely, on-line, junction and sites not sharing a boundary with a junction. C01/08 only refers to two types of site being on-

line or junction sites, regardless of proximity to the junction. As Motel Leeming is not on-line, it follows that, for the purposes of assessment against C01/08 and particularly para98, it is a junction site.

- 6.6.43 Regarding the highway network; there has been a considerable exchange of information between LES, HA and NY. The local highway network and the proposed access would accommodate the anticipated traffic flows from the Motel Leeming proposal. (LES 2/3 AppC). There is adequate capacity on the SRN to accommodate the flows even with BALB, the LES scheme and the XLB scheme (CD14.22 para4.4.4)
- 6.6.44 There are two PROWs on or near the site, a footpath across the southern part of the site and a bridle path along the eastern boundary of the site adjacent to the A1. As required by the HA, these would be separated from the proposed MSA area by a secure fence (LES1/2 para6.42, NY1/2 para9.42). The proposals would not have any direct implications in terms of the National Cycle Network, but would increase traffic flows on that section of the Local Access Road which forms part of the network (LES2/3 AppD).
- 6.6.45 C01/08 sets out the mandatory levels of provision at an MSA and HA agrees that the application site can provide the mandatory facilities required (CD14.7). The existing Tourist Information Centre would be retained (CD1.14 para110). The fuel forecourt would provide a limited retail function ancillary to the sale of fuel as permitted. Once the site becomes an operational MSA, planning conditions will require that all sales of alcohol would be stopped, conferencing facilities would be reduced to 200 m² and no more than 500 m² of retail facilities and no more than 100 m² of games area would be provided (CD14.6). The existing 39 bedroom lodge at the site would be retained to provide accommodation for road users, with parking in accordance with C01/08.
- 6.6.46 It is common ground with the HA and NY that the proposal satisfies PPG 13 (CD14.7). The application site represents a sustainable location for an MSA being within the requisite walking and cycling distances and with the ability for enhancement with the sustainable travel options for existing and proposed employees at the proposed MSA (CD4.17, LES2/2 s5).

Key Issue (iv) The availability of alternative sites which would meet the need which may be demonstrated for an MSA serving this length of the A1/A1(M)

- 6.6.47 LES' alternative site assessment concluded that Kirby Hill would be the only potential twin sided on-line site, but that planning constraints ruled it out as an appropriate site (CD4.25 para5.16). There could be a one sided MSA serving only southbound traffic but that would not fulfil the need for a new MSA (CD4.25 para5.47).
- 6.6.48 The only potential for a junction MSA would be at Leeming Bar and A1/A61 but other than the Motel Leeming site all of the junction sites would be contrary to the development plan and, acknowledging C01/08 paras59&98, they would not be suitable in strategic planning terms. Therefore when considering planning, highway and landscape constraints, Motel Leeming is the most suitable for an MSA acknowledging National, Regional and Local Planning Policy and other material considerations including C01/08.

Key issue (v) Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex

- 6.6.49 The SOCG between HDC and LES contains a list of agreed draft conditions (CD14.6). The EA and YW have no objections to the foul drainage proposals at Motel Leeming subject to an agreed Grampian planning condition. (CD14.21). Neither EA nor NY objects to the proposal by LES to discharge surface water drainage into the existing on site attenuation system which discharges into Bedale Beck (LES1/5 para3.45, LES1/7 para2.3). The EA flood map shows the development site to be within Flood Zone 1 Low Flood Risk (CD4.20 section 3).

Key Issues (vi) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable

- 6.6.50 It is common ground with HDC that there is no requirement for any obligations under section 106 of the 1990 Act (CD14.6).

6.7 Other issues

(i) The weight to be given to the existing use of the site as a TRSA

- 6.7.1 Weight should be given to the fact that the site has been within the same family ownership since it first opened in 1961, providing a facility that offers motorists a unique alternative to more generic service stations. This is encouraged by C01/08 (CD1.14 paras48-51). The views of open countryside and enhanced environment (LES3/3 79567/35C) would create an attractive and relaxing environment for motorists. Whilst the site will be located along a local access road this would in part add to that relaxed environment, similar to that which has been so successful at Tebay. There is a longstanding expectation from A1 users that there would be a service area at Leeming Bar once the A1 is upgraded to motorway.
- 6.7.2 The application site is well used by HGVs, coach parties and by cars towing caravans given its location at the gateway to the Yorkshire Dales National Park. The site also includes a tourist information centre, local ambulance and police waiting areas that would be formalised within the MSA but may be lost if the site is not granted consent. LES1/3 App4 contains a list of existing users of Leeming Bar Services who support its continued use. Enhancement of the existing TRSA rather than construction on a greenfield site should be given substantial weight; the provision of an MSA on an established site would give more consistency for road users.
- 6.7.3 It is a significant material consideration that the TRSA would not need to expand beyond its current site boundaries, or beyond land that benefits from planning consent for HGV and Coach parking, in order to become an MSA (LES1/3 App1 plan). It would not increase the footprint of the built form. This should be given substantial weight because Motel Leeming is the only MSA candidate that would be on previously developed land. Motel Leeming is clearly the most suitable site in strategic planning terms.
- 6.7.4 Motel Leeming is in a sustainable location for an MSA, being an existing TRSA, on previously developed land and with an established local employment base and network of local suppliers. Local people, with a range

of transport choices, could take up the additional jobs (CD4.17). None of the other MSA proposals could deliver the same level of sustainability; it is relevant that in the previous MSA Inquiry the Kirby Hill site was found to be less sustainable because it would find it difficult to attract employees (CD12.1 para10.6.109, CD12.2 para104). The sustainability of the Motel Leeming proposal is a material consideration to which substantial weight should be given.

- 6.7.5 The other MSA candidate sites and the truckstop proposal would introduce built development and traffic movements into the open countryside on greenfield land. It is relevant that 2004IR referred to the significant detrimental effect on both the character and visual appearance of the surrounding landscape of the Kirby Hill proposal (CD12.1 paras10.6.100-103). That position has not changed the other proposals, particularly as the Ripon Services and Baldersby Gate schemes would have similarly negative impact on the landscape that should weigh heavily against them.
- 6.7.6 In landscaping terms Motel Leeming would clearly have the least impact on the character and visual appearance of the surrounding landscape when compared against the alternatives and this should be given substantial weight in the determination of the proposals (CD4.26, LES3/2).
- 6.7.7 The site currently employs 114 staff from the local area, this would increase to 153 if Motel Leeming became an MSA (LES1/2 para7.26). It is, and would continue to be, a major local employer. Motel Leeming sources its requirements from suppliers and contractors local to Leeming, Aiskew and Bedale. This has implications for the economy of the local area and is also sustainable. The alternative sites would not be as close to the source of products and local suppliers – significantly, 2004IR concluded that Kirby Hill could find it difficult to attract employees and was therefore not sustainable in that regard (CD12.1 para10.6.109, CD12.2 para104). Thus, Motel Leeming, with an existing employment base and in close proximity to areas of employees, has significant locational advantages over the other sites and this should be a material consideration of considerable weight in the determination of the application.
- 6.7.8 If another site was granted consent as an MSA, LES' application site could close, losing some 114 jobs; a substantial loss in this rural area. It would impact upon the local economy, something which the HDC Core Strategy seeks to protect (Policy CP12 and CP15). Such an impact on the local economy is an important material consideration in the determination of the most appropriate location for an MSA.
- 6.7.9 Although LES decided for financial reasons to rely upon written submissions to the Inquiry, should consent be granted for an MSA the applicant would be able to secure the funding to complete the upgrade of the site in accordance with the application proposals: where a planning consent is in place the applicant is confident that funding would be secured.
- 6.7.10 It follows that significant weight should be given to the existing use of the site as a TRSA.

(ii) Hambleton Allocations DPD

- 6.7.11 Although Motel Leeming is not allocated as an MSA in the Hambleton District Allocations DPD (CD9.12), the lack of allocation neither precludes it from being granted consent as an MSA nor prejudices the outcome of the Inquiry

(CD9.7 para2.76). The application proposal is still in accordance with the development plan and HDC agrees in the SOCG (CD4.16). The application site is the only one of the sites proposed for development that is in accordance with the Development Plan.

6.8 The MSA proposal by HIA

The extent of compliance with the Development Plan

- 6.8.1 The HIA proposal and associated landscaping would be alien in the landscape which comprises of open fields as set out in the Harrogate District Landscape Assessment 2004 (Area 81) (CD8.3). The impact of the development on the landscape character would be significant and contrary to saved policy C2 of the Harrogate Local Plan which requires development to protect landscape character. LES agrees with the views of HBC in this regard (CD3.2, CD13.9).
- 6.8.2 Local Plan saved policy HD20 lists design principles that developers should take into account. The Kirby Hill proposal does not take account of criterion B which requires new buildings to respect the local distinctiveness of existing buildings, settlements and their landscape; the scheme would thus conflict with policy HD20.
- 6.8.3 Saved policy T7 of the Local plan sets out that permission will be granted for not more than one MSA serving the A1(M). The MSA at Wetherby was granted planning permission and constructed. There can therefore be no more MSAs within Harrogate without being contrary to Policy T7. The HIA proposal is contrary to T7 notwithstanding whether HIA could satisfy the other criteria of the Policy. The proposal is also contrary to Policy T7 criterion F.
- 6.8.4 The HIA proposal is contrary to Harrogate Core Strategy Policy SG3 which sets out that outside development limits there will be strict control over development, in accordance with national and regional policy protecting the countryside. It would not make a positive contribution by maintaining or improving the environment and amenity of the area. In particular, it would have a detrimental effect on the visual amenity and character of the area. Policy SG4 (3) sets out that there should be no loss of greenfield land unless justified by national policy, the RSS or the Core Strategy or another policy within the LDF. Clearly the proposal would lead to the loss of greenfield land and there is no reason by virtue of other policy that would justify the loss of the greenfield land at the appeal site.
- 6.8.5 It follows that HIA's proposal is not in accordance with the Development Plan. Unless there are material considerations which indicate otherwise, HIA's appeal proposals should be dismissed.

Material Considerations

- 6.8.6 The proposal neither protects the environment nor seeks to make best use of resources including the re-use of land or buildings. The site is remote and the proposal would lead to the loss of some of the highest quality agricultural land and place additional strain on natural resources. Employees would travel long distances on the A1(M) as there is no other access to the site. The proposal does not represent sustainable development and is contrary to PPS1.

- 6.8.7 Whilst PPS4 supports economic development, HIA's proposal would not comply with it because it would develop greenfield land, remote from access by employees and would have a substantial negative impact upon an existing business at Leeming Bar Services. PPS4 would support the Motel Leeming MSA rather than the development of a new greenfield site.
- 6.8.8 PPS7 suggests that development should be directed to areas of lower quality agricultural land but also sets out that it is for LPAs to determine whether the BMV agricultural land can be developed. However, HBC gave the loss of such land as one of its reasons for refusal (CD3.2). The unsustainable proposal would conflict with PPS7.
- 6.8.9 C01/08 states in paras97&98 that there is a presumption in favour of on-line sites but that a junction site may be considered where it can clearly be demonstrated that the construction of an on-line MSA would have an adverse impact or could not be delivered due to planning, operational or environmental constraints. The on-line proposal by HIA cannot be delivered for planning and environmental reasons as it is contrary to the development plan and National planning policy and would have a detrimental impact on the environment in terms of visual impact and the loss of BMV agricultural land.

The weight to be given to the Dismissed Appeal

- 6.8.10 Although there have been changes in the Development Plan since HIA's appeal was dismissed in 2005, key policies on MSA provision (T7), design criteria (HD20) and impact on landscape character (C2) remain in force. Therefore unless the appeal proposals have now overcome the previous reservations, the current proposal cannot be approved.
- 6.8.11 The previous Inspector concluded that the proposals would be in conflict, at least in part, with Policy T7 of the Harrogate Local Plan in terms of safe and convenient access, minimising the loss of BMV agricultural land and encroaching into, and affecting the character of, the countryside (CD12.1 para10.6.130). Also: *The Kirby Hill proposal would not fully comply with the Development Plan, especially in terms of the accesses, loss of agricultural land and visual and landscape impact. In connection with the latter, I consider the proposed woodland to be out of character with the area.* (CD12.1 para10.7.57) He concluded that "the planning objections ... at Kirby Hill are also considerable" (CD12.1 para10.7.60).
- 6.8.12 The FSoS agreed with the previous Inspector with regard to Kirby Hill and also noted that Kirby Hill may have difficulties in recruiting local staff (CD12.2 para104). Most significantly, the current proposal by HIA is similar in nature and in the same location as in 2005 and HIA has not overcome the substantial reservations of both the Inspector and the FSoS regarding the significant detrimental effect of the development on both the character and appearance of the surrounding landscape. Therefore the HIA's proposal remains contrary to Harrogate Local Plan Policy C2 as well as policies HD20 and T7.

6.9 Matters Raised in MOT's Statement Of Case (CD13.13)

- 6.9.1 MOT appears at the Inquiry to protect its near monopolistic commercial interests at Wetherby, Barton and Scotch Corner. It suggests that no clear and compelling need and safety case exists for a further MSA between Barton and Wetherby and that even if such a case did exist all the

applications should be refused planning permission (ref C01/08 para58). LES disputes that view and has already put forward its case.

- 6.9.2 MOT indicates that it would advance a case that to become an MSA Leeming Bar Services would make further incursions into the open countryside which would result in a sub-optimal layout that would be unattractive operationally (CD13.13 para4.5). That assertion has already been shown to be incorrect by reference above in particular to the plan at LES1/3 App1.
- 6.9.3 Leeming Bar Services TRSA exists, it is operational and well used and can become an MSA without major alteration or construction as demonstrated on the submitted masterplan and in common ground with HDC (CD14.6). Therefore MOT's view that the site is unattractive in operational terms has no weight given that it is has operated since 1961 and will continue to operate as an MSA by the applicant if permission is granted.

6.10 The MSA proposals by JT and REL

- 6.10.1 These sites are considered together as they raise similar planning issues. LES agrees with the suggested reasons for refusal set out by HBC, and that both proposals are contrary to the Development Plan and most significantly Policies T7, C2 and HD20.
- 6.10.2 Policy T7 is fundamental to the determination of any MSA application in Harrogate. The first part was satisfied when the FSoS granted planning permission for Wetherby MSA. Any further application for an MSA in Harrogate would be contrary to Policy T7 and therefore the Development Plan. Even if they were to satisfy the first part of the policy, both would fail criteria contained in the second part: criterion C (unless detailed highway issues can be overcome), D (because they would both result in the loss of BMV agricultural land) and F (because they would both have a detrimental impact on the landscape).
- 6.10.3 The location, design and layout of both proposals are such that they would have a negative impact on the landscape character of the area being new development in the open countryside. This not only applies to the physical built form of the buildings on site but the large areas of hard surfacing, superficial planting and the 24 hour movement of vehicles to and from the sites that would permanently alter the landscape. Both proposals would conflict with Local Plan Policies HD20 and C2 and also to Core Strategy Policy SG3. It follows that the proposal would conflict with the development plan.
- 6.10.4 Turning to material considerations: whilst there is a need for an MSA neither site would be the preferred location. Motel Leeming represents the most suitable location in planning and environmental terms as an existing operational site. The JT and REL proposals conflict with the general guidance set out in PPS1, PPS4 and PPS7 which all prioritise the redevelopment of sustainable previously used land over greenfield sites. There are no material considerations that indicate that the determination must be made other than in accordance with the development plan.

6.11 The REL case against LES

- 6.11.1 REL's key points against Motel Leeming are: i) the substantial diversion that would be required to achieve access; ii) the proposed internal arrangements of the facility; iii) its location at the extreme north end of the Barton to

Wetherby gap; iv) continued pressure for a further MSA in the vicinity of Kirby Hill if consent were granted; and v) the site is partly greenfield and lies outside any defined settlement limit (CD13.15 para2.29)

- 6.11.2 In response i): the distance from the junction from the A1(M) is about 1.3km, but this does not preclude the site from becoming an MSA. There is no policy within C01/08 that indicates that the site cannot be signed as an MSA. ii): the internal arrangement of the site is acceptable and accords with C01/08 (LES2/2). Since the original proposals were submitted to HDC for consideration they have been amended following detailed discussions with HA and NYCC. The masterplan layout to be determined (CD4.32 67567/35C) is considered to provide an acceptable internal layout.
- 6.11.3 iii): It has already been explained that Motel Leeming should be considered as a junction facility. It is not precluded from becoming an MSA by C01/08 because the gap to the next facility at Barton is not less than 12 miles. Where infill sites are proposed the preference will be that they should be located roughly half way between MSAs unless it can be shown that an off-centre location is more suitable in either operational, safety or spatial planning terms (C01/08 para59). As Motel Leeming would be the most suitable in spatial planning terms, there is reasoned justification for an MSA at an off-centre location in accordance with C01/08 para59.
- 6.11.4 iv): C01/08 paras55, 56 and 59 would on any interpretation preclude any further infill MSA because C01/08 would allow only one infill between Core Sites and also because there must be a minimum gap of 12 miles between MSAs. Thus there would be no continuing pressure for an MSA at Kirby Hill.
- 6.11.5 v): The application site has two extant and implemented consents for HGV and Coach Parking (LES1/3 App1). The MSA would result in less development than exists and is permitted by HDC under consents 06/01857/FUL and 07/03077/FUL (CD4.10 App1). Whilst the application site is outside settlement limits it is an existing previously developed site and the proposal accords with the Development Plan (CD14.6). By contrast, the REL proposal is on entirely greenfield land, outside of settlement limits, detached from employees and suppliers and contrary to the development plan (CD13.9).

6.12 The JT case against LES

- 6.12.1 JT's main points against Motel Leeming are: i): Leeming Bar is not appropriately spaced to meet the need for an MSA and could lead to pressure for a further MSA; ii): it would be remote from the motorway and will not appropriately meet the needs of motorists; iii): it would be poorly laid out and will not work properly as an MSA; iv): it would be a destination in its own right; v): there is a public footpath through the site which would make it difficult to provide security; vi): it would have greater impact on amenity being closer to an urban area than Ripon Services; vii): access to the site would be far from satisfactory not least because of the distance to the junction; and viii): Leeming Bar is not likely to attract demand from MSA operators due to its commercial viability. (CD13.11 para3.10)
- 6.12.2 Points i), ii), and iii) replicate points made by REL and have been addressed. iv): NYCC and HA agree that Motel Leeming would not be a destination in its own right (CD14.7). v): NYCC and HA agree that the public footpath within

the site could be secured separate from the MSA (NY1/2 para9.49, CD4.32 masterplan 79567/35C, CD14.7).

- 6.12.3 vi): The location relatively close to an urban area is an advantage in respect to being able to employ a local workforce and use local suppliers. As the site has existed since 1961 and has consent for expansion, the impact of the site becoming an MSA would not be significant on the amenity of local residents. There were no local objections to the planning application for an MSA here and no local objections to the proposed allocation of the site as an MSA in the Hambleton Allocations DPD.
- 6.12.4 vii): there is no Policy reason set out in C01/08 why the distance to Motel Leeming would preclude it from being granted consent and signed from the A1(M).
- 6.12.5 viii): LES disagrees with JT. Notwithstanding that the site already exists, has operated since 1961 and requires only moderate expansion to become an MSA it is currently operated by the applicant who considers it to be commercially viable. The applicant will continue to operate the site like Tebay on the M6 which is very successful and is not owned or operated by a major operator. In addition, the site has a long standing customer base.

6.13 The truckstop proposal by XLB

- 6.13.1 The Coneygarth site is greenfield land outside the settlement limits of Leeming Bar and would be contrary to Core Strategy policies CP1, CP4 and CP16. The proposal is also contrary to policies DP1, DP9, DP25 and DP33 of the adopted Development Policies DPD.
- 6.13.2 The proposal would have a significant impact on the landscape and would be detrimental to the amenity of local residents, particularly of Argyle House; about 130m from the site on Roughly Bank. Not only would the development be in the open countryside, it would introduce substantial traffic, principally HGV's, onto Leases Road which is a C class country road used by pedestrian and cyclists. The increase of around 2,000 vehicles per day using Leases Road would impact significantly on residential amenity, particularly during the evening hours with noise, vibrations, smells and lighting into what is currently a rural area with limited traffic and activity.
- 6.13.3 LES does not agree with the recommendation of the planning officer (CD7.24) that the development is justified as an exception because it is for the re-location of an existing facility. The new facility would be more than double the size of the existing facility at Londonderry and bring new development into the open countryside. XLB has not demonstrated material considerations to outweigh the development plan policy. As well as being contrary to the Development Plan, the proposals conflict with National Planning Policy including PPS1, PPS4 and PPS7, principally because it would bring substantial new development into the open countryside without justification.
- 6.13.4 XLB has failed to demonstrate that there is a need for a new truckstop Service Area. If XLB was granted consent there would still be a need for a further facility to serve other types of vehicles that are not HGVs and this could lead to further development into the open countryside. Any need to accommodate HGVs would best be met on a single MSA facility at Motel Leeming where it would have least impact on the open countryside.

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- 6.13.5 XLB considers that the proposed truckstop does not require to be assessed against C01/08 because the facility would not be signed from the motorway, and that it could be developed alongside an MSA (CD13.9). However, it must be considered against C01/08 as set out in the call in of their application (CD15.17) because the site would have an impact upon the applications/appeals for MSAs between Barton and Wetherby.

6.14 Ministerial Statements

- 6.14.1 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12).
- 6.14.2 The Statement shows that the planning system has a clear role in delivering economic growth. The applicant operates an existing TRSA, and if granted planning permission, it would be the first to deliver an MSA. The Government's top priority is to promote sustainable economic growth and jobs. This is an existing business and significant employer (100+ jobs) in a predominantly rural area. Direct jobs would be retained, more would be created, and the impact of local suppliers and linked businesses would be significantly enhanced (DOC12.5).
- 6.14.3 The other sites would not be sustainable as required by the Statement, but would develop new infrastructure on greenfield sites. HDC was seeking to allocate Leeming Bar Services as an MSA in its Development Plan; co-operatively as the Ministerial Statement now suggests. As an independent operator, LES' proposal would provide consumer choice, a more viable community and a more robust local economy (DOC12.5).
- 6.14.4 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement does not fundamentally alter LES' position, but the statement clearly gives priority to MSAs over truckstops. LES considers that there is insufficient demand for both an MSA and a truckstop. With regard to the localism element of the statement; Motel Leeming is the only proposal that received local support (DOC13.5).

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7. Exelby Services Limited (XLB) promoting the Coneygarth Truckstop Proposal

7.1 The Site and Surroundings

(SOCC at CD14.18 and plans 6162/S101B (XLB201), 2229/1A (XLB3/3))

- 7.1.1 The 4.95ha application site comprises an agricultural field and the edge of the complex of existing buildings at Fairfield Farm. It is located to the north of Leeming Bar Business Park and Industrial Estate, and the village of Leeming Bar. It is bounded on the east by Leases Road and on the west by the A1(M). The southern boundary is a little north of the link from the New Leeming Junction dumbbell roundabouts and Leases Road (for convenience called here the dumbbell link); the gap between the boundary and the dumbbell link is to cater for BALB when and if it proceeds. The northern boundary is an area of open land and the truncated Back Lane. The main carriageway of the A1(M) is about 1.1m above the site level opposite the northwest corner of the site, and about 3.5m above the southwest corner.
- 7.1.2 On the rising land to the north of the Fairfield Farm buildings is an area of land used for coach parking and coach maintenance. Agricultural fields occupy the falling land between Leases Road and Low Street to the east, and beyond that is open countryside. Pembroke Caravan Park lies to the south of that land (south east of the appeal site and beyond the Leases Road roundabout). To the north east of the site are Argyle House and the buildings of Roughley Corner Farm which stand on Roughley Bank. Two other dwellings (Ashville and Lowlands) are located on Low Street to the east of the site.
- 7.1.3 The site falls within the 'Vale of Mowbray' Natural England's Character Area 24 (CD1.41) which typically has the following characteristics: Low lying agricultural fertile land used for arable crops and permanent grassland; and fields of medium scale enclosed by low hedgerows with scattered, small areas of woodland.

EIA Regulations

- 7.1.4 The Planning Inspectorate screened the proposal in accordance with the EIA Regs on 15 September 2010 and confirmed that an EIA is not required (CD7.27). Nevertheless, an Environmental Statement was submitted with the planning application in the form of technical reports (CD7.6 to CD7.16) with a non-technical summary (CD7.5). A lighting assessment and updated noise impact assessments were also produced as appendices to Mr Williams proof of evidence (XLB5/5).

7.2 Planning Policy

- 7.2.1 The planning policy framework for this site is the same as for the Motel Leeming site [paras 6.3.1 to 6.3.9 above]. In addition, Core Policy CP16 supports developments where they preserve and enhance the District's natural and man-made assets, and Development Policy DP29 indicates that the preservation or enhancement of archaeological remains and their settings will be supported, taking account of the significance of the remains. As in the case of Motel Leeming, there is no specific allocation for the appeal site in the Allocations DPD (CD9.12). XLB indicates that it finds nothing in the re-instatement of the RSS that would alter its previous conclusion that

the proposed truckstop would be in broad compliance with the development plan for the area (XLB5/6).

7.3 Planning History

- 7.3.1 Apart from the current application, the planning history of the site includes an outline application for construction of an MSA (withdrawn in December 1996). It also includes two applications that were approved in January 1998 for the construction of two agricultural buildings, one for storage purposes and the other for the accommodation of livestock.

7.4 The Application Proposal (CD7.1 and plans at XLB201)

- 7.4.1 The application is in full and is dated 17 February 2010; it was received by HDC on 15 March 2010 and validated on 26 March 2010 (CD7.1, CD14.18). In its SoC, HDC said that *"in principle, this proposal (and its location) is suitable and justifiable in policy terms"* (CD13.17 para7.1). The final set of application drawings is at XLB201, which includes the detailed landscape proposals (drg No. 2229/4); this plan is convenient as it also clearly presents the layout of the proposals. Access to the site from the A1(M) would be by way of the dumbbell link and Leases Road. The facilities would not be signed from the motorway.
- 7.4.2 The application is for the formation of a truckstop to relocate an existing service area from Londonderry to Leeming Bar, focused on: HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop including overnight and rest-stop parking and driver welfare facilities. The proposal arises as a result of the A1D2B upgrade which will result in access to the existing truckstop services only being possible via a local service road running parallel with the motorway. The application form shows that currently the business employs 7 full time and one part time staff, the proposed numbers would be 26 full time and 8 part time (CD7.1).
- 7.4.3 If the Coneygarth proposal were to be granted planning permission and constructed, there would be a series of possible effects on the LRN relating to whether or not the BALB scheme goes ahead and, if it does, the timing of the scheme in relation to Coneygarth. These matters concern the widening of roads and reconfiguration of roundabouts, and are covered in the SOCG between XLB, HA and NY as Highway Authority for the LRN, which refers to planning conditions and s106 obligations (CD14.22).
- 7.4.4 Supporting material shows that the proposal could achieve a BREEAM 'very good' rating and that over the lifetime of the development it would achieve carbon savings of around 18%.. Sustainable drainage is proposed. (CD14.18 para5.21)

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7.5 Compliance with the Development Plan

- 7.5.1 The development is in broad compliance with the relevant policies in the LDF, this is confirmed in the HDC's report to Committee (19 August 2010) where if the Council were to determine the application they would have granted planning permission (CD7.24).
- 7.5.2 This greenfield application site lies outside the development limits of Leeming Bar, and policies DP9, CP4, CP1 and CP2 require to be satisfied (XLB5/2). Policy DP25 also deals with employment outside development

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- limits; it is a permissive policy encouraging employment opportunities subject to criteria.
- 7.5.3 Policy DP9 permits development in locations outside development limits only in "exceptional circumstances". In closing, MOT suggests that the test for exceptional circumstances is at least as stringent as 'very special circumstances' from green belt policy (MOT paras 26 & 152). MOT's planning witness does not express the matter in this way (MOT2/5 paras 2.22, 2.59, 7.4 and 7.11). This part of Yorkshire has two National Parks, two AONB's and a Green Belt around York. To suggest that a residual generic countryside policy should stand above them would invert the intended hierarchy of policy.
- 7.5.4 XLB's witness said that the use of the word 'exceptional' in this case refers to that which is "out of the ordinary". Indeed, the Oxford English Dictionary defines the adjective 'exceptional' as 'not typical'. The proposal would be just that; a use that lies outside the development limits of the settlement but that is justified due to a compelling need along with the other material considerations such as the absence of suitable sites within the development limits and employment generation.
- 7.5.5 A full reading of the Hambleton Inspector's report (CD9.7) combined with a proper understanding of the recent local plan process shows that it was axiomatic to the agreed approach to Service Area Provision that delivery would be via this Inquiry rather than the LDF process (XLB5/2 para 7.21). All the sites are subject to countryside designations and in Hambleton it was always intended that provision should be made as an 'exception' to DP9.
- 7.5.6 MOT had suggested that Leeming Bar did not need any further employment in referring to the Hambleton Economic Development Study (CD9.11). XLB's witness pointed out that the study was carried out in 2005 – employment creation in the current recession should be viewed more positively. The Council supports XLB's views in both the report to committee (CD7.24) and now in the SOCG (CD14.18 para 5.24). The issue of employment was also discussed at the Third Party Evening Session where potential job losses as well as gains were of clear concern. MOT's vague theme that somehow HDC gave undue weight to the employment issue is utterly out of touch with local feeling.
- 7.5.7 Policy DP25 deals with 'rural employment'; there is some conflict within the policy if the criteria were read as an inclusive list. In particular, it 'allows' conversion of rural buildings but also 'allows' development that was not capable of locating within a settlement. Clearly, some criteria are mutually exclusive and the policy has to be read in the specific context of its application, as XLB and HDC do.
- 7.5.8 Part (i) of the policy seeks to ensure that the proposal is small scale; whilst a truckstop may not appear to be a small scale development in itself, within the context of the site and the surroundings, such as the industrial estate, it would be an appropriate scale of development, and appropriate for this site in landscape terms.
- 7.5.9 Part (iii) of policy DP25 allows development where the specific proposal is not capable of location within a settlement with Development Limits by reason of the nature of the operation or the absence of suitable sites. The

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- first element of this sub-section is clearly met due to the nature of the proposal.
- 7.5.10 The second element is also met. Only four sites were considered to be available for the project: two were on land adjacent to the Scotch Corner Services; one on Catterick Central; and one on the adjacent Industrial Estate. However, site constraints and location made them unsuitable for the proposal. The Motel Leeming site was also considered by XLB, but it would be too far away from the A1 junction, not cost effective and no better than the current location. HDC had deterred XLB from considering the land on the Industrial Estate in Leeming Bar, allocated as an employment proposal on the Hambleton Proposals Map, because HDC wished to see it developed in the future for B1, B2 and B8 uses. Moreover, it was considered to be too small and there were two offers on the site for B1 and/or B8 uses.
- 7.5.11 Furthermore, in the SOCG, HDC confirms that "given the nature of the proposed development and local circumstances, it is agreed there are no suitable alternative sites within the settlement limits of Leeming Bar" (CD14.18 para5.15). LES is keen not to completely proscribe the possibility of a truckstop on the Motel Leeming site, but LES promotes an MSA not a truckstop at this Inquiry. There is no evidence that a truckstop would be viable or even feasible on that site. MOT suggests that no weight should attach to the SOCG because the co-author from HDC was not available for cross examination (MOT300 para26). The rules on SOCGs are clear. They are a useful time saving device for principal parties in an Inquiry. If a third party wishes to challenge their content they should produce evidence to support their claims.
- 7.5.12 No weight should be given to MOT's suggestion that the applicants must hunt for a MRA (MOT300 paras15&50). No MRA has been promoted by anyone on this stretch of road ever. There would have to be a realistic prospect that an MRA would come forward within a reasonable period of time for this to be given any weight.
- 7.5.13 Policy DP1 is concerned with protecting the amenity of local residents. In this respect, residents and the Parish Council have questioned the extent and type of lighting columns that are to be installed. The proposal would comply with the best practicable means to prevent or counteract the effects of artificial light on the surrounding area (XLB5/5 p120). In the context of the proposed landscape scheme it can be concluded that there would be no unacceptable impact on residential amenity as a result of light pollution. No technical evidence was submitted to challenge this conclusion. HDC is content to deal with the matter by condition (CD14.18 para5.27). The access junction has been designed to take account of residents' comments about the potential effect of lorry lights. Dimmed headlights light the road some 60m ahead; they are aimed downwards and are designed to reduce glare to oncoming drivers. There would be no material effect on residential amenities from lorry headlights (XLB5/5 p127).
- 7.5.14 Assertions were made regarding the potential noise impact of the proposals. Noise from the truckstop traffic would be within WHO guidelines on community noise and the overall noise impact would be slight (XLB5/5/9). Again, there was no technical evidence submitted to the inquiry to the contrary. HDC agrees that the proposal should not have a significant impact

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- on the residential amenity of the closest residential properties (CD14.18 para5.26).
- 7.5.15 The principal sources of potential landscape impact would be from the proposed buildings together and vehicle movements to, from and within the site. A relatively small part of the local landscape would be affected due to the screening effects of topography and existing vegetation which would be augmented by a new landscape scheme. Upon maturity of the landscape scheme (at about 12 years) the effects on road users and on pedestrians using local public footpaths would be 'minor – moderate'. Only two dwellings would be affected as intervening vegetation would screen the rest. In both cases the magnitude of change is assessed to be medium since the change would only affect part of their overall/extensive view giving an overall level of impact of 'moderate'. Likewise, the impact on local landscape character would be 'minor – moderate' due to its relative complexity and hence low sensitivity to change (XLB3/2 s6).
- 7.5.16 There is no attempt to offset impacts by the benefits that would arise to residents near the existing Londonderry site as a result of relocation. The s106 obligation commits to removing some of the paraphernalia associated with the truckstop use although the site would remain in commercial use with potential for expansion (XLB206). Despite this it is difficult to conceive of a situation where there would not be a substantial reduction in HGV traffic to the existing premises. More residents are affected by the current site than would be by the new one and such beneficial effects should be given weight in any overall planning judgement.
- 7.5.17 MOT's landscape witness acknowledged that XLB's revised scheme (XLB3/5) did address some of her concerns and that these revisions would have a bearing upon her impact assessments (MOT4/4 App9, MOT300 para148). Her initial summary of assessments shows more convergence than divergence with XLB (MOT4/4 App9 table E1). The findings of substantial/moderate impacts from close quarters (ie E1 the view from Low Street north of Leeming Bar and E2 from Back Lane north of Leeming Bar) were predicated on the original landscape scheme. MOT's witness acknowledged that the extra width of landscaping to the north would help address these concerns.
- 7.5.18 The main remaining difference relates to the weight attached to the more distant views (for example from Ham Hill Lane). XLB says that these views were only obtained at about 2-3 kilometres away from the site and the impacts are negligible. In any case, MOT's witness characterises the landscape impacts of most of these 'changes' as negligible/insignificant in the longer term (MOT4/4 App9 p9).
- 7.5.19 MOT's witness was critical of XLB's indication that the proposed landscaping scheme would provide effective screening in 12 years; in cross examination she suggested some 30 to 40 years. However, as she herself pointed out, there is ample evidence of woodland blocks thriving in the locality; indeed, they form part of the landscape character of the area (CD9.5 type 5b). She proffered no evidence of local difficulties demonstrating restrictions on tree growth or the failure of local landscaping schemes. In the absence of such, XLB's more conventional view of growth rates should be upheld.
- 7.5.20 Core Strategy Policy CP16 deals with the preservation and enhancement of natural and man made assets. It seeks to protect agricultural land and the
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reasoned justification for this policy states that BMV agricultural land should be protected (CD9.1 para4.4.2). XLB's agricultural report states, "none of the land is of a quality which would be regarded as significant in terms of national land use policy, being largely associated with previous disturbance by mineral working" (XLB5/3/6 para6.01). It concludes that the site (which is an old quarry) comprises grade 5 agricultural land. The land is also difficult to farm and its loss would not impact negatively on agricultural operations. The agricultural report does not rely on the temporary storage of materials on part of the site to support its conclusions. MOT300 para105(a) on restoration is misplaced in this context.

- 7.5.21 Policy DP6 relates to Utilities and Infrastructure. The application was supported by a Flood Risk Assessment (CD7.13), Geo- Environmental Appraisal (CD7.11), Ground Condition Assessment (CD7.12) and Sustainable Drainage Systems report (CD7.14). The development site is Flood Zone 1 with a low probability of flooding and the development can be classed as appropriate under PPS25. The susceptibility to groundwater flooding is classed as negligible. The drainage system would employ Sustainable Drainage Systems (CD7.13 paras7.2&9.1, CD7.14, DOC10). After its holding objection, EA now indicates that it has no objection to the application subject to the imposition of appropriate planning conditions (CD14.18 para5.31). The EA says that "whilst further detail may be necessary at the Environmental Permit stage, the information provides us with reasonable certainty that the proposed discharges can be dealt with under the pollution control framework" (DOC8 para7.4). HDC considered these conditions to be acceptable. Whilst concerns were heard from Third Parties about the impact the proposal may have on the drainage system, no technical evidence has been submitted to undermine XLB's position.
- 7.5.22 Policy DP29 relates to archaeology. The application was supported by a desk top Archaeological Assessment that concludes that the proposed development would have no impact upon any 'designated' sites (CD7.9). Matters arising in connection with archaeology and heritage can be addressed by the imposition of appropriate conditions.
- 7.5.23 A statement regarding compliance with the RSS in relation to the legal challenge of Cala Homes was submitted by XLB, and this was not challenged through the Inquiry (XLB 5/6). It is therefore concluded that the proposed development is compliant with the relevant RSS policies.
- 7.5.24 Overall, a grant of planning permission would constitute a determination in accordance with the development plan compliant with section 38(6) of the 2004 Act. Even ignoring the language of policy DP9 regarding 'exceptional circumstances' and starting consideration of the matter as contrary to that policy still results in a positive outcome for the application. This is because the 'other material considerations' would be the same broad range of issues as inform the 'exception' in DP9.

7.6 Consistency with advice in PPG13 and DfT Circular 01/2008

- 7.6.1 The TA submitted with the application detailed compliance with the main objectives set out in PPG13 and these were not challenged during the inquiry (CD17.6). The sustainability of the site is evidenced in the Supplementary TAA where it is apparent that the site is accessible by means other than the private car (CD7.29A section2). The overwhelming majority of users of the facility would already be on the network and the convenience

of the location speaks for itself. For staff, the site is well located and for many walking and cycling will be a practical option with good public transport also available. It was noted that a new version of PPG13 was published during the inquiry but this has had no material effect on the proposal which continues to comply with the guidance.

7.7 DfT Circular 01/2008

- 7.7.1 HA and NY have both stated that the application should be determined under the DfT Circular 02/2007 (CD1.15). This sets out the HA's role in the determination of planning applications: in this case, the HA recommends that planning permission should be granted subject to conditions (CD14.22 and HA300 footnote 37 para40(ii)). The decision to determine the application under 02/2007 was due to the fact that the applicant does not intend to seek to sign the facility from the motorway.
- 7.7.2 C01/08 is concerned principally with facilities that are signed from the motorway. Indeed, C01/08 says that the circular "*applies in respect of all signed road facilities on the SRN ...*"; as signing is not applied for, C01/08 should not apply to Coneygarth (CD1.14 para3). This restricts the application of its terms to this scheme. Nonetheless, it is important to consider the advice to the extent that the proposal can meet the needs of road users and therefore the extent to which the scheme may serve its objective and aims. XLB does not seek signing from the A1(M) mainly because of the expense, and that this type of facility does not require signing. For example, XLB's Carlisle facility is one of the busiest in the country and is not signed from the M6. Typically, the HGV industry plans its journeys and gives drivers guides to show where truckstops are: this enforces the point on the difference in nature and type between truckstops and MSAs. MOT's observation that XLB were the only party at the Inquiry to have a copy of the HA Guide to Truckstops does not reflect on the merits of the case (MOT300 paras59&96). In fact there were only 2 such operators at the Inquiry (one being MOT itself) and both have facilities in the Guide.
- 7.7.3 C01/08 paraA4.1.1 states that "specialist HGV facilities (generally known as truckstops) can receive signing more akin to standard MSA signing"; there is no imperative (XLB1/2 para4.7), and none of the other parties suggested that the Circular requires all truckstops to be signed. MOT's highways witness did not attempt to suggest that XLB's current and future customers would not be meeting their genuine safety related needs at the proposed facility. The provisions at Coneygarth would comply with the features and levels of provision required by appendix 1 of the 22 June 2011 Minister's Statement (DOC13, DOC13.6).

7.8 The need for a truckstop

- 7.8.1 XLB's case rests firmly upon the acute and chronic need for a modern truckstop along the section of the A1 that is being upgraded to motorway standard. C01/08 sets out specific spacing requirements to meet the general driver's need to stop and take a break. However, there is no prescribed spacing policy in C01/08 relating to truckstops. The only possible relevant spacing requirement is for there to be a 12 mile gap between 'facilities' (CD14 para56). This only relates to signed facilities; even then it does not relate to the distance between one MSA and a truckstop (XLB1/2 para4.12).

- 7.8.2 Draft replacement policy for C01/08 suggests the prospect of a 12 miles minimum spacing policy that would embrace truckstops (CD1.23 para133). There is a 12 mile gap between Coneygarth and Barton Park but about 10 miles between Coneygarth and the proposed MSAs at Baldersby junction. Draft replacement policy can only be given very limited weight where an existing policy covers the same topic. However, to avoid the slight chance of a potential conflict, XLB offers a s106 undertaking to avoid signing for five years from the date permission is granted (XLB205). The 5 years relates to the time for implementation of any permission that might be granted at Baldersby predicated on the assumption that all the decisions in this case would be issued on the same day. JT's planning witness agreed with this 'offer' and also states that he does not see why an MSA and a truckstop cannot be granted planning permission on this stretch of the A1 (JT7/7).

7.9 The need for a truckstop at this location and the proximity of other facilities

- 7.9.1 The specific need for a truckstop has been evidenced (XLB1/2, XLB4/1). Despite the fact that it would not be a signed facility, evidence has been presented in respect of the C01/08 para58 points. There is a specific need to improve safety on this section of the A1 with some 11% of the 643 recorded accidents between 2004 and 2008 being sleep related crashes. The nature of the traffic on this section of the A1 leads to a genuine safety related need for truckstop provision. There is a high proportion of HGVs (some 28% against a national average of 10%) and the vast majority of HGV traffic is long distance (XLB1/2 para5.52). Coneygarth, although unsigned, would assist in meeting this need on the A1.
- 7.9.2 The upgrading of the A1 means that some of the facilities currently operating on the A1 would be closed or bypassed, making them inconvenient to the truck driver, whose choice of facilities would diminish. Access to the current truckstop at Londonderry will become less convenient (XLB102A). No other truckstops provide the same type of offer as Londonderry between the M62 and Washington Services (near Newcastle) or Carlisle (A66) save for Barton Park.
- 7.9.3 Barton Park was itself permitted following an appeal in 1997 largely based on the Inspector's finding "that there is a high level of need for HGV accommodation" (MOT2/3 App10 para1.29). XLB believes that the site has continued to trade successfully as a truckstop but, as with Londonderry, has not benefited from investment because of the uncertainty of the full extent of the A1 upgrade (MOT300 para100(b)).
- 7.9.4 Barton Park is the northern fixed point for the MSA spacing issues. Despite this MOT produced a document for the purposes of the Inquiry showing an upgraded truckstop at Barton Park (MOT2/3 App14). MOT's planning witness acknowledged that this vision could not be implemented alongside MOT's plans for the 'Great Northern MSA' (MOT2/3 App6). Ultimately, this was MOT's attempt to have their cake and eat it by suggesting that they could have a policy compliant MSA co-located at two sites being Barton Park and Scotch Corner. This stance was maintained in closing (MOT300 para100(b)). Such a proposal would clearly not meet the terms of C01/08 and HA's position on co-signing is now clear. The exemplar of co-signing at Lymm was based on exceptional circumstances where there were problems

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- of existing queuing on the mainline motorway carriageway (MOT113). Such a situation would not exist on what is a brand new motorway link.
- 7.9.5 It must be assumed that Barton Park is upgraded to the Great Northern MSA (MOT2/3 App6). MOT's planning witness accepted that for Barton to be the northern fixed point it would have to be likely to be delivered within a reasonable period of time (planning permission was actually granted 14 years ago in February 1997 and has never met any other need). Whilst this would include HGV spaces for 90 vehicles including 20 which would benefit from secure parking, this would not increase the number of spaces available to HGV's from that at present. Notably, even MOT did not suggest that the Great Northern MSA would have a particular focus on truck drivers. It was not suggested that it would be branded as anything other than a normal MSA (like Wetherby) as opposed to a MOT trucker facility or as a bespoke branded truckstop (like Lymm). The claim that the upgraded Barton scheme would meet "exactly the same needs" is not based upon the evidence (MOT300 para61). On this basis the pure truckstop offer at Barton Park would actually be lost. If Londonderry were to close due to lack of trade then there would be no choice for the HGV driver.
- 7.9.6 Central to XLB's case is that the value driven, bespoke offer provided by a pure truckstop is different in nature from the HGV offer at normal MSAs. XLB provides a comparative analysis of relevant HGV truckstops and MSA specialist provisions for lorry drivers. It examines 56 elements under the headings Operational Provision, Fuel Service Provision, Forecourt Services, HGV Driver Welfare and Parking Provision. Apart from a few minor alterations the table was not materially challenged and clearly demonstrates the important distinctions to be drawn between a pure truckstop and an MSA facility (XLB1/3 AppA).
- 7.9.7 This difference in 'type' of provision is reflected in national policy. C01/08 itself disaggregates pure truckstops from MSAs and its policy advice on each differs quite markedly for good reasons. The Strategy for Lorry Parking Provision in England (CD1.25) is still in development but it was agreed at the Inquiry that the national objective is to seek an increase in the provision of truckstops (XLB1/2 paras 5.8-14). Indeed, MOT reflects these fundamental differences by way of its branding and marketing. Barton Park and Lymm are operated as pure truckstops without any Moto branding and MOT operates half a dozen other sites where 'Moto trucker' branding is offered where there is greater provision for HGV drivers. These distinctions are also reflected in the customer surveys (XLB1/3 AppB). 79% of Londonderry customers do not use MSAs.
- 7.9.8 The Government's principal explicit objective is to encourage greater choice in the provision of service facilities for all road users (C01/08 para7). The reasoning is safety related but that is not the direct objective. MOT's planning witness confirmed the importance of the Government's aim to provide value for money as expressed in para7. What is critical for truckstops is not merely the list of facilities on offer but the price at which they are offered. XLB was not challenged in confirming that client direct bunkering provided a discount on diesel prices of 4p-5p per litre from the market norm. Likewise, the general value for money approach in providing all services at truckstops including food and secure overnight car parking is important. Comparison is made between the current offer of £6 at Londonderry for overnight parking and the proposed offer of £9 at
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- Coneygarth, and the £16 charge made at Wetherby MSA. Coneygarth would provide an important spur to all operators in providing value for money.
- 7.9.9 Pure truckstops are less economically viable than MSAs in competing for sites: MSAs can offer much greater site value to landowners which perhaps explains why there have been so many multiple MSA inquiries over the years whilst there are (virtually) no appeals as a result of competition for truckstops. XLB is able to put forward its proposal because it is largely transferring an existing business; with the benefit of an option to acquire land at less than standard industrial land prices. XLB would be able to build out the truckstop to a high quality but without the expensive finishes and paraphernalia normally associated with an MSA. All of which would result in very good value for money in line with both the aim and the objective of C01/08 para7.
- 7.9.10 The most compelling expression of a solid evidential platform can be found at the existing unsigned truckstop at Carlisle, which the Inspector has visited on an unaccompanied inspection. A visit to MOT's truckstop at Lymm would do likewise.
- 7.9.11 MOT tried to dismiss the differences in nature and type between MSAs and truckstops, selectively disaggregating the elements to facilitate inappropriate comparison. Ignoring the 'value' point (and XLB1/3 AppA), MOT suggested that the only difference between the proposed truckstop and what is offered at Wetherby is "the overnight parking element and the contract bunkering" – and wrongly sought to suggest that contract bunkering was not a matter of relevance to policy but was simply a matter of commercial convenience. But MOT's planning witness did acknowledge that secure overnight parking "was a big part of policy", and that existing facilities do not offer the same level of security as those proposed. MOT was also surprisingly dismissive of the need to relocate inappropriate overnight parking in lay-bys.
- 7.9.12 XLB's survey showed considerable overnight parking in lay-bys (some 55 vehicles) but MOT's planning witness was unwilling to accept a 'demand' from such source despite the fact that the permission for Barton Park was itself largely justified on this basis (XLB102A). Despite MOT's qualifications annexed, the agreed note provides a reasonable basis upon which to conclude that there is a strong case for replacement provision: Barton currently has 90 HGV spaces, as would the MSA (with no planning permission for more), and Wetherby has 82 (XLB102A, MOT2.6 pps10-14). There is a difference between the capacity of existing facilities and lay-bys and the demand for their use. However, XLB simply takes a common sense approach in joining these two concepts together based on the assessment of the evidence. XLB102A para2 refers to facilities lost (or made inconvenient) by the A1 upgrade. Any provision based on these assessments would be merely to replace facilities and would do nothing to increase choice as required by the Government's central objective in C01/08 para7.
- 7.9.13 MOT's witness accepted that four elements can be associated with 'choice' in this context in respect of facilities: frequency, type, range of offer including quality and value for money, and scale. MOT's answer to any future provision was simply to implement the MSA at Barton Park and to expand the facility at Wetherby. Whilst this would undoubtedly increase the scale of

those facilities it would do nothing to address the other issues of frequency, type or range of offer.

- 7.9.14 XLB does not object to any of the MSA proposals before the Inquiry and considers that the proposals would complement, rather than compete with, any new MSA provision. XLB gives 7 examples where truckstops and MSAs trade successfully in a complementary manner (XLB1/3 AppC).
- 7.9.15 Between 190 and 255 HGV spaces would be a reasonable requirement to replace spaces which would be lost (made inconvenient or transferred), providing a reasonable basis for the lorry parking element of an MSA proposal in addition to Coneygarth (XLB102A). Those figures include spaces at Londonderry, where XLB offer a s106 undertaking to cease the truckstop use if Coneygarth receives planning permission (XLB206). Parking in lay-bys is a problem nation-wide; NY itself has a programme to construct earth mounds to prevent HGVs parking in lay-bys. This further reduces the choices available to HGV drivers to take a break. Even if MOT's narrower interpretation for 'replacement' spaces was taken and all were located at an MSA in preference to a truckstop, it would not negate XLB's case.
- 7.9.16 Put simply, the re-location and upgrading of XLB's existing facility would provide greater choice particularly in 'type' and 'range of offer' including quality and value for money consistent with the primary objective of policy. Without a grant of planning permission there is a real prospect that there would be no broadly comparable facilities (ie a pure truckstop) on the A1(M)/ A66 between the M62 in the south and Newcastle and Carlisle in the north (over 100 miles on each route). These routes are important in terms of volume and type of traffic (XLB1/2 para6.9 table6.1). There is a high volume of long distance HGV traffic which have genuine safety related needs. The strategic importance is confirmed by HA (HA300 paras5&34(iv)). Even MOT puts its case differently in respect of this application compared to the MSAs (MOT300 paras97&98). This constitutes a compelling need in the context of national policy.

7.10 The transport impact of the development on the motorway – including safety considerations

- 7.10.1 The original Transport Assessment submitted with the application was accepted by HDC and in the Committee Report, the comments from NY sets out a number of questions that had not been dealt with in the original TA. Subsequently, XLB sought to deal with these requests in a Transport Assessment Addendum (TAA). Further clarification has been provided in the Supplementary TAA and accompanying Technical Notes.
- 7.10.2 The highways issues have been complicated by the fact that HDC is promoting BALB which currently does not have planning permission (MOT300 para198 suggesting it does, is wrong) and does not have programme entry for funding. Furthermore, traffic from the Motel Leeming proposal would use the same junction onto the A1 and as such its potential was factored into the calculations. HA and NY agree that, in each scenario, the proposed development would not prejudice either the delivery of BALB or Motel Leeming MSA from coming forward (CD14.22, HA300 para42, NY300 para31). Different scenarios of the potential future developments have been catered for and dealt with through a s106 agreement (XLB204).

- 7.10.3 If permission is not granted and the Londonderry site continues to service HGVs, drivers would use 12.5 miles of local access road from the A1(M) (see HA plans at CD11.9 IN-01). Little distance would be saved by the relocation to Coneygarth, as was identified by local residents. However, the use of the local access road, with roundabouts to negotiate and the reduced maximum speed of 45 mph means that some 4-5 minutes would be added to journey time without Coneygarth. This may appear small, but in a business that is tightly controlled and runs at maximum efficiency, such a delay has cost implications. Coupled with this is the perception that the Londonderry truckstop would be inconvenient to the driver and he/ she may not use it to stop and take a break, thereby effectively restricting the choice of facilities on this section of the A1(M). XLB estimates that some 40-60% of current business would be lost due to this perception of inconvenience. That would be insufficient to make the business viable if the site had to be rebuilt. That point was not challenged.
- 7.10.4 Whilst provision for abnormal loads is a requirement for MSAs, there is no specific requirement to provide access for abnormal loads at truckstops (CD14.22 para4.2.3). In essence, MOT's criticisms about the ability of abnormal roads to enter the site are simply a reflection of the fact that the HA's upgrade scheme does suffer from some limitations in this respect at the new Leeming Junction. None of the limitations are imposed by XLB's proposals.

7.11 Details of the arrangement of facilities at the truckstop, its extent and the motorway boundary

- 7.11.1 The proposed design is predicated on the 50 years of experience that the Exelby family have of operating truckstops across the country. Fuel bunkering makes up 95% of their daily business.
- 7.11.2 The specific arrangement of the layout of the truckstop reflects the way in which the HGV driver uses the facility for maximum efficiency. Drivers like to fill up with fuel first so that they can then park, have a wash and then eat; so the refuelling facilities are located at the entrance. The site also offers two-sided refuelling which saves a considerable amount of time for the driver and also means that the driver does not have to manoeuvre in and out of the refuelling lane. XLB presents a table that shows the differences between its facilities and those of the other proposals, including those at Wetherby Services and Barton Park. (XLB1/3 AppA).

7.12 Conclusion

- 7.12.1 The significant benefits arising from the proposals overall would outweigh the dis-benefits of developing a greenfield site outside the defined development limits of Leeming Bar. Furthermore, there is no obviously better site than the application site. The proposed development meets the primary objective of Government policy to provide choice to the road user and the aim of securing value for money. In this case, the upgrade of the A1 to motorway standard will lead to the closure of existing facilities and thereby reduce choice. None of the other proposals accommodates this type of facility. The full support of HDC and the significant public support expressed at the Third Party Evening Session, go further to suggest that the application should be granted permission. It would be consistent with the Localism Agenda.

Ministerial Statements

- 7.12.2 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12).
- 7.12.3 The proposed relocation would benefit the wider economy by providing modern and up-to-date truckstop facilities serving the haulage industry and long distance drivers as well as the local economy in a location where the A1(M) upgrade is bypassing facilities or causing them to close. It would retain 18 jobs and create 13 additional opportunities, and support local businesses. The proposed investment of around £5m would provide an important contribution to local economic growth; supporting economic recovery as envisaged in the Minister's Statement (DOC12.6).
- 7.12.4 Overall, there is a compelling case to facilitate the relocation and upgrading of this long established business. The need and economic cases are sound and clear cut. The site is excellent and is highly convenient for the user and staff. It can be visually contained in an existing urban fringe location but nonetheless has surprisingly few residential receptors nearby. The site is Grade 5 agricultural land (XLB3/2 para5.4.2). It has low ecological value and the proposed planting within the perimeter is likely to enhance the level of biodiversity and range of habitats (XLB3/2 para4.2.7). The proposal is compliant with policy and faces no other material harms; and there would be amenity benefits as a result of the closure of the Londonderry truckstop (DOC12.6).
- 7.12.5 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement does not alter conclusions in XLB's evidence demonstrating the acceptability of the proposals in planning terms, but XLB welcomes the Minister's identification of strong support from the haulage industry (DOC13.6).

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8. The Case for Harrogate Borough Council (HBC)

8.1 The Development Plan

- 8.1.1 The key development plan policy is Local Plan Policy T7, which deals specifically with the provision of MSAs in the District. Neither the RSS nor the Core Strategy DPD contains a policy dealing specifically with MSA provision. Like the Local Plan, both contain policies dealing with matters relevant to the determination of the current appeals. The reinstatement of the RSS will not introduce any significant new issues or policy considerations to those that are already covered in HBC's evidence (HBC1/4).

Policy T7 of the Local Plan

- 8.1.2 The first part of policy T7 prohibits the construction of more than one MSA in Harrogate District. There is already one MSA in Harrogate District, at Wetherby Services which opened in 2008. It follows that each of the three proposals in Harrogate District would be contrary to the development plan.
- 8.1.3 The planning witnesses of HIA and JT conceded that their schemes would be contrary to the development plan. REL's planning witness maintained that his scheme would not conflict with the development plan because, he said, when applying Policy T7 we should pretend that Wetherby Services does not exist. This view is nonsensical and can be ignored. He did accept that if, contrary to his case, T7 considered the world as it actually exists, his scheme would also be contrary to the first part of Policy T7.
- 8.1.4 It follows that the starting point is that, applying s.38(6) of the 2004 Act, each of the Harrogate Schemes must be refused unless material planning considerations indicate otherwise.
- 8.1.5 Policy T7 should be given substantial weight, as part of the adopted Local Plan that was expressly saved by the Secretary of State (HBC106). Although the promoters of the schemes argue otherwise, the subsequent publication of C01/08 (CD1.14) cannot sensibly be taken as affecting the weight to be given to Policy T7.
- 8.1.6 HIA's witness argued that the Secretary of State's decision to save Policy T7 was nothing more than a "rubber-stamping exercise". No evidence was produced to support this assertion. In fact the evidence demonstrates that the Secretary of State gave careful consideration to the question of which policies should be saved (e.g. HBC106 shows that account was taken of third party representations when policies GB7 and H4 were not saved). Had HIA thought that it would be inappropriate to save Policy T7 then no doubt they would have made representations to the Secretary of State.
- 8.1.7 Next, HIA along with JT (JT7/2 paras 7.13-15) sought to argue that T7 was somehow undermined by the publication of C01/08. But as HIA's planning witness conceded, the only aspect of C01/08 that could have any bearing on the weight to be given to T7 is the 2 mile reduction in the spacing policy. But as REL's witness rightly agreed, the change is marginal and could not properly be said to alter the weight to be attached to T7. Even HIA's witness conceded that the introduction of C01/08 was "not a significant factor" in his argument as to the weight to be given to T7.
- 8.1.8 Finally, JT's planning witness sought to argue that when HBC prepared Policy T7 it assessed the need for further MSA provision using Leeming Bar

as the northern fixed point. That is wrong as a matter of fact. In preparing the Local Plan, HBC assessed the need for further MSA provision using Barton as the northern fixed point. This is confirmed in 1998IR (CD12.3 para14.7). It follows that there is nothing in any of the promoters' arguments that the substantial weight to be attached to policy T7 should be reduced.

- 8.1.9 The criteria in the second part of policy T7 were drafted with the aim of delivering the optimal site for the single MSA allowed by the first paragraph of T7, but it is agreed by all parties that the T7 criteria provide a suitable matrix for assessing the schemes under consideration at this inquiry. It is now also common ground that each of the schemes conflicts with a number of those criteria

Other relevant policies:

- 8.1.10 The other main development plan policies are Local Plan policies C2 and HD20, and Core Strategy policies SG3, SG4 and EQ2. In addition, the *Harrogate District Landscape Character Assessment* (HDLCA) was formally adopted as Supplementary Planning Guidance (SPG) by HBC in February 2004 (CD8.3). It was adopted following detailed assessment work and extensive stakeholder consultation (HBC1/2p58 s5.4) and as such it must attract substantial weight. All three sites in the district fall within Area 81: Dishforth and Surrounding Farmland (CD8.4).
- 8.1.11 HIA sought to argue that the HDLCA "adopts a perverse and illogical attitude" to the protection of the District's Landscape character (HIA2/2 para3.18). However, HIA raised no criticism whatsoever of the document during the consultation stage, despite having every opportunity to do so. In any event HIA's witness was unable to substantiate his allegation and HIA did not cross examine any witness on the matter.
- 8.1.12 The HDLCA makes plain that the proposed MSA at Kirby Hill (and indeed the two Baldersby sites) would be entirely inappropriate in landscape terms. There is no basis on which it could possibly be concluded that the HDLCA attracts anything other than substantial weight.
- 8.1.13 Realising that their scheme conflicts with the clear guidance set out in the HDLCA (for which see below) HIA sought refuge with the LCA's predecessor, the 1993 Woolerton Truscott Report (CD9.5). But the problem with that is that the Woolerton Truscott Report no longer carries any weight at all, having been expressly replaced by the HDLCA (CD8.3 p4 last para), which makes plain that the Council will use the HDLCA (the SPG) to implement Policy C2 of the Local Plan. The Core Strategy also makes plain the role of the HDLCA, the supporting text to Policy EQ2 confirming that: *The recognised importance of the landscape character of the District justifies its general protection. The Council uses the [HDLCA] for development control purposes and will continue to use this assessment to ensure the continued protection and enhancement of the District's landscape character* (HBC1/2 p54).

Conclusions on live policy issues

- 8.1.14 There is a considerable degree of common ground between the parties as to the appropriate policy context. In conclusion on the issues that remain live between the parties as to the proper application of policy:

- Each of the Harrogate schemes would conflict with Policy T7 of the Local Plan (only REL says otherwise);
- T7 is the key development plan policy and attracts substantial weight;
- The HDLCA was adopted as SPG in 2004 following extensive public consultation and therefore carried substantial weight. It is directly relevant to the assessment of the appeal schemes against Policy C2 of the Local Plan; and
- The Woolerton Truscott report carries no weight at all in the determination of these appeals.

8.1.15 Having established the correct policy framework for the assessment of the appeals, it is necessary to deal with each scheme in turn.

Kirby Hill

- 8.1.16 **Reasons for refusal** (HBC1/2 pp13-15). Reasons 4 – 6 have been overcome during the course of the Inquiry. Reasons 4 and 5 (highways and sustainability) are dealt with by NY. It is now agreed that reason 6 (drainage) can be overcome by the imposition of a condition (CD14.19), although, as set out below, there remains an issue as to whether HIA's proposals for on-site sewage treatment is acceptable. HBC's position is that it is not.
- 8.1.17 **Reasons for refusal 1 – 3.** It is common ground that the Kirby Hill proposals would conflict with the development plan, as to grant permission for the proposals would be to allow more than one MSA in Harrogate District, in contravention of the provisions of Policy T7.
- 8.1.18 With regard to the criteria set out in Policy T7, HIA's planning witness came to the Inquiry with the contention that "the Appellant's scheme complies with all the criteria of the policy" (HIA1/2 para7.22). Given the concessions made by the HIA team at the Inquiry, he now accepts that his assessment is untenable.
- 8.1.19 Before turning to the harm that the HIA scheme would cause to the character and appearance of the surrounding landscape, it is worth setting the scheme in context: In essence, the built development now proposed is the same as was considered and rejected following the 2002/03 Inquiry. The landscaping is also essentially identical, except for the much larger mound that is now proposed along the eastern side of the southbound site. It is therefore highly relevant to note the conclusions reached last time around:
- The built development and the surrounding landscaping would "considerably harm the character of the landscape in this area" (CD12.1 para10.6.43);
 - The bund would "cross the natural contours of the land in a most unnatural fashion" and would "clearly be out of character in the landscape" (CD12.1 para10.6.45); and
 - The proposals would "have a significantly detrimental effect on both the character and the visual appearance of the surrounding landscape" (CD12.1 para10.6.103 & CD12.2 para99).

- 8.1.20 With regard to the bund, the details of the 2002/03 scheme can be seen on HBC 102. The Inspector recorded that the bund as then proposed "would be approximately 180m long with a maximum height of about 8m".
- 8.1.21 In an attempt to overcome the previous Inspector's concerns as to the impact of the bund, HIA revisited its design (CD3.27 App13 fig2.6). For reasons that remain unexplained the new bund has been more than doubled in length to some 450m and increased in height. The inner faces are now very much steeper than previously, as is much of the outer face. HIA plead that the south-eastern face is not as steep as it previously was. That is true, but given the magnitude of the other changes it is of little significance. HBC concludes that the new bund has a far worse impact than the 2002/03 bund.
- 8.1.22 HIA's landscape witness accepted that his photomontage does not represent what a person would actually see, it being about 6 No. 50mm photographs stitched together (HIA2/3 App2 fig17). HBC105 shows the height of the bund as it would appear to the naked eye. HIA's drawing 1500-SK-05 gives an idea of the enormity of the mound in section, but is also not representative of the mound as shown on HIA's illustrative masterplan CD3.29 fig2.6, the inner slopes having been redesigned.
- 8.1.23 In terms of the surrounding area, the Kirby Hill proposal would cause a medium degree of change as a result of the new and discordant uses and features within the open expansive landscape, where the site and surroundings are of medium to high sensitivity of change. There would be moderate adverse effects on the character of the local landscape. The landscape and visual effects of the proposal would be experienced in the first three to five years of the proposal, but would gradually decline in significance over time. They would never disappear completely and there would be long term residual harm to the local landscape character (HBC2/2 s5)).
- 8.1.24 HIA's landscape witness failed properly to understand the character of both the site itself and the surrounding landscape. He argued that the site "sits ... in a shallow bowl" (HIA3.5 para9.65). This is wrong as a matter of fact (CD12.1 para10.6.42). Next he argued that the "large scale nature of the landscape means that new development can be absorbed without being highly intrusive" (HIA2/2 p8 para4). Again, that is wrong, perhaps most obviously demonstrated by his conclusion that the MSA would be unacceptable without a 450m bund up to 9m in height along its eastern edge. The right conclusion here is that advocated by HBC's witness that the local landscape character is large scale and open, with expansive views, and that it is sensitive to any further large scale development.
- 8.1.25 In this regard it is important to note what the HDLCA says. With regard to the sensitivity of the area it could not be clearer: "Large-scale industrial development has impacted upon the character of this open area which is sensitive to large scale development"; and that "Large-scale development cannot be easily accommodated without further detriment to landscape character" (CD8.4).
- 8.1.26 It is also relevant to note the conclusions on this issue in 2004IR, rejecting in unambiguous terms HIA's contentions: " ... *I do not consider that the openness and large scale of the landscape would materially mitigate the landscape effects of the proposed development. Indeed, the appellants put*

forward both a substantial earth mound ... and substantial areas of off-site woodland planting as their mitigation" (CD12.1 para10.6.42).

- 8.1.27 Further, it is of course instructive that HIA sought to hide from the clear assessment of the HDLCA (the SPG): "Linear planting along the A1(M) and at its junctions does not sit well within this open landscape" ... "Avoid highlighting the A1(M) and A168 corridors. Linear planting along them does not respect the landscape pattern"; "New development must take account of openness and views and should not impact upon these valued characteristics. Extensive large scale tree planting, required to screen any new development, would be inappropriate to the area's characteristics and impact upon views"; "Large-scale development cannot be easily accommodated here without further detriment to landscape character"; "Development requiring large blocks of woodland screening should be discouraged here"; and "Resist new large-scale industrial development in this area unless associated with similar existing development".
- 8.1.28 There can be no doubt that an MSA at Kirby Hill would cause considerable harm to the landscape of the area, and that this harm would not be mitigated to any material degree by the openness and large scale of the landscape. It follows that the proposals would be directly contrary to Policy T7(f), which calls for developments to safeguard existing landscape character, as well as policies C2 and HD20 of the Local Plan and policies SG3 and SG4 of the Core Strategy. It is noteworthy that over the course of the inquiry the HIA case had moved from its opening position of compliance with T7(f) to acceptance that the scheme would not comply with this requirement.
- 8.1.29 In addition to the considerable harm to the character and appearance of the area, an MSA at Kirby Hill would also encroach very significantly into the countryside and cause the unnecessary loss of a significant amount of important agricultural land, contrary to PPS7 and Policy T7(d).
- 8.1.30 The scheme would also have a detrimental impact on the setting of All Saints' Church, Kirby Hill (Grade I) and Skelton Windmill (grade II). Whilst HBC's assessment is that the impact is not such as to warrant a reason for refusal in its own right (bearing in mind the 2004IR conclusions (CD12.1 paras 10.6.56-60)), this is plainly an important factor both in terms of the assessment of the scheme on its own merits but also in terms of any comparison that is made between the competing proposals.
- 8.1.31 HIA's scheme is essentially the same as was roundly rejected following the 2002/03 Inquiry, other than the bund, which is now much more harmful in landscape and visual impact terms. Nothing material has changed since then, and there is no basis for the grant of permission for the HIA scheme.

Baldersby Gate

- 8.1.32 **Reasons for Refusal.** Dealing first with HBC's reasons for refusal (HBC1/2 pp28-29), reasons 4-6 (highways and sustainability) are dealt with by NYCC. Reason 7 (drainage) has been overcome during the course of the inquiry. REL had originally proposed to deal with foul drainage off-site but now propose to deal with it on-site, that course of action having been signed off by the EA (CD14.9.1).
- 8.1.33 **Reasons for Refusal 1 – 3.** There remains a dispute between HBC and REL as to whether the Baldersby Gate scheme would conflict with policy T7's

clear prohibition on further MSA provision in Harrogate District. The only rational answer to this issue is that it would.

- 8.1.34 In terms of the surrounding area, the Baldersby Gate proposal would cause a medium degree of change as a result of the new and discordant uses and features within the open expansive landscape, where the site and surroundings are of medium to high sensitivity of change. There would be moderate adverse effects on the character of the local landscape. There would be long term residual harm to the local landscape character. The harm would be less than at Kirby Hill because the harm of that scheme would be experienced over a wider area on both sides of the motorway (HBC2/2 s12). The scheme would be in direct conflict with T7(f), C2 and HD20 of the Local Plan and policies SG3 and SG4 of the Core Strategy.
- 8.1.35 As with Kirby Hill, the scheme would conflict with the clear approach set out in the HDLCA. The developer of the site has been caught in a cleft stick, in that this would be a large scale development which would normally require a high degree of screening. However, the HDLCA advises against the use of planting to screen new development in this character area, where the planting itself would be out of character. To a degree the other developers have the same predicament. REL's landscape witness said that the HDLCA had 'placed people in a difficult situation' in that respect. In fact, the HDLCA has done nothing of the kind: the 'difficulty' arises not from the HDLCA, but from the promoters of the three competing sites ignoring what it says.
- 8.1.36 Whilst there was some common ground between HBC and REL, it is worth recalling REL's landscape witness's assertion that an MSA at Baldersby Gate would be beneficial in landscape terms (REL3/2 para6.26) and that (for example) the notable views across the site to the western hills would be improved with an MSA in the foreground (REL3/2 para6.46).
- 8.1.37 In addition, the Baldersby Gate scheme would fail to minimise the loss of BMV agricultural land, contrary to T7(d) and would cause significant encroachment into the countryside. With regard to this last point, the site protrudes into the open countryside and has very little natural containment or definition, a factor which contributes to its openness and its contribution to the long range views across the site.

Ripon Services

- 8.1.38 **Reasons for Refusal.** Dealing with the Council's reasons for refusal, reasons 4 – 7 have been overcome during the course of the inquiry. Reason 4 (drainage) has been overcome by JT's submission of further information to the EA (HBC3/4). Reasons 5-7 inclusive are dealt with by NYCC.
- 8.1.39 **Reasons for Refusal 1 -3.** As set out, it is now common ground that the proposed MSA would fail to comply with policy T7 of the Local Plan.
- 8.1.40 In terms of the surrounding area, the Ripon Services proposal would cause a medium degree of change as a result of the new and discordant uses and features within the open expansive landscape, where the site and surroundings are of medium sensitivity to change. This would result in slight to moderate adverse effects on the landscape character, which would diminish but would still result in long term residual harm (HBC2/2 s16). The harm would be slightly less than at Kirby Hill and Baldersby Gate services, but the reason for refusal would nevertheless still be wholly justified (CD2/2 para18.6.6). The scheme would fail to protect the character of the local

landscape, contrary to Local Plan Policies T7(f), C2 and HD20 and policies SG3 and SG4 of the Core Strategy. (HBC2/2 s16). Once again, the scheme runs directly counter to the HDLCA.

- 8.1.41 JT's landscape witness stressed the containment of the site by the surrounding 'highway infrastructure'. That containment is more apparent on plan - in reality there are views from and also across the A61 and the A1, and while the junction to the north does provide some containment it also provides a grandstand view of the entire site (HBC2/3 photos 48-52).
- 8.1.42 Again, although there is some common ground between JT and HBC as to the likely landscape impact, there are some fundamental differences of opinion. Importantly, JT's landscape witness' assessment was made on the assumption that there was a need for an MSA on the site (JT3/2 para8.2.8). He also claimed that the long views westwards across the JT site would be improved with an MSA in the foreground. That is plainly an untenable opinion.
- 8.1.43 In addition, the JT scheme would cause significant encroachment into the countryside and fail to minimise the loss of BMV agricultural land, contrary to T7(d). In JT's case, this failure to comply with policy is made all the more stark by its own admission that the JT is profligate in its use of land for landscaping. JT sought to argue that the land used for landscaping would not be irreversibly lost to agriculture. Whilst as a matter of fact it might be possible to put this land back into agriculture, that could never happen whilst the MSA remains in situ, so the whole site must be taken as being irreversibly lost to agriculture.

Overall conclusions on compliance with the development plan

- 8.1.44 Each of the Harrogate schemes would be contrary to the development plan. Permission must therefore be refused unless other material planning considerations indicate otherwise.

Claimed material planning considerations

- 8.1.45 The only material planning consideration that was put forward to outweigh the breach of the development plan was the purported need for a further MSA on this stretch of the SRN. Each of the planning witnesses confirmed that if there was not a clear need for a further MSA then their respective schemes must be refused. But even if there were a clear and compelling need for further roadside facilities along this stretch of the SRN, it would be essential to weigh that need against the harm that the respective schemes would cause to see whether the need would outweigh the harm that would be caused should any of the schemes be built.

8.2 Need

- 8.2.1 The issue here is whether there is a need for the further provision of roadside facilities along the A1(M) between Wetherby Services and Barton Park. The previously proposed upgrade from Leeming to Barton is not now going ahead. It follows that the baseline for the assessment of need in this case is that the A1 should be taken to be motorway along its length, except between Leeming and Barton, where it will remain all-purpose Trunk Road.
- 8.2.2 The first point to consider here is whether the MSAs before this Inquiry are required to complete the core network of MSAs or whether the primary network has already been completed with the result that the appeal

schemes should be assessed as infill schemes. It is plain the core network has already been completed.

8.2.3 The correct position is as follows:

- The DfT would like there to be a network of MSAs to serve the country's motorways;
- These should be "considered on the basis of a 28 mile (45 km) distance, or 30 minutes' travelling time, from the previous core MSA, whichever is the lesser" (CD1.14 para55).
- Infill MSAs can only be considered where there is a clear and compelling need and safety case can be demonstrated (CD1.14 para58).
- Where the spacing between existing core sites is less than 40 miles, any infill site that may be permitted may take the form of a motorway rest area (MRA) (CD1.14 para60).

8.2.4 Turning to the facts of this case, the gap between Wetherby and Barton is a little under 40 miles (CD14.11). HA's first witness confirmed that each of the MSA proposals under consideration at this Inquiry is properly taken to be an infill site for the purposes of C01/08. This is consistent with the view of the Inspector and the FSoS following the 2002/03 Inquiry. The sites before the Inquiry were considered on the basis that they were primary sites (CD12.1 para10.1.41 & CD12.2 para17).

8.2.5 Importantly, in assessing whether permission should be granted for Wetherby, the Inspector considered whether, if it was, it would leave a unmet need for an infill MSA to the north: "If however, as expected, Leeming Bar is bypassed, the northern gap of 41 miles to Barton ... or 29 miles to Scotch Corner ... might provide the opportunity for an additional MSA, and therefore raise the prospect of a cumulative impact. It would however have to be justified on the basis of an infill site ..." (CD12.1 para10.4.105).

8.2.6 The Inspector reiterated the point when comparing Kirk Deighton against Flaxby: "Given the 38 or 39 mile gaps accepted elsewhere as part of a 30-mile network ... it seems unlikely that there would be very much justification, on spacing alone, for infill MSAs if Flaxby were chosen ..." (CD12.1 para10.1.41); he also concluded that permission for Kirk Deighton: "would satisfy the need for MSA facilities reasonably well on a one-site basis ... which would avoid the need for another site".

8.2.7 In other words, all the arguments that two sites were needed were rejected. The FSoS accepted the Inspector's conclusions in this regard: e.g. "The Secretary of State concludes that there is insufficient site specific need to justify an infill MSA at Kirby Hill" (CD12.2 para42-43).

8.2.8 All of the MSAs now proposed are to the north of Wetherby, i.e. on the stretch of road in respect of which it was concluded that any further MSAs would have to be justified as infill sites. It was considered that the grant of permission for Wetherby would not leave any significant unmet need for a further MSA to the north. Both the Inspector and FSoS dealt with the long term situation, i.e. following the upgrade of the A1(M) from Wetherby to Barton:

“... work is planned to start on the ... Dishforth to Leeming and Leeming to Barton sections in 2007/8. Accordingly, the whole of the relevant length of highway should be to motorway standard before the MSAs’ design year of 2020 ... and I will consider it as such” (CD12.1 para10.1.11); and

“There may be a period of some years before the highway system under consideration is all up to motorway standard. But, it seems to me, that MSA provision should be based on the expected long-term situation, whilst also acknowledging the short-term presence of Leeming Services” (CD12.1 para10.1.27).

- 8.2.9 None of the present promoters sought to argue that it was wrong to reach the conclusion that the grant of permission for Wetherby would not leave a significant need for further roadside services between Wetherby and Barton. And yet all argue that there is now a clear need for another MSA along this stretch of the SRN. That is a remarkable turn of events, given that Wetherby only opened in 2008 and, as set out below, there has been no material change in circumstances. The Government’s spacing policy with regard to the primary (i.e. core) MSA network has been changed – but only very slightly – with the publication of C01/08. It cannot sensibly be said that this marginal change undermines that conclusion.
- 8.2.10 Previously, the gap between Wetherby and Barton was thought to be 41 miles. It is in fact 39.6 miles. Given the clear conclusion that there would be no compelling need for an MSA in a 41 mile gap when assessed against a 30 mile spacing objective, there is no basis to reach a different conclusion in respect of a gap of less than 40 miles assessed against a 28 mile spacing objective. It follows that there is no proper basis on which to conclude that there is any need for a Core MSA to the north of Wetherby.
- 8.2.11 Given the above, surprisingly some parties sought to argue that the primary MSA network has yet to be completed and that, as a result, there is a clear and compelling need for further MSA provision in order to complete that network.
- 8.2.12 For example, REL argued that there is a clear need for another MSA along this stretch of the SRN because the gap from Wetherby to Barton is more than 28 miles. That is simply a mis-reading of policy. As set out above, C01/08 does not say that a clear and compelling need for an MSA will arise if the gap to the next MSA is more than 28 miles.
- 8.2.13 The flaw in REL’s argument can also be demonstrated another way. REL’s planning witness agreed that C01/08 para56 excludes the development of a new MSA within 12 miles of an existing MSA. It follows, he agreed, that there can be no possible para58 justification for a site within a gap of less than 24 miles, as any MSA within that gap would offend the minimum spacing criterion. So, on his analysis, para58 could only ever apply if the gap was between 24 miles (the minimum allowed by C01/08) and 28 miles (the claimed maximum). That is plainly an untenable interpretation of the Circular. The poverty of that position is also demonstrated by the fact that para58 lists “the distance to adjoining roadside facilities” as one of the factors that could demonstrate a clear and compelling need. That entirely undermines the contention that there is a clear and compelling need whenever the distance to the next MSA is more than 28 miles.

Requirement to show clear and compelling need

- 8.2.14 It follows from the above, for their schemes even to merit consideration, the promoters of schemes must show that there is a clear and compelling need for further MSA provision between Wetherby and Barton, as per C01/08 para58.
- 8.2.15 In particular, para58 states that applications for infill MSAs to be considered a clear and compelling need and safety case must be demonstrated. It also says that such applications must be treated on their merits: in this case, no-one sought to rely on any factors beyond those listed in para58.
- 8.2.16 At the previous Inquiry neither the Inspector nor the FSoS thought there would be *any* significant need, let alone a compelling need, for a further MSA between Wetherby and Barton. Without some fundamental changes in respect of the factors listed in para58, it would be surprising if a different conclusion was reached now.
- 8.2.17 It is necessary to deal with the HA's arguments as to the proper application of C01/08. In particular, and despite its acceptance that each of the MSA proposals would be an infill site, and despite the clear terms of para58, the HA said that if the gap between MSAs is 40 miles or more then there is no need to show a clear and compelling need and safety case. However, HA's first witness was unable to identify anything in the circular to support his interpretation of C01/08.
- 8.2.18 He reads para59 as meaning that there is no requirement to show any actual need for a new MSA proposed within a gap of 40 miles or more. But para59 does not say that, it deals with what will happen when an infill MSA is permitted in such a gap – i.e. it will be designated as a core site. It says nothing about what a promoter must show in order to secure permission. That is dealt with in para58: i.e. a clear and compelling need and safety case must be shown. HA's interpretation in closing is flawed as there is no attempt to explain what "designated" means in this context (HA300 para24). But in any event, the relevant gap in this case is less than 40 miles, so para59 has no bearing.
- 8.2.19 HA's first witness said that in fact C01/08 should actually be read as saying that wherever the gap between existing MSAs is 39.5 miles or more then there is no requirement for the applicant to demonstrate a need. The Policy simply does not say this. He argued that the actual distance should be rounded up because of HA's policy not to sign MSAs in anything other than full miles. There are two problems with this: First, HA does not in fact have such a policy (the witness was unable to provide the Inquiry with anything to support his assertion and the evidence actually shows signage in half miles (CD1.14 section A)); and second, even if the HA did have such a policy, that would not change the on the ground measurement with which the C01/08 is concerned.
- 8.2.20 Finally, even if his reading of para59 was somehow right, and if the gap should be treated as being 40 miles, para58 would be excluded only by the smallest possible margin, it would be manifestly unreasonable not to assess whether there actually is a need for the scheme.
- 8.2.21 After all, HA has confirmed on several occasions that gaps of up to 40 miles between services are acceptable. The HA's up to date policy (January 2010) is that: "Distances less than 40 miles ... are deemed to be acceptable

separations for MSAs" (CD11.3 para4.4); and "In order to identify priority locations a distance of 40 miles or greater has been defined to represent a gap between MSAs at which the HA would consider informing a local authority of the potential need for a new MSA to be included in the Local Development Framework ..." (CD11.2 para2.5).

- 8.2.22 Applying HA's policy to the facts of this case: the distance from Wetherby to Barton is deemed to be acceptable because it is less than 40 miles. But even if the distance is to be taken as 40 miles, HA does not consider that this would automatically mean that there is a need for a further MSA (HA puts it that there would potentially be a need). In other words, in order to understand whether there is actually a need for a further MSA, the factors listed in para58 must to be analysed.

No genuine safety related need for the proposed facilities

- 8.2.23 The promoters rely on accident data that pre-date the opening of Wetherby services in 2008, the opening of the Wetherby bypass and the A1(M) upgrade between Dishforth and Leeming. No up to date accident data has been produced. There is no basis on which it could lawfully be concluded that there is now any significant safety problem on this stretch of the SRN. No-one was able to justify reliance on out of date accident data.
- 8.2.24 It is no doubt for these reasons that HA states that it does not consider the accident data to support the provision of a further MSA. HA's second witness confirmed "There is no safety case for an MSA at Kirby Hill" – a conclusion that must hold good for Baldersby Gate and Ripon Services. This was confirmed in closing submissions (HA300 para34(iii)). Thus there is no safety case for any of the MSAs proposed before the Inquiry. The grant of permission for any of the schemes would therefore be contrary to C01/08, which requires both a need case and a safety case to be demonstrated.

Evidence that Wetherby and Barton are unable to cope

- 8.2.25 Demonstrably, Wetherby MSA is currently operating well within capacity (JT2/2 para3.24). Further, it can be expanded should the need for further capacity ever arise (MOT2/3 App3 drg BO9014.W404 showing potential future parking with planning permission). There is no evidence that the consented MSA at Barton would not be able to cope. It is highly relevant that HA has confirmed that "between them the Barton Park and Wetherby MSAs will provide capacity way beyond anticipated demand" and that "if traffic growth should exceed expectations, there would be ample room for expansion of the Barton Park facility" (MOT113).
- 8.2.26 It is also highly relevant that JT's highway witness' assessment of Wetherby MSA's ability to cope with current demand was undertaken without Barton: that is with a 60 mile gap to the north to Durham MSA. In addition, Wetherby MSA was permitted on the assumption that all the existing services between Wetherby and Scotch Corner would be bypassed. In conclusion on this matter, there is no proper basis on which it could be concluded that Wetherby is unable to cope with demand, or that Barton would be unable to cope with demand.

Distance to adjoining MSAs

- 8.2.27 This matter adds nothing to the spacing criteria already considered, particularly as the HA has confirmed that distances of up to 40 miles

between MSAs are acceptable. The previous Inspector and FSoS both concluded that if permission was granted for Wetherby MSA there would be no significant need for further MSA provision between Wetherby and Barton. The distance between Wetherby and Barton is in fact slightly less than they appreciated. There could be no proper basis on which to reach a different view now.

The type and nature of the traffic

- 8.2.28 There is nothing out of the ordinary about the type and nature of the traffic that uses the SRN between Wetherby and Barton. Nor has it changed significantly since the previous Inquiry, when it was concluded that there was nothing to justify a further MSA north of Wetherby.

Conclusions on need

- 8.2.29 There is no basis on which it can properly be concluded that there is now any significant need, let alone a clear and compelling need, for a further MSA between Wetherby and Barton. Wetherby opened in 2008 and there has been no material change in circumstances since then.
- 8.2.30 HBC's support for HDC's proposal to allocate Motel Leeming as an MSA does not mean that HBC concluded at that time that there was a need for such a facility. HBC did not make any such assessment at that time, leaving HDC to undertake that work (it appears that no such assessment was made). HBC's support was made on the basis that *if* there was any need, Motel Leeming could be expanded to meet it (HBC1/3 App15). Despite the Hambleton LDF Inspector's one-sentence assertion that there would be a need for another MSA (CD9.7), it is clear that she undertook no assessment to support that conclusion.

Motorway Rest Area (MRA)

- 8.2.31 In this case, any need that is found to exist could be met by the provision of an MRA: "Where the spacing between existing Core sites is less than 40 miles, any infill site that might be permitted may take the form of a rest area" (CD1.14 para60). Here, it is common ground that Wetherby and Barton are both Core Sites and that the distance between them is less than 40 miles; and HA accepts that each of the Harrogate schemes are infill sites.
- 8.2.32 It follows that if there is any need for further roadside facilities between Wetherby and Barton, that provision may take the form of an MRA. It cannot sensibly be disputed that an MRA would be likely to require less land, and have less impact than an MSA. The promoters argue that the fact that an MRA might have less of an impact than an MSA is not relevant to the determination of the schemes before this Inquiry, as no one is promoting an MRA. That misses the point. There is a policy requirement that the schemes *minimise* their impact: see e.g. Policy T7 of the Local Plan. Given that any identified need here can be met by an MRA, there can be no possible justification for an MSA.

Overall assessment: s.38(6) of the 2004 Act.

- 8.2.33 Apart from REL, it is now common ground that each of the Harrogate schemes fails to comply with the Development Plan. The only factor put forward by the promoters to justify the grant of permission contrary to the development plan is the claimed need for another MSA along this stretch of the SRN. However, the promoters have failed to demonstrate that there is

any significant need for another MSA, let alone the clear and compelling need and safety case required by C01/08 para58. Given that there are therefore no material planning considerations to indicate that the appeals should be determined other than in accordance with the development plan, s.38(6) of the 2004 Act requires the appeals to be dismissed and planning permission refused.

8.3 Other matters

- 8.3.1 It would be unlawful to accept HIA's interpretation of C01/08 para97. HIA argues that the presumption in favour of on-line sites contained within para97 means that any harm that a twin-sided MSA would cause by reason of it being twin-sided should not be weighed in the balance against it. In other words, some of the harm caused by any twin-sided MSA proposal has already been taken into account in the policy. This is entirely misconceived. The most obvious problem is that there is no evidence to support the assertion. Then there are the practical difficulties of applying such a policy: there is no evidence of how much harm a "normal" twin-sided MSA would cause for any comparison to take place as to the effect of the Kirby Hill proposal.
- 8.3.2 HIA's planning witness went further and argued that unless the Kirby Hill scheme was considered unacceptable, there would be no reason even to consider the merits of Leeming Bar, Baldersby Gate or Ripon Services, as these are all off-line sites. Again, it would be unlawful to adopt such an approach. Even if there were a clear and compelling need for another MSA, the sites must all be assessed to find the site that strikes the best balance between best meeting the need and causing least harm.
- 8.3.3 Next, HIA suggests that its scheme would result in less vehicle miles being travelled when compared to the two Baldersby schemes. But HIA presents no evidence as to what this reduced mileage would actually mean in terms of carbon reduction. Equally, HIA produces no evidence as to what impact their scheme would have overall (in terms of energy consumption) either in comparison to the other sites or compared to the "no-permission" scenario. No weight can be given to this claimed benefit of the scheme.
- 8.3.4 Finally, it is necessary to deal with HIA's continued pursuit of planning permission for on-site drainage works. The EA has agreed that the site can be adequately drained to the Boroughbridge WWTW, and HIA has confirmed its willingness to cover all reasonable costs (HBC3/8 para3.1). Whilst HIA has belatedly done some work as to the possibility of on-site treatment of foul water (CD3.26, HIA118), these are not acceptable to the EA, which says that it simply would not issue the required Environmental Permit for an on-site solution (HBC3/8 para3.3 &3.5). The EA's response to HIA's December 2010 Regulation 19 information is set out in document HBC 3/8 dated 27 January 2011. HBC offered to call its witness to give evidence on the issue, but HIA declined the invitation. HIA produce no witness on the issue.
- 8.3.5 The latest information from HIA does not address the EA's concerns (HIA118). It was agreed at the inquiry that in order to save time the EA would not submit a further proof responding to HA118, and that the matter would be dealt with in closings. In short, the EA's position is that:

- HIA has still not provided any quantitative assessment of the impact of the infiltration of treated sewage effluent on the underlying Sherwood Sandstone aquifer (HBC3/8 para3.4);
- The EA remains concerned that HIA's preliminary assessment of the impact of treated effluent on groundwater levels below the site is inadequate, being based on one large infiltration basin receiving the total volume of treated effluent. This is not representative of what is proposed, i.e. to drain treated effluent to ground via two infiltration basins, one either side of the motorway (HBC3/8). Some attempt has been made in HIA118 to reassess this issue, the approach is still unclear in terms of reduced ground levels, the varying thickness of the unsaturated zone under the site and the associated depth of the fuel storage tanks/below ground sewage treatment structures;
- HIA has still not provided any information to quantify the effluent arising from the operation of the MSA. Section 3.2 of HIA's Preliminary Groundwater Risk Assessment refers to an estimated daily flow of effluent from the development of 467m³ but no information is presented on how this figure is calculated. HIA118 makes no attempt to address this point despite EA's criticism of it; and
- HIA has still not provided any assessment of the factors set out in DETR Circular 03/99 Annex A para6 (CD1.51 Ann.A para6). (HBC3/8 para3.4)

8.3.6 In conclusion, permission should not be granted for on-site sewage treatment. It has not been demonstrated that this is likely to be acceptable, and the permission would run counter to Circular 03/99, it having been agreed that a connection to Boroughbridge WWTW is likely to be practicable.

Ministerial Statements

- 8.3.7 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12).
- 8.3.8 The Statement makes clear that while decision makers are expected to take a positive approach to development and growth, this should not be at the expense of key sustainable principles set out in national policy. The Statement makes no change to the fundamental approach that applications should be determined in accordance with the development plan unless material considerations indicate otherwise (DOC12.7).
- 8.3.9 The Statement has no significant implications for HBC's case made at the Inquiry, which is that each of the Harrogate proposals fails to comply with the development plan, particularly in relation to policies seeking to protect the countryside and landscape character, both of which are key national sustainable development principles (DOC12.7).
- 8.3.10 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement has no implications on HBC's case (DOC13.7).

Overall Conclusion

- 8.3.11 In conclusion, each of the three MSAs proposed in Harrogate District would be contrary to the development plan. There are no material planning considerations that would indicate that the schemes should be determined

other than in accordance with the development plan and they should therefore be refused

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9. The Case for the Highways Agency (HA)

9.1 Introduction

- 9.1.1 In its position as the body responsible for the safe and efficient operation of the SRN, the HA has a clear interest in all five proposals before the Inquiry. Specifically, amongst the issues identified by the SSCLG as those on which he wants to be informed, the HA is concerned with the following;

the extent to which the proposed developments are consistent with the advice in Planning Policy Guidance Note 13: Transport, and Department for Transport Circular 01/2008 on Motorway Services Areas (MSAs), in particular:

- i. the need;*
- ii. the need for an MSA at the particular location and the proximity of other facilities;*
- iii. the transport impact of the development on the motorway including safety considerations;*
- iv. engineering design of the access to the motorway;*
- v. the facilities that are to be provided; and*
- vi. details of the site layout, its internal arrangements, its extent and the relationship with the motorway boundary.*

- 9.1.2 The HA has commented on the contents of the proposed conditions and planning obligations where they are relevant to its areas of interest. The HA has not addressed the environmental implications of the proposals, nor has it addressed the impact of any of the schemes on the local highway network, for which NY as the local highway authority is responsible.

- 9.1.3 The forecast base traffic flows north of Dishforth were established using HA's A1D2B traffic model and NY's BALB model. Flows south of Dishforth were calculated from automatic counter data. These data were provided to the parties who used them to derive trip generation for traffic impact purposes (CD14.5.1, CD14.5.3). As there is no definitive guidance on turn-in rates (and hence trip generation) for MSAs and there is a broad range of observed turn-in rates at existing MSAs, agreement between all parties on a common approach was not possible. Each developer was required to provide to HA and NY an evidenced rationale behind the individual turn-in rates they proposed for their respective sites (CD14.3 paras1-2).

- 9.1.4 The traffic flows south of Dishforth junction would be some 76,000 vpd AADT in 2012, and 90,000 in 2022, north of Dishforth junction they would be about 70,000 in 2012 and 81,000 in 2022. The growth rates applied to the north and south of Dishforth differ; those applied to the D2B model north of Dishforth being lower than the national rate applied to the south.

9.2 Need

Upgrade of the A1 and Available Services

- 9.2.1 The A1 is an important part of the SRN. It carries significant volumes of traffic of which a high proportion are HGVs. For example, traffic count data for 2007 shows an average daily two-way flow of over 72,000 vpd between

Boroughbridge and Dishforth. About 23% of those vehicles were HGVs. The 2007 data for the A1 north of Dishforth shows an average daily two-way flow of around 50,000 (CD11.7). The level of HGV traffic (24.2% northbound and 31.2% southbound between Dishforth and Barton) bears out the strategic significance (i.e. for long-distance trips) of the route (HA1/1 p35).

- 9.2.2 To the south of the stretch of road covered by the A1D2B scheme, the A1 continues as three-lane motorway as far as Darrington, south of Ferrybridge.
- 9.2.3 One of the consequences of the motorway upgrade between Dishforth and Leeming has been the loss of access to local services. Seven local services have been bypassed or lost in the construction of Phase 1 of the A1D2B (HA1/1 para5.152, CD11.9 Note 04). For the northbound motorist who has passed the MSA at Wetherby, the next signed services are High Brough Moor Petrol Services, Skeeby Little Chef and Travelodge, and the Scotch Corner Hotel and Scotch Corner Services (MOT2/3 App7). None offers the level of provision which an MSA provides.
- 9.2.4 Although the proposed MSA at Barton Lorry Park is not built out, given the implemented consent, the HA has approached the assessment of need on the basis of a gap between MSAs from Barton to Wetherby. The last Inquiry into MSA provision within the wider area, recorded the distance between Barton and Wetherby (Kirk Deighton in 2004IR) as 41 miles (see e.g. CD12.1 para10.1.37).
- 9.2.5 Following representations from MOT, the highways authorities (NYCC and HA) undertook a measurement exercise, and the results are agreed and recorded in a SOCG (CD14.11). The distance was measured, at points on the A1 mainline beneath the overbridges at the junctions at those 2 locations, at just over 39.6 miles.

DfT Circular 01/2008

- 9.2.6 C01/08 (CD1.14) was published on 2 April 2008. Its policy advice is central to the determination of need for additional MSA provision in this Inquiry. Any suggestion that its weight should be discounted because it is published by the DfT, not the DCLG, is without merit. Specific advice on the provision of MSAs within "planning guidance" is scant; there is only a paragraph in Annex E of PPG2 (1995), which, in turn, comprises a paragraph from an Annex to a now cancelled version of PPG13.
- 9.2.7 C01/08 replaced former policy advice in Roads Circular 01/94 and a Ministerial Policy Statement of 1998, commonly referred to as HA269 or the Lord Whitty Statement. The Government's objective behind the policy is unequivocal: *"...to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue-related accidents"*. (CD1.14 para7). In meeting that objective, the Government recognises that: *"MSAs and other roadside facilities 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"*. (CD1.14 para6)
- 9.2.8 The Circular confirms the central role of the HA in the determination of both need for additional facilities and the impact of proposals on the SRN (CD1.14 paras28-31). The policy in C01/08 recognises that there is a

-
- balance to be struck between giving drivers the opportunity to stop and rest and the impact of new services (whether in terms of safety of access, the free flow of traffic, or environmental concerns) (CD1.14 para52).
- 9.2.9 Against that background, and having recognised those potentially competing interests, the policy advice sets out a spacing criterion (CD1.14 para55). That spacing criterion is founded on a travel time of 30 minutes. This policy recognises that HGVs (and in congested conditions, other vehicles) are constrained in the distance that may be covered in half an hour. Speed limiters on HGVs restrict maximum speeds to 56 mph, and accordingly, set at 28 miles the maximum distance that may be covered in 30 minutes.
- 9.2.10 Para55 of C01/08 concludes: "Any new application for a core MSA should therefore be considered on the basis of a 28 mile (45km) distance, or 30 minutes' travelling time, from the previous core MSA, whichever is the lesser". In short, and bearing in mind the competing interests recognised by the policy, the Government's objective is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. In other words, C01/08 para55 confirms the need for any MSA proposal that completes the core network of facilities.
- 9.2.11 It is obviously unlikely that the site proposed for an MSA would neatly bisect a 56 mile gap in the existing core network of MSAs. The HA considers an 'infill' site to be one between two existing or designated MSAs on the same route or routes. In asking whether or not any MSA proposal comprises a scheme for a *core* MSA, the guidance confirms that where the gap to be filled is 40 miles or greater, the proposal will be designated a core site (i.e. one that is part of the required core network) (CD1.14 para59).
- 9.2.12 If what is proposed would not be part of the core network of MSAs, the policy in C01/08 does not assume need. In those circumstances, a developer must demonstrate a clear and compelling need and safety case in accordance with C01/08 para58 (CD1.14 para58).
- 9.2.13 In summary, and notwithstanding that it is accepted that there is some confusion in the Circular, and the section on spacing of roadside facilities on motorways between paragraphs 52 and 61 is not well worded:
- (i) having acknowledged competing interests, Central Government's policy recognises a need for the completion of a core network of MSAs based on a spacing criterion of 28 miles;
 - (ii) in other words, the need for MSAs that complete the core network is established by the policy;
 - (iii) a proposal that completes the core network (i.e. one that will be designated a core MSA) is one that fills a gap of 40 miles or more between existing MSAs;
 - (iv) in shorter gaps, developers must demonstrate a clear and compelling need and safety case in accordance with paragraph 58 of the Circular.
- 9.2.14 The intention of C01/08 was to relieve developers of the burden of having to demonstrate a need for an MSA if the gap between two existing MSAs was 40 miles or more. Although not required in the HA's view, confirmation that its approach to the Circular is correct may be found in the draft of a revised circular published for public consultation in 2010 (CD1.23).

- 9.2.15 Paragraph 1 of the consultation document confirms that the revised draft proposals are mainly related to truckstops accessed from the motorway, the availability of alternative fuels, and signing, but that the opportunity has been taken to “re-package” the existing Circular in order to make it more user-friendly (CD1.23 para38). As a consequence, when it comes to the spacing of facilities on motorways, the aim of the draft circular is to clarify and enhance existing guidance; it also, as HA’s first witness indicated, has a new concept on ‘infill’ sites. The HA does not suggest that the terms of the draft Circular applies to any of the proposals before this Inquiry (CD1.23 para43). However, if there is doubt surrounding the construction of the existing Circular (and the HA says there is none), it is legitimate to have regard to a draft document which confirms that it is intended only to clarify existing policy on the spacing of facilities, and not to revise it.
- 9.2.16 The draft is clear. At its paragraph 134 it is confirmed that in gaps of less than 40 miles a detailed demonstration of need will be required for proposed service areas. For gaps of 40 miles or greater a detailed demonstration of need would not be required. That represents no revision to existing policy advice in C01/08; it merely confirms the correct approach.

Application of the policy

- 9.2.17 The existing MSA at Wetherby and the consented MSA at Barton are part of the core network of MSAs.
- 9.2.18 The gap between those facilities, expressed in whole figures, is 40 miles. The exercise of rounding up is sensible. First, the Circular itself approaches distances on the basis of whole figures (e.g. in para55, 28 miles converts to 45km). That accords with HA’s approach to signing the distance between facilities on the motorway network. Secondly, and more significantly, in meeting a need to stop and rest, that the gap is a few hundred metres below a precise threshold of 40 miles would be imperceptible to a driver; 39.6 miles would not be materially different from 40 miles. At 70 mph a vehicle covers 0.4 of a mile in 21 seconds; at 56 mph in 26 seconds.
- 9.2.19 That being so, it is right to approach the gap in the present case as one of 40 miles, and any proposed MSA within that gap as part of the core network of MSAs. In those circumstances, the need for such a facility (i.e. a core MSA) is recognised by C01/08. Reference to the HA’s Spatial Planning Framework Review of Strategic Road Network Service Areas (CDs 11.2-11.4) does not diminish that of need. The national report (CD11.2) says although the distances between Wetherby and Durham and Wetherby and the terminus of the A66(M) “...are greater than the threshold of 40 miles, much of the A1 separating them is not designated as Motorway and therefore lies outside the scope of this study”. In short, this stretch of the SRN was outside of the scope of the study (a point borne out by the absence of any reference to the consented MSA proposal at Barton in the distance matrix at Table 4.1 (p11) of CD11.2)
- 9.2.20 If that view is not accepted, then the proponents of a new MSA within the Barton/Wetherby gap must demonstrate a clear and compelling need and safety case in accordance with C01/08 para58.
- 9.2.21 If such a need and safety case must be demonstrated (which the HA does not accept) the HA’s position in respect of the four factors listed in that paragraph is as follows:

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- (i) even if the figure of 39.6 miles is not rounded up, the gap between Wetherby and Barton MSAs is considerable. It falls extremely close to the threshold of 40 miles at which any proposed facility would form part of the core network for which there is a recognised need;
 - (ii) the HA has no data of its own about how well-used the existing facilities are;
 - (iii) the available accident information for the A1 between Wetherby and Barton (CD11.9 Note 03) covers a period before a significant part of the route was upgraded to motorway and, in consequence, the HA places no significant reliance on that information; and
 - (iv) the A1 carries significant volumes of traffic, of which a sizeable proportion is HGVs. Whatever growth factors are applied to the A1 (to the north and south of Dishforth), those significant volumes of traffic are set to grow. By 2022, the AADT two-way flow north of Dishforth will be in the order of 80,000 vehicles, and to the south of Dishforth 90,000 although there is some disagreement about the actual levels forecast¹ (CD14.5.3, REL2/7 para9.24, JT2/6 para9.11, HA105). As is borne out by the proportion of HGVs, that traffic includes thousands of vehicles per week of through traffic travelling on the SRN.

9.2.22 If a clear and compelling need and safety case must be demonstrated, then the HA is satisfied that demonstration has been achieved by reference to two factors (amongst the four mentioned in C01/08 para58), namely the distance between facilities and the type and nature of the traffic on the A1 between Wetherby and Barton.

Need at the Locations of the Proposals

- 9.2.23 All four MSA proposals fall within the 40 mile gap. None falls within 12 miles of the existing MSA at Wetherby or the consented MSA at Barton. As a consequence, each, if allowed, would properly constitute a core MSA, forming part of the core network of MSAs for which there is a recognised need within C01/08.
- 9.2.24 Thereafter, whilst the HA has recognised the relative proximity to the mid-point in the gap of the two schemes at Baldersby junction (HA1/1 para5.168), it expresses a preference in terms only of the policy advice in C01/08 as follows:
- (i) the policy contains a presumption in favour of on-line sites as opposed to junction sites by reference to three factors, namely: that it is more likely that junction sites would be used by local traffic; that drivers may be discouraged from using junction sites; and that junction sites require more turning manoeuvres and therefore pose more risk of accidents (CD1/14 para97);

¹ These figures appear in CD14.5.3 and are the result of applying the A1D2B model's growth factor for the stretch of road north of Dishforth, and a growth rate derived from national statistics for the stretch of road south of Dishforth. Mr Webb (for REL) applies the nationally derived growth factor to both stretches and comes up with forecast flows for 2022 of approximately 90,000 (south of Dishforth) and 84,000 (north of Dishforth), see REL2/7 at paragraph 2.4. Mr Wilkins (for Jaytee) applies the A1D2B model's growth rate to both stretches and comes up with forecast flows for 2022 of approximately 87,000 (south of Dishforth) and 80,000 (north of Dishforth), see JT2/6 at paragraph 9.11 subject to Mr Wilkins' correction recorded in HA105.

- (ii) the ability to service the “design load” for abnormal loads as referred to in the policy (CD1/14 para87); and
- (iii) the levels of forecast traffic flows.

9.2.25 By reference to those factors, the HA’s order of preference for the MSA proposals remains: first Kirby Hill: second either of the Baldersby Gate schemes (these being off-line junction sites that share a common boundary with the motorway junction): and third, Motel Leeming. In reaching that view, by far the most significant of the three factors is that Kirby Hill is on-line.

The Proposed Exelby Truckstop

9.2.26 XLB’s position is clear. It does not intend its proposed truckstop to be signed from the A1. Neither the main body of C01/08 (at para136), nor its Annex (at paras A4.1.1 and 4.1.2) obliges a truckstop operator to enter into a signs agreement with the HA, and thus benefit from signing from the motorway. Whilst a truckstop (that meets the C01/08 para136 criteria) may be signed from the motorway, before those signs may be erected, a traffic signs agreement must be executed (C01/08 paraA4.1.2). Unless the operator is willing to engage in (and finance) that process, then there will be no signing from the SRN.

9.2.27 Two consequences flow from the fact that Coneygarth would not be signed from the A1. First, C01/08 is of limited relevance in the determination of XLB’s planning application. DfT C02/07 (CD1.15) is the appropriate tool by which to judge acceptability from the perspective of the SRN. Secondly, it cannot be contended that the truckstop, if allowed, would contribute significantly to meeting the need for a core MSA identified by reference to the Circular. The HA has no objection to the co-existence of the proposed truckstop and any of the MSAs.

9.3 The Safety and Design of Access

9.3.1 The HA has conducted a thorough review of the technical acceptability of the access arrangements of each of the proposals insofar as they affect the SRN. Where necessary, the HA and the scheme promoters have continued discussions during the course of this Inquiry. In some instances, revisions to access designs have been made in light of those discussions.

9.3.2 However, the HA has now reached a position in respect of all five proposals whereby it is satisfied with the technical acceptability (in terms of the safe and efficient operation of the SRN) of each of them. That position is recorded within the following SOCGs: Kirby Hill (CD14.12); Baldersby Gate (CD6.35); Ripon Services (CD14.20); Motel Leeming (CD14.7.1); and Exelby Truckstop (CD14.22).

9.4 Proposed Facilities

9.4.1 All four MSA proposals meet the specified minimum range of mandatory features required in C01/08 (CD1.14 paras68-72), as well as the minimum levels of parking and toilet provision (CD1.14 Annex A&B). A lodge is proposed at Motel Leeming and both the Baldersby Gate schemes. Lodge facilities are permitted (without an impact assessment) by C01/08 paragraphs 117 to 122. All the proposals for a lodge comply with the terms of the policy.

- 9.4.2 The proposals at Motel Leeming and Baldersby Gate cannot accommodate the design load for abnormal vehicles as required by C01/08 paragraphs 86 and 87, but they can all accommodate a significant proportion of the abnormal loads which are likely to use this part of the SRN. Accordingly, not being able to accommodate the full range of abnormal loads up to the design load does not render any of those schemes unacceptable to the HA; although it does inform the order of preference for the proposals.

9.5 Site Layout, Internal arrangements, and the Relationship with the Motorway Boundary

- 9.5.1 All four MSA proposals are applications for the grant of outline planning permission, within which the internal layout is a reserved matter. Insofar as the promoters of these schemes have provided the HA with illustrative schemes showing how their proposals might be laid out, the HA is satisfied that an acceptable layout can be achieved at all the sites.
- 9.5.2 The HA has already confirmed that the arrangements for detailed access to all the schemes, so far as they affect the SRN, are acceptable to the HA.
- 9.5.3 As for the broader issue of relationship with the motorway boundary, the HA notes the location of the proposal at Motel Leeming; it is not at a junction serving the motorway. If it is allowed, drivers would have to traverse a distance of some 1.3 km each way on the local highway network in order to access the MSA. That remote location has informed the HA's order of preference amongst the MSA proposals.

Conclusion

- 9.5.4 By reference to C01/08, the HA remains satisfied of the need for an additional MSA on the A1 in the gap between Wetherby and Barton. Any of the 4 MSA proposals before this Inquiry would meet that need. All provide acceptable standards of access (by reference to the SRN) in terms of both safety and capacity - subject to the implementation of mitigation measures where appropriate.
- 9.5.5 Exelby's proposed truckstop would not meet the identified need for additional MSA provision. However, the HA has assessed its likely impact on the safe and efficient operation of the SRN. The scheme is acceptable - subject to the implementation of mitigation measures where appropriate.

Ministerial Statements

- 9.5.6 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12). The HA does not wish to change any representations it has made in light of the Ministerial Statement, and remains vigilant to the current adopted policies under which it operates to maintain the ongoing safe and continual operation of the SRN (DOC12.8).
- 9.5.7 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement has no discernable significant bearing on the outcome or proceedings associated with the Inquiry (DOC13.8).

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- 10.2 Ripon Services
- 10.3 Baldersby Gate Services
- 10.4 Coneygarth Truckstop
- 10.5 Motel Leeming

10. The Case for North Yorkshire County Council (NY)

10.1 Contested evidence – Kirby Hill (Heather Ive Associates)

- 10.1.1 There were two highways related reasons for refusal on the decision notice from HBC on the advice of NYCC (NY101 paras8,9). The first relating to highways safety has been overcome, and the second relating to sustainable transport measures has been significantly narrowed down. The relevant SOCGs relate to highway and transportation (CD14.12) and to the provision of staff access (CD14.15).
- 10.1.2 The remaining issue is whether, if permitted, the proposals should provide for separate access points to the site for staff from the local highway network by foot, cycle, and car: it is agreed that the matter may be addressed through the imposition of a Grampian condition.
- 10.1.3 Some preliminary points are important:
- (i) The proposed rear access from the local highway network by any means would only be for use by employees;
 - (ii) HIA and NY agree the routes for such accesses (CD14.15 drg.208006/66C), and that they can be provided practically and safely;
 - (iii) HIA and NY agree that such accesses can be made secure;
 - (iv) HA is content for rear accesses to be provided as an exception to its usual policy (CD final para, CD14.3 para3.9.2, HA1/1 paras4.70 & 6.128); and
 - (v) NY makes no comparative exercise between the competing sites in terms of overall sustainability. NY objects to the provision of the Kirby Hill services **without** a rear access, as that would be inconsistent with policy requiring developments to promote sustainability and enhance travel choice.
- 10.1.4 It appears to be common ground with HIA that the provision of the rear access would significantly reduce the travel distances to the site for staff, and would provide access by a choice of sustainable methods which would not exist without the rear accesses. As such, there is no good reason why the rear accesses should not be provided; and HIA has not identified any such good reason.
- 10.1.5 HIA's case rests principally on its interpretation of policy in C01/08. In fact, when read as a whole, C01/08 allows for provision of rear accesses for staff, and the whole raft of sustainability policy weighs in favour of the provision of rear accesses.
- 10.1.6 Briefly: C01/08 notes that normally rear accesses will not be acceptable (CD1.14 para37), referring to rear accesses in general, and states that where allowed it should be limited to staff, deliveries and emergencies (wider than proposed here). Thus, C01/08 contemplates provision of such accesses where there is good reason. It also leans strongly against unnecessary trip generation (CD1.14 para97) from the area surrounding the MSA, and against short, local trips on the SRN which are avoidable (CD1.14 para15) - precisely the kind of staff car trips that would be forced to occur if there were to be no rear access. HA's evidence shows that on-line MSAs do regularly contain such access (NY1-4 App3).

- 10.1.7 HIA's highways witness agreed that at all levels policy seeks to promote more sustainable transport choice, and reduce the need to travel by car. PPG13 (CD1.9) requires attention to be paid to the design, location and access arrangements of development so as to promote walking and cycling as prime means of access. The length of car journeys as well as the number must be reduced (CD1.9 paras 4,6,26,75,78 & NY1-20). C02/07 makes it clear that the same objectives apply to the SRN (CD1.15 paras 27,33). These policies are reinforced at regional and local level (NY1-2 paras 5.19-23).
- 10.1.8 The HIA proposals without rear access fail to take this policy drive into account. The original Transport Assessment contains no real consideration of the question of sustainability in transportation terms (CD3.13 paras 6.10,7.2). This is surprising given that the absence of a rear access for staff was the subject of adverse comment by the previous Inspector (CD12.1 para 10.6.86). Further, since that Inquiry, the understanding and application of sustainability policy has developed further (NY1-2 paras 5.13,5.21).
- 10.1.9 The benefits of rear access provision arise from the contiguity of the local road network with both the northbound and southbound services (via the B6265 and the A168), and the peculiarity of the road network in producing such long car journey times. These advantages are best considered separately by mode of transport.
- 10.1.10 Without a rear access there can be no cycle or pedestrian travel to the proposal whatsoever. However, the isochrones in document NY1-3 (Apps 11,12) show that Kirby Hill is within easy walking distance, and that there are large residential areas in Boroughbridge, Langthorpe and other villages within 5km cycle ride. Failure to provide a secure pedestrian and cycle access rules out this real choice. HIA's highways witness accepts this, saying that only 9% of staff might travel by such means. This is a material portion of journeys, which with active travel plan management may increase; it should not be discounted.
- 10.1.11 The relative journey distances and routes with and without rear access are agreed (NY1-3 Apps 7,8 & NY1-2 para 6.24). By way of illustration an employee from Kirby Hill area would have a round trip of 1-1.5km to a rear access, yet would travel a round trip of 25km to the main entrance of the western site; an unnecessary journey on the SRN of over 23km. To the eastern site, the fastest route (NY1-3 App 8 p8-2) might be a single journey of 28km almost entirely on the SRN to travel less than 1km distance. Such differentials would significantly detract from any benefit from employing local people, as they would in effect have to commute from some distance.
- 10.1.12 The Travel Plan proposes a staff shuttle bus, which as a measure is welcomed. However, it too would bring greater sustainability benefits with a rear access. Targetting places such as Boroughbridge would provide staff with a very short, free journey to work making the bus desirable. The alternative, mooted in the Travel Plan, of some circular route taking in Boroughbridge, Thirsk and Ripon and then serving only one side of the MSA would be very unattractive as the round trip journey time would be prohibitive. There are therefore very substantial sustainability benefits in providing the rear access.

10.1.13 Set against, HIA could not identify any real disadvantage. The provision of a rear car park would allow spaces to be provided for staff; its management could ensure its use for car sharing. It is not desirable for staff to park in the village and walk, when they could manage their journey and park on site. In any event, HIA does not assert that lawful parking in the village area would be actually harmful. If it were, other measures to prevent parking could be proposed – the A168 is in fact already a clearway. Nor would there be any difficulty in controlling the use of the access as swipe card systems are readily enforceable, and the staff car park would be easy to monitor. Thus, if someone did park in the village and walk they would not be able to get through the pedestrian access.

10.1.14 KH RAMS express concerns in relation to the rear accesses, but NY is content that they could comply with relevant standards and operate safely and securely. The rear accesses allow sustainable choices, maximise the means of providing incentives to use more sustainable modes of transport, would make the Travel Plan measures more effective, and would very substantially reduce the number and length of vehicle trips on the SRN.

10.2 Ripon Services (JT)

10.2.1 NY raised three objections to these proposals which formed putative reasons for refusal by HBC (NY1-3 App14). In summary, (i) highway safety on the local highway network, (ii) safety within the site, and (iii) sustainability.

10.2.2 NY is satisfied that all of its objections have been overcome. CD14.20 records the agreement between JT, NYCC and HA. In its opening submissions NY identified the additional material relevant to these issues produced by that date (NY101 para16, CD5.27, 5.31, 5.32). Further material which has been taken into account in resolving NY's objection is set out within CD14.20 (para1.4). The appropriate planning conditions are also agreed in principle.

10.3 Baldersby Gate Services (REL)

10.3.1 HBC's putative reasons for refusal of 17 August 2010 included three highway reasons (Nos.4, 5, 6) on the advice of NYCC as local highway authority (NY1-3-14). In summary, (i) highway safety on the local highway network, (ii) safety within the site, and (iii) sustainability.

10.3.2 In its opening submissions NY identified the additional material relevant to these issues produced by that date (NY101 para16, CD5.27,31,32). CD6.35 is the most recent SOCG between REL, HA and NYCC. This confirms that the access arrangements proposed on Drawing 22280_6F (CD6.35 AppA) are acceptable, overcoming the first putative reason for refusal (CD6.35 paras4.3-5); that the internal arrangements shown for present purposes on Drawing 22280_6E) are broadly acceptable and that any minor changes do not require a further Stage 1 Road Safety Audit, overcoming the second putative reason for refusal (CD6.35 para4.6); and that the submitted Travel Plan (CD6.35 AppB) is acceptable sufficient to address the third putative reason for refusal (CD6.35 para4.11). This would be controlled by a condition, and not a planning obligation as suggested in the SOCG. Therefore, each of NY's objections has been resolved to its satisfaction.

10.4 Coneygarth Truckstop (XLB)

10.4.1 In its Opening Submissions (NY101 para28, NY1-2 para10.13) NY referred to those outstanding matters which caused it to raise an objection to the XLB

proposals. Specific concerns were raised in relation to (i) the site access, Leases Road (north) and Leases Road (south) and their ability safely to accommodate predicted traffic in the 'with' and 'without' BALB (Bedale, Aiskew and Leeming Bypass) scenarios; (ii) the proposed roundabout on Leases Road and its ability safely to accommodate predicted traffic flows in the 'with' and 'without' BALB scenarios; (iv) the combined impact with the Motel Leeming proposals.

- 10.4.2 Further documents have been submitted, the most significant being the supplementary Transport Assessment Addendum (TAA) (CD7.29). NY and XLB have also had a number of meetings to address outstanding concerns. Revised drawings have been produced through XLB103. As a result of the additional information and discussions NY wrote to XLB on 4 January 2011 (NY103) confirming its revised position.
- 10.4.3 Following the additional TAA NY's concerns had narrowed to capacity and safety issues on Leases Road in the 'with BALB' scenario, and at the proposed Leases Road roundabout in the with BALB scenario (assuming BALB was constructed in line with the submitted planning application for BALB).
- 10.4.4 Given the uncertainty as to the final delivery of BALB, but recognising that it remains a commitment of NY and that funding and planning permission for it is being sought, it is necessary to consider both the with and without scenario. As set out in NY103, XLB have submitted designs (XLB103 drg 60162014-P-013) that demonstrate that amendments could be made to the design of BALB relating to Leases Road and the proposed Leases Road roundabout which would allow these parts of the highway network to operate safely and within its capacity.
- 10.4.5 These measures could be satisfactorily secured through the proposed Grampian condition requiring the widening of Leases Road in any event, and the agreed s106 planning obligation (XLB204). The planning obligation is explained in inquiry note NY200. In short, the planning obligation:
 - (i) requires XLB to bear the cost of seeking to obtain planning permission for the necessary amendments to the BALB scheme (Sch1 paras1-3);
 - (ii) requires XLB to bear the additional construction costs of the amended BALB over the original BALB in the event that BALB is implemented prior to the XLB consent (subject to a five year long stop and a financial cap (Sch1 para4));
 - (iii) requires XLB to bear the additional construction costs of the amended BALB over the original BALB in the event that the proposed XLB scheme for widening Leases Road is implemented before the amended BALB is commenced, in which case the amended BALB would incorporate those works into the amended BALB (subject to a five year long stop and a financial cap (Sch1 para5)); and
 - (iv) requires NY to use reasonable endeavours to promote the amendments to the BALB as necessary (Sch2).
- 10.4.6 Therefore, NY is satisfied that through the revised information and amendments to the scheme together with conditions and the planning obligation that its objections relating to the XLB proposal are resolved. This is confirmed in a SOCG (CD14.22).

10.5 Motel Leeming (LES)

- 10.5.1 NY's Opening Submissions identify those issues outstanding at the opening of the inquiry (NY101 paras23-27, NY1-2 para9.18).
- 10.5.2 The proposals involve access being taken from what will remain the local highway network. The new dumb-bell roundabout at Leeming is also intended to form the junction between the BALB and the A1(M). As for XLB, the operation of the new road layout should be considered in the with and without BALB scenarios, and cumulatively with XLB. It is necessary to safeguard sufficient of the designed capacity in the new junction for BALB.
- 10.5.3 There has been discussion with LES, and further information has been assessed (CD4.24). A further TAA (No.4) (CD4.36) was submitted in December 2010. This information was discussed and further clarifications provided (CD4.36.1), as a result of which NYCC's objections relating to LES in all scenarios have been overcome. This position is confirmed in the relevant SOCG (CD14.7,CD14.7.1).
- 10.5.4 In order to deliver the proposals securely (C01/08 para39) it would be necessary to relocate two public rights of way. Following discussions with LES, NY is satisfied that a suitable solution can be found, as illustrated in CD4.32 (NY1-3 App20).

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11. The Case for Moto Hospitality Limited (MOT)

11.1 Background

- 11.1.1 MOT's planning permission at Wetherby (formerly Kirk Deighton) was for twice the capacity required by the previous DfT policy 1/94 (CD1.53) and policy statement HA 269 of 31st July 1998 for a "15 mile" spaced MSA. It was promoted and permitted with sufficient capacity to serve as a "30 mile" MSA for the long term (CD12.1 paras10.1.20&22). At the same time, MOT acquired Barton truckstop, which is: signed from the A1(M)/A1(T); has the benefit of full planning permission for an MSA; and has been implemented. There is also an extant Traffic Signs Agreement. MOT also operates the Scotch Corner TRSA.
- 11.1.2 Between 1994 and 2003 there was a sequence of planning inquiries concerning MSA proposals to the south of Barton, the last resulting in the approval of Wetherby MSA. The stretch of road considered in 2002/3 was that between Barton in the North and Woolley Edge (M1), Hartshead Moor (M62) and Ferrybridge (A1(S)) in the South. The gaps were assessed at that time to be 70; 73 and 61 miles respectively (CD12.1 para10.1.23). The distance from Barton to Durham MSA is some 20 miles.
- 11.1.3 To satisfy the need on those 70 mile lengths of road, the Inspector and FSoS agreed with MOT that only one MSA would be needed on the basis of spacing (CD12.1 para10.1.58) and rejected the arguments from the other proponents that two would be required. Wetherby was approved with the benefit of capacity for it to supply the future need of the identified distances (CD12.1 paras10.1.29 & 10.4.30-2). All the proposals were considered against the traffic expected in the design year of 2020 (CD12.1 paras1.5.1 & 10.1.11) – 15 years after the anticipated date of opening.
- 11.1.4 Wetherby MSA was opened in stages between July 2008 and July 2009. In 2010 minor changes were made to the parking arrangements and vehicle circulation arrangements. Most of the later parking phases, all of which have the benefit of planning permission, remain to be brought forward in step with demand, exactly as the permission originally contemplated.

11.2 Background to Need and Policy

- 11.2.1 The previous decision is mirrored in the policies of the Development Plan that are the starting point for the determination of the current proposals:
- Richmondshire Local Plan saved policy 73 allocates Barton as an MSA and otherwise imposes restraint on development in the open countryside.
 - The adopted Hambleton Core Strategy and its subordinate Development Policies and Allocations DPDs maintains a strict policy restraint on development in the open countryside in the District, including in the A1 corridor, other than in exceptional circumstances. No sites are allocated for an MSA or any other sort of roadside facility; no criteria-based policy contemplates the potential need for any sort of roadside facility.
 - Saved Policy T7 of the Harrogate Local Plan identifies a need for only one MSA in the District. The gaps against which it was prepared were essentially the same as those that set the context for the 2002/3 inquiry. The policy is satisfied by the development of Wetherby MSA. Any additional

MSA would not be in accordance with the Development Plan which otherwise maintains restraint on development in the open countryside.

- The reinstatement of RSS does not have any significant implications for the decisions to be taken in relation to any of the applications or the appeal under consideration at this Inquiry (MOT2/7).

- 11.2.2 The Wetherby MSA decision and the decision not to approve an MSA within a series of comparable gaps at Solihull shows that the spacing component of roads policy for MSAs is neither absolute nor determinative (MOT106). Spacing is in any case only one component of the need for an MSA. C01/08 refers to a "compelling need and safety case" in which along with spacing the other components would include, inter alia, whether or not there is adequate capacity with an adequate range of facilities at existing designated sites and whether or not there is any other evidence of a genuine safety-related need.
- 11.2.3 In a planning context need would be qualified by and balanced against other matters such as harm to sustainability, landscape or local interests. For example, if the components of need can be met at existing sites and there is no empirical evidence of further need, an additional facility should not be permitted if it would cause any harm to an interest acknowledged to be relevant in the development plan.
- 11.2.4 If there is a finding of any real need, the next question to be determined is whether such need is simply a need to stop and could that need not be better met by a less intrusive and more sustainable MRA solution? It is no answer to that question to rely simply upon there being no application currently before the Inquiry. There never would be but the roads policy seeks such solutions in cases where need is found but it is not sufficient to justify a full MSA.

11.3 The Issues raised

Development Plan

- 11.3.1 Roads policy is not part of the development plan; C01/08 is concerned only with highways safety and traffic management. HA's role in the planning process is as a consultee. There are no material planning presumptions in favour of roadside facility developments in the Highways Circulars 02/2007 or C01/08 (CD1.14, CD1.15). There are presumptions against development in the countryside (CD1.14 para54). In order to overcome these policy objections, sufficient need must be demonstrated.
- 11.3.2 In Harrogate, Kirby Hill and both Baldersby junction sites are expressly contrary to Harrogate Core Strategy policy SG3, saved Policy T7 of the Harrogate Local Plan and would require exceptional circumstances of sufficient weight to outweigh the presumption against such development.
- 11.3.3 In Richmondshire, within which Barton MSA and Scotch Corner Services are located, there are relevant policies in the Richmondshire Local Plan 1999-2006 (2001). Saved policies 2, 3, 5, 7, 73 and 106 apply to the northern stretch of the Wetherby to Barton gap (MOT2/5 paras2.30-37): Policy 73 indicates that Development elsewhere along the existing A1(M) Motorway in Richmondshire will not be accepted if it would prejudice, directly or indirectly, MSA provision at Barton Quarry. That is a material consideration

for the SSCLG, the impact upon which have not been addressed by the applicants at this Inquiry.

- 11.3.4 In Hambleton, an express draft policy in the Hambleton Site allocations DPD providing for an MSA site allocation on the Motel Leeming site was removed by the Inspector at the Development Plan Inquiry as unsound (CD9.7 paras2.72-77). Formerly, saved policy L1 and Inset Plan 8 and now the adopted Allocations DPD show that neither the extension to Motel Leeming nor the Exelby site are within the development limits and both would require exceptional circumstances of sufficient weight to outweigh the development plan presumption against such development.
- 11.3.5 The term “exceptional circumstances” should not be confused with reasons for an ‘exception to the policy’. It is a much higher test and one which would be understood as employing a higher quantitative adjective than ‘special’ or even ‘very special’ circumstances, in a planning context. The test of ‘exceptional circumstances’ was that applied to development that might be permissible within the statutory designation AONB (PPG7) whilst ‘very special circumstances’ was the test for development that might be permitted in a local designation such as green belt (PPG2). In planning, an AONB offers higher protection against inappropriate development than a green belt and accordingly, exceptional circumstances would be understood in planning terms to apply a more rigorous test to be fulfilled than the very special circumstances required to justify development in the green belt. It is a very high test and one which is not met by the personal or commercial desires of an individual business to relocate and expand its operations (as at Coneygarth) or merely to expand its operations (as at Motel Leeming) so as to maintain or increase its commercial potential.
- 11.3.6 The HDC planning officer: made an error of law in failing to mention development plan policies in his Report to Committee (CD7/24); he appears to have failed to consult and/or report his own landscape officer’s advice; failed to present his own evidence to the Inquiry as instructed by his Committee; and merely signed a SOCG in the terms of an XLB witnesses proof. The evidence of HDC should, therefore, carry no weight, particularly in the absence of the Planning Officer to face cross-examination on the unlawful lapses in approach of HDC.

(i) Roads policy

- 11.3.7 Current policy is contained in C01/08 (CD1.14). The Consultation Draft on roadside facilities on the SRN makes it clear that its consultation policy will not be applied retrospectively (CD1.23 para.43). Thus the situation for this Inquiry is that the network or core spacing policy has gone from roughly every 30 miles (pre-C01/08) to 28 miles, and the absolute minimum separation from 15 to 12 miles. It follows that SSCLG is being asked the same question as in the previous Inquiry (2002/3) albeit the network then aimed at was “around 30 miles” and is now “around 28 miles” (CD1.23 para132). Consequently, his conclusions on need and spacing, as accepted by the FSoS in 2005, should still stand today subject only to a 2 mile adjustment.

(ii) The role of roads policy within planning policy

- 11.3.8 Roads policy is neither planning nor development plan policy and is subservient to the development plan. HA’s first witness and the policy

witnesses for other parties all agreed this in cross examination. There is, for example, no presumption in favour of on-line MSAs in planning policy. Nor is there any planning presumption in terms of need or distance between facilities or as to different types of facility beyond the specific policies of the plan.

- 11.3.9 On the contrary, the presumption is against development that does not accord with the development plan (s.38(6)). That is the starting point and a requirement overlooked in the Report to Committee on the Exelby application (CD7.28.4). For the purposes of the fundamental question under section 38(6) of the 2004 Act, none of the proposals accord with their respective development plan policies. It is, therefore, necessary to examine whether exceptional circumstances exist of sufficient weight to overturn the presumption against permission which does not accord with the planning policies of the development plan.

11.4 Need

The requirement to establish Need

- 11.4.1 HA's first witness confirmed that the HA considers an 'infill' site to be one between two existing or designated MSAs on the same route or routes (HA1/1 para4.21). He also said that the C01/08 section on *Spacing of Roadside Facilities on Motorways*, between paragraphs 52 and 61, is not well written. C01/08 para58 says that "Where a clear and compelling need and safety case can be demonstrated, applications for an infill service area may be considered". Para59 goes on to indicate that if an infill site is permitted and it is within a gap of 40 miles or more, then it will be designated as a core site. Para60 indicates that if the gap between core sites is below 40 miles, any infill site that may be permitted may take the form of a MRA. (CD1.14 paras58-60)
- 11.4.2 In other words, whether the gap between existing core sites is more than or less than 40 miles a "clear and compelling need and safety case" has to be made out because each is an infill site for the purposes of current Government roads policy. The witness was in error to assume that there is no requirement for a compelling need and safety case where the existing MSAs are more than 40 miles apart. The gap between existing service facilities has no bearing upon the policy requirement in para58 to assess need for all infill sites between two existing Core sites.

The relevance of the precise 40 mile cut-off

- 11.4.3 The precise distinction drawn between locations under or over 40 miles is intended to relate to the options available to meet need, where that need is clearly demonstrated. Notwithstanding that C01/08 is not planning policy, the availability of alternative options for meeting need, other than a full MSA, clearly has planning implications.
- 11.4.4 Where the gap between existing facilities is less than 40 miles, C01/08 firstly requires a clear and compelling need and safety case to be shown. Secondly, given such a case it requires consideration of how that need should be met (e.g. by an MRA, or MSA or even a truckstop or a combination). Without such an approach there would be no MRAs or combinations, and over-sized proposals would be permitted unnecessarily.

Assessment of the Indicators of Need (from C01/08 para59)

i. The distance to adjoining roadside facilities

- 11.4.5 The previous Inspector and FSoS considered the long term and decided that Wetherby struck the best balance between spacing policy and the wider planning considerations. That judgment was made for the long term and assumed the upgrade as far as Barton and rejected a two-site option including Wetherby and Kirby Hill. A 2 mile difference in the policy consideration does not now justify a different decision. Nor is there an absolute cut-off at 40 miles as the HA seem to believe. It is not credible to argue, as HA's first witness did, that there is no requirement to demonstrate a compelling need and safety case if the gap is 39.51 miles but that a compelling need and safety case must be proved if the gap is 39.49 miles. Whatever HA's practice for indicating the distances on road signs, there is no basis for rounding the 39.622 miles gap up to 40 miles as the HA suggests; the effect would be to change the C01/08 policy distance from 39.999/40.001 to 39.499/ 39.501 miles for no apparent or valid reason.
- 11.4.6 The solution of an MRA has to be considered whether or not a developer proposes one. It is a part of policy; a material planning consideration and not a matter for the discretion of individual promoters. It is not an issue that falls away simply because there is no application for an MRA.
- 11.4.7 An MRA is the most that could be justified in terms of the cases presented and the applications should all be refused until an assessment has been carried out as to why MRAs would not suffice and why it would not cause less damage to the environment. In terms of providing an opportunity to stop and rest an MRA would obviously meet that aspect of need. Therefore, the need cases cannot be justified on a need to stop or rest every 20 or so miles on this stretch of the SRN. However, there is insufficient need even for an MRA.
- 11.4.8 Upon completion of the Phase 1 upgrade the distance to adjoining roadside facilities on the A1(M) for each location is shown in CD14.11 Distance Verification Tables DM-3 and 4. In addition a filling station and a separate Little Chef and Travelodge will remain in these gaps immediately south of Scotch Corner, northbound, for the foreseeable future. Spacing on its own does not amount to a clear and compelling need and safety case. The HA give no spacing reasons for further MSA provision when considering this heading (HA1.1 paras5.39-5.42).
- 11.4.9 This is not a case such as the recent decision by Stroud DC (HA110). There, the determining factor was that the network of MSAs was incomplete in relation to the M5/M50 route. Here, the present distribution of MSAs not only completes the network of core sites but is the product of an express decision of the FSoS that the provision of Wetherby to complement Barton would complete the network in a way that satisfactorily reconciled development plan and roads policies. Thus, a finding of a spacing need would directly conflict with the decision on the previous Inquiry.

The previous decision on spacing

- 11.4.10 2004IR was clear about the spacing being considered and that the Inspector was seeking a long-term solution. He considered that the long-term planning of MSAs in North Yorkshire should be based on Barton as the northern fixed point (CD12.1 para10.1.20). Purely on the basis of spacing,

he saw little advantage in a two-site strategy (CD12.1 para10.7.54). He recognised that "There may be a period of some years before the highway system under consideration is all up to motorway standard (2.2.4 & 5). But, it seems to me, that MSA provision should be based on the expected long-term situation, whilst also acknowledging the short-term presence of Leeming Services." (CD12.1 para10.1.27) His overall comparison concluded that there was no sound reason to prefer a two-site strategy over Wetherby as a single site solution (CD12.1 para10.7.63) and in particular that there would be greater cumulative harm from any two-site strategy that incorporated Bramham or Kirby Hill, with little, if any, benefit in terms of meeting the need (CD12.1 para10.7.61).

- 11.4.11 The previous decision sought and found a long term solution to spacing on the A1(M). It cannot be read or construed as coming to a short term decision. Nor could it be read as favouring Kirby Hill in any way as a second site (or at all). The factors considered then remain the same today. There is no rational basis upon which the SSCLG should come to a different conclusion on spacing today as the only policy difference relating to distance and spacing is a revision of the aim of one roughly every 30 miles to one around every 28 miles.

Distances in respect of Coneygarth

- 11.4.12 XLB says that the advice in C01/08 relating to MSAs or MRAs does not apply, because the proposal is for an unregulated facility whose presence would be unsigned and unadvertised to most road users. Patrons would become aware of the facility by word of mouth or by referring to the Truckers Directory. Secondly, it is said that even if the facility were to be regulated as a motorway truckstop, C01/08 contains no guidance on spacing for such a specialist facility. By setting itself outside the regulated framework in C01/08, XLB cannot make a legitimate claim to serve any needs arising from conventional motorway users. As far as the SSCLG's call-in question is concerned, XLB demonstrate no need to serve motorway users in accordance with C01/08, merely its own particular and partial commercial requirements.
- 11.4.13 The relevant gap identified by XLB was either that between London and Scotland or that between its other bunkering sites near Castleford and Carlisle. In each case, the rationale put forward was that Coneygarth would be a convenient stopping place, taking into account the Tachograph Regulations (which allow up to 4.5 hours of continuous driving without a break) and the formidable capacity of the DERV tanks on modern HGVs. With such vague "fixed points" the question of rounding is not a relevant consideration. There is no case on spacing to favour Coneygarth over any other location in North Yorkshire. Barton, whether in its existing condition or redeveloped as an MSA with the specialist bunkering facilities incorporated in the permitted scheme, would occupy the same strategic gap and meet exactly the same needs.
- 11.4.14 XLB's owner accepted that the majority of XLB's business would be retained at Londonderry when the A1 upgrade is completed and only trade not tied to XLB by bunkering contracts would migrate to other facilities. He conceded that this element would be readily accommodated in other facilities. He did not suggest that there would be any disadvantage in this from the HGV driver's point of view. Instead, he based his case on the proposition that the

new development at Coneygarth would be more convenient than Londonderry not because it would be preferable to alternative existing or permitted facilities. Since the time distance is so small and no extra distance is involved, the closeness to the motorway junction would appear to be one of visibility to passing trade.

11.4.15 In short, there is no spacing or need case for XLB's proposal:

- i) Londonderry site will remain with new junction access to the newly constructed local road (A6055);
- ii) Deviation for HGVs would add no distance, but would add about 5 minutes travelling time at 56mph on a new A class local road (Dishforth to Leeming Junction) on a 4.5 hour tachograph permitted journey;
- iii) XLB conceded that without planning permission for Coneygarth, some 40-60% of the business would be retained at Londonderry, due to the high proportion of contract HGV business (XLB4/1 para17). The main consideration for these drivers is the distance between their existing bunkering arrangements between London and Scotland. They could be served by a combination of the Barton proposals and the existing facilities at Londonderry. Thus there is no need sufficient to meet the requirement for there to be exceptional need to satisfy the Hambleton development plan policies for release of a site outside the settlement limits;
- iv) This means that the balance of trade is footloose card-bunkering HGVs that could use any MSA at the same advantageous prices their card operators have agreed nationally. That does not give rise to any particular or sufficient need for a new unregulated truckstop at Coneygarth such as to justify the exceptional circumstances needed to set aside the restraint CP4 and DP9 of the Hambleton Core Strategy and DPD.
- v) All that XLB could argue for was a commercial opportunity to develop a greenfield site over which it held an option. It would have no advantage over the existing site in terms of retention of the Company's core bunkering trade and would provide nothing that did not already exist for HGVs on the existing A1(M).
- vi) There is nothing exceptional about the number of HGVs on this stretch of road and no safety case for HGVs was identified by anyone.

11.4.16 The proposal is simply to accommodate XLB's business model and commercial requirements. There is no objective need in the public interest and certainly not enough to override the policy objections in policy 73 of the Richmondshire Plan.

ii. Evidence that nearby existing roadside facilities are unable to cope with the need for services

11.4.17 There is no evidence of queuing on the approaches to Wetherby, Scotch Corner or Barton. The car parking has proved robust against the most extreme parking demand at Wetherby with only a part of its permitted parking actually constructed, notwithstanding that currently there is a gap of 60 miles to the next MSA at Durham (CD14.11 Table DM-4). The calculation of necessary car parking spaces has never been based on the highest peak hour of demand. The current applications are not being assessed against likely peak hour of peak day demand. Wetherby was promoted with parking for a 30 mile site (60 mile gap).

- 11.4.18 The only evidence called was from JT. Regarding cars, allowing for JT's mis-recording of 388 spaces instead of 429 spaces, a peak of 313 cars or 75% was observed. Its report comments that problems at Wetherby "begin to occur" at 90% occupation. On the busiest day (in August Bank Holiday) the car park reached a maximum of 75% capacity and coped with that level of demand (JT2/2 paras 3.24-3.26, 3.39). It has not reached the 90% level. JT's survey shows an uptake of 67 HGV spaces (JT2/3 App HI p2). There are 82 permitted HGV spaces (MOT2/6 App6). The maximum observed parking represents 65% of that approved. At Scotch Corner, the parking that is the subject of an outstanding planning application is 294 spaces (MOT2/6 App9 p36). JT's observed peak was 216 spaces (JT2/3 App HI). That is 73% of the amount applied for and well within the 90% at which it begins to be slow to find a space.
- 11.4.19 Wetherby MSA was approved with twice the standard parking capacity for the design year of 2020 (the current proposals design year is only 2022). Just over half of the car spaces and two thirds of the HGV spaces permitted have been built. There is no limit to the size of the next phase and there is space to extend northwards within the site. The size of future phases once the permitted remaining half of the car park is built is merely a matter of demarcation on the ground within a brownfield site. The northwards extension is part permitted and any extension would be closely linked to the Lodge and Amenity Building.
- 11.4.20 Barton also has scope for additional capacity. The existing lorry capacity of about 80 has permission to rise to an MSA capacity of 110 with potential for 145 HGVs (both with bunkering) whilst retaining 270 car spaces. Alternatively, there is potential for additional HGV capacity if used in conjunction with Scotch Corner on the model pioneered at Knutsford/Poplar 2000. Scotch Corner is another brownfield site with adequate capacity and scope for additional car parking as and when it is required and/or used in conjunction with Barton. An additional 20% could be added to the number of car spaces within the existing site should the need arise.
- 11.4.21 The by-passed facilities are identified in MOT2/3 App12, XLB102 and XLB102A. These should be treated with caution because of the changes in the market place for the type of facilities by-passed. Even including both displacements by the A1 (Motel Leeming and Londonderry truckstop) the loss is assumed to be 383 car spaces and 145 HGV spaces (this last from XLB102A table 1).
- 11.4.22 Set against this should be the new car parking capacity that MOT has permission to provide:

	Cars	HGVs
Wetherby	728	82
Barton	270	90
Total	998	172
Loss	383	145
Net Gain	615	27

- 11.4.23 Allowance should also be made for: the additional spaces at Scotch Corner for which permission is being sought; the potential for more HGV spaces at Barton (in conjunction with Scotch Corner; and the additional capacity within the landscape envelope of Wetherby. The loss is more than compensated for within a gap that was always intended to be catered for by

Wetherby and Barton alone. Overall, MOT can provide additional spaces (400 car and 70 HGV) from within its existing landscaped sites and with no impact on the countryside. That is the size of a core MSA. That precludes the need for any further MSAs on this stretch of SRN. Even assuming that there was evidence of any additional need, there is no reason why such a need could not be better met by an MRA.

- 11.4.24 HA wrote a letter to MOT in November 2010 which appears to support MOT's analysis; it indicated that there is no specific capacity problem affecting the A1/A1(M) and: "between them the Barton Park and Wetherby MSAs will provide capacity way beyond anticipated demand. Furthermore, if traffic growth should exceed expectations, there would be ample room for expansion of the Barton Park facility, which, at the time of writing, also benefits from a valid Traffic Signs Agreement." (MOT113)

iii. Evidence of a genuine safety-related need for the proposed facilities

- 11.4.25 HA's accident records relate to the years 2004-2008 (CD11.9-IN-03). However, that was before: Wetherby MSA was open; the opening of the Wetherby bypass; the Wetherby-Walshford (north of Wetherby) upgrade or the Dishforth to Leeming upgrade; and when there was no MSA between Durham MSA and the southern MSAs at Ferrybridge (81 miles) / Woolley Edge (90 miles) / Hartshead Moor (93 miles) (CD12/1 para10.1.23, CD14.11 TableDM4).
- 11.4.26 The A1(M) upgrade was promoted by the HA on the basis that it would address and reduce existing safety problems on what was already a relatively safe stretch of road (MOT2/2 para3.55, MOT2/3 App8). There is no reason why this stretch would not now fall within the national "low-risk (safest) road" category on the 2011 or next EuroRAP Risk Rating of Britain's Motorways and A Roads (MOT2/3 App17).
- 11.4.27 JT misunderstood CD11.9-IN-03 Table 9 by adding the historic 7% of very likely fatigue accidents to the 11% possible/very likely figure that already included that 7% (JT2/2 para3.61). Consequently the conclusion at para3.83 is wrong. If, contrary to HA's evidence, any weight is to be given to the historic figures, then that 7% should be compared with the national average of 6% of all fatigue related motorway accidents (CD11.9-IN-03 para1.19) and the 5% very likely figure on the Dishforth to Barton A1(M) (CD11.9-IN-03 Table10).
- 11.4.28 Alternatively, the historic 11% possible or very likely fatigue related accidents (CD11.9-IN-03 Table9) should be compared with the national average of up to 20% of accidents caused by tiredness (CD1.14 para53) and the 8% possible/very likely figure for Dishforth to Barton (CD11.9-IN-03 Table 10). Neither approach demonstrates any safety need for a further MSA. In any event, it would be premature to find a safety case before the impact of Wetherby (and Barton) are assessed to see whether Wetherby has not already reduced such accidents even further below the expected levels².
- 11.4.29 No one else has produced more recent statistics relating to the period since the opening of the Wetherby MSA or the A1 upgrades. In particular, there is

² Although the figures for Fatal Accidents dropped from 6 in 2007 to 2 in 2008 (Total from 158 to 111). Wetherby MSA opened in stages during the second half of 2008. There is no breakdown to show whether or not this was linked to the MSA or to the Wetherby A1(M) upgrades (CD11.9-IN-03).

no evidence of any higher incidence of truck driver fatigue despite the very long distances that preceded the opening of Wetherby and the new stretches of A1 upgrade.

- 11.4.30 JT indicates that about half the MSAs studied in Research Report 57 (CD1.33) seemed to have little or no effect on road traffic crashes or sleep related crashes. In addition there was no clear relationship between the separation of MSAs and incidence of crashes: indicating that sleep related crashes did not necessarily increase with distance apart (JT2/2 para3.65ff). Additionally, it was found that the greatest reduction in road traffic crashes (especially sleep related) that might be attributed to an MSA involved cars. The same impact was not apparent with goods vehicles although these did show some small reduction in sleep related crashes (JT2/2 para3.69).
- 11.4.31 Thus there is little reliable evidence to justify the provision of MSAs to prevent accidents and in particular no support for them preventing HGV accidents. In particular there is no evidence to show that providing additional or infill MSAs at reduced distances apart has any beneficial safety effect whatsoever. JT's conclusion is not borne out by the text quoted (JT2/2 para3.84).
- 11.4.32 HA's first witness stated that "there is no excessive or unusual accident record" on this stretch of the A1(M) and that the historic accident rate on the unimproved trunk road is not relevant. That is confirmed in the 2010 Road Safety Foundation's *Saving Lives for Less* report which shows that prior to the upgrade, this stretch of the A1(T) was assessed as low-medium risk (MOT2/2 para3.53-54, MOT2/3 App17). There is no evidence that the average 20% of sleep related accidents is exceeded (CD1.14 para53). Thus, there is no evidence of a genuine safety-related need for the proposed facilities or that additional MSAs at a reduced distance apart would have any safety effect whatsoever.

iv. Whether a roadside facility is justified by the type and nature of traffic using the road

- 11.4.33 The traffic flows are not above average for a motorway; nor is there any congestion causing slower than average speeds. There is no evidence of large volumes of long distance movements. The evidence appears to be that there is surprisingly little through traffic:

HA1/1, p.33, T3: % through traffic on A1 between Dishforth and Barton

Vehicle Type	Northbound	Southbound	2-way
Cars	25.3%	32.7%	29%
HGVs	20.1%	24.7%	22.4%
All	24.2%	31.2%	27.7%

The difference of about 4.67% of all northbound traffic that has passed Dishforth is likely to be HGVs then using the A66(T). That is an extremely small % of HGV traffic using the A1(M) and A66(T) for a through journey.

- 11.4.34 The actual HGV numbers behind these percentages reveal the differences in total passing HGVs (JT2/3 Appl) which are based on DfT 2008-2009 AADT Summary Data on the A1(M) and on other motorways. These will increase proportionately with future growth. The evidence shows:
- i) Flows decrease significantly as one goes north from Wetherby to pass the competing sites;

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- ii) That the use of percentages masks the actual number of HGVs at any particular point on the stretch of road under consideration;
 - iii) Wetherby has almost twice as much passing traffic as the Baldersby junction and more than twice as many HGVs, and there is no reason to expect that relationship to change;
 - iv) The MSAs from elsewhere in the country show that Wetherby was the right place to meet HGV need and that no other site either on the A1(M) or on the other motorways was or is as well placed or had so many HGVs passing;
 - v) The MSAs permitted elsewhere all had significantly more passing HGVs than the competing sites, excepting two of the M5 sites which are holiday route sites and might be considered more akin to MRAs; and
 - vi) There is no evidence that growth in future years would not apply equally throughout the length of road under consideration.
- 11.4.35 XLB's need witness said that HGV drivers travelling from London to Scotland would favour the route via A66 and M6 rather than the route via A1 and would bypass Barton, which is located to the north of the A1/A66 junction at Scotch Corner. However, the detour to Barton for A1/A66 users is comfortably within the distance allowed within C01/08 for signing a motorway truckstop accessed via an intersection and that the facilities would have all of the same lures available to attract HGVs to the site as Coneygarth: bunkering (by card and if redeveloped as an MSA by contract); word of mouth; and the Truckers' Directory. Barton would have one additional attribute: signing, whether as a truckstop or an MSA.
- 11.4.36 In summary, nothing in the type or nature of the traffic using the road justifies an additional MSA. There is ample capacity for trucks to stop at Wetherby and no evidence of unmet demand. Any diversion for trucks at Barton would be within the distances adopted for signing and insignificant in the context of overall distances travelled and time between rests required.

Other need

- 11.4.37 The argument has been put forward that MOT merely has a commercial interest and is anxious to preserve its position as operator of facilities to the north and south. However, all of the promoters are motivated by commercial factors. The question is whether the commercial interests coincide with the public interest and have planning consequences.
- a) MSA planning is unique in that it gives competing existing operators a role in the planning process. Only the neighbouring operators can give primary evidence as to whether or not their adjoining sites can cope.
 - b) Existing operators would have planned their investment against a fixed planning background. In this case:
 - considerable investment in Wetherby followed a decision by the FSoS which was expressed to be a long-term solution. That investment included the additional facilities for a 30 mile site;
 - conversely, no investment has yet been made at Barton because of the uncertainty of the exact form of A1D2B Phase 2. That uncertainty is now removed but these appeals re-introduce uncertainty with no decision as to investing in developing the site being possible until the impact of any

decision is known. Obviously this has a significant planning impact (which policy 73 of the adopted Development Plan in Richmondshire seeks to avoid) and a serious impact on roads policy. It is a material consideration to which weight should be given. No decision has yet been made on funding or proceeding. If the ability to fund Barton is impaired by the grant of another permission (assuming without any evidence that any of them are viable in the current economic climate), the result should be clearly stated. Without Barton but with a new site, the spacing to Durham goes from:

Wetherby < 39.627m > Barton < 20 miles > Durham to:

Wetherby < 12.364m > Kirby Hill < 47.26m > Durham; or

Wetherby < 17.307m > Baldersby < 42.32m > Durham; or

Wetherby < 27.471m > Leeming < 32.156m > Durham.

Should that be the financial effect of these decisions, it can be seen that the Roads Policy would have achieved nothing in spacing terms.

c) Each operator franchises out its different facilities, so there is no reason why the same retail outlets would not bid for every MSA, irrespective of the operator. Retailers are not restricted to a single operator – whether for fuel or food. Thus, operators are similar to landowners or property companies. There is no reason why MSAs should be in different ownerships. In fact it is not known who would actually own and develop any of the appeal sites should they be granted permission.

Need generally

11.4.38 With so much capacity already provided and available within the three MOT sites, the impact of future traffic growth is not a serious consideration. If a need case were to be put forward based on growth, successive decisions in earlier MSA appeals have established that in common with other categories of development for which exceptional need can be a relevant consideration growth should be considered only over a period of 5 years (the time over which a planning proposal might come forward to address the need) rather than over the design life of the development, which might be considerably longer. MOT gives one example, concerning competing M25 MSA proposals (MOT2/2 para3.25, MOT2/3 App11): that this represents the correct approach was not challenged. No evidence was presented by any of the promoters to suggest any quantitative need arising from traffic growth over the next 5 years or any longer period.

11.4.39 The only component of need that could indicate any requirement for additional roadside facilities is spacing. The site that involves the least incursion into the open countryside should be placed first, because if it was concluded that there is limited need based on spacing alone, then in the context of the Development Plan it could only be sufficient to outweigh the harm attributable to a limited incursion into the open countryside. Thus the ranking for MSAs should be Motel Leeming first, the Baldersby junction sites, and Kirby Hill last. XLB does not feature, because no need can be demonstrated for an unregulated truckstop of the kind proposed. No exceptional circumstances exist that could justify the planning harm associated with that scheme. In any case, there is no reason to rank the sites because there is no or insufficient need to warrant any of the proposals being granted permission.

- 11.4.40 The HA Spatial Planning Framework Review of SRN Service Areas: Yorkshire & Humber of January 2010 is the most up to date assessment of the need for further MSAs on the local SRN (CD11.4). Applying current policy, it identifies a gap between Wetherby and Durham MSAs. It concludes that only the development of Barton is required in this gap on the A1(M). The MOT sites are planned and permitted and are located where that need can best be catered for.

11.5 Loss of agricultural land

- 11.5.1 Since all of the need can be met at MOT's existing previously developed sites, the loss of agricultural land (including BMV) becomes a further indication that no additional roadside services should be permitted.
- 11.5.2 The XLB site was used for grazing until the current A1(M) works commenced. The promoters declined to present details of the restoration scheme to which the HA is committed on the site. Any restoration is likely to have been undertaken before any work would be able to start on that site. It would be unsustainable to dig up newly restored land for an out of settlement commercial venture.
- 11.5.3 Motel Leeming's impact on agricultural land would be less than at the other sites, but it would be a greater loss than relying on MOT's permitted sites to meet the identified need. The proximity of the agricultural land to housing at Leeming Motel may give it a special landscape importance given the paucity of existing landscaping that has been completed or is proposed.
- 11.5.4 The Baldersby Gate site is identified in the Multi-Agency Geographic Information for the Countryside (MAGIC) as Grade 2 BMV agricultural land. In REL's ES this has been re-surveyed for the application as 47% Grade 2 and 53% Grade 3a. This is still BMV agricultural land which should be safeguarded or only developed sequentially. MAGIC identifies the Ripon site as Grade 2 BMV agricultural land. MAGIC shows the Kirby Hill southbound site to be Grade 1 BMV agricultural quality; there is no reference to land of this grade in the ES. (MOT4/7 App1, MOT4/6 paras4.1-53).

11.6 The impact of the proposals on the landscape character of the area and its surroundings

Comparative Areas

- 11.6.1 Mitigation areas below 30% or at or below 10% reflect problems with the site layout and the development proposals (MOT4/12 para3.6). MOT has reviewed the size of proposals sites and the proportion of each used for development and mitigation. It compared the land at Wetherby and Scotch Corner already with the benefit of planning permission and that available within the existing landscaping of MOT's sites:

Site (based on the following drawings)	Total area from ES (hectares)	Developable area (%)	Mitigation (planting and mounding) (%)	Other (%)
Kirby Hill (1500-P-102 Rev A)	19.31	38	43	19
Baldersby Gate (T3287_A0_0031), also called Figure 3.3	13.65	61	33	6
Ripon (PWB07 Nov2010)	18.8	39	19	42
Motel Leeming. (79567/00517 Rev C)	7.5	61	10	29

Wetherby – future expansion (B09014.W404)	14.28	48	27	25
Scotch Corner – future expansion (B09014.SC504)	3.78	55	22	23

(extracts from MOT4/6 s7, MOT4/10 s4, MOT4/12)

11.6.2 The following points emerge:

- i) Although twin sided, the Kirby Hill site overall is only 0.51 hectares larger than the Ripon site and the proportions of development is comparable. Thus the Ripon site area is disproportionate and unsustainably large.
- ii) The Kirby Hill site would use 43% of its area for mitigation. That is 24% more than at the Ripon site (which has 19%). This suggests the Ripon site is not efficient in the use of the land and layout.
- iii) The proportion of land identified as necessary for mitigation at Kirby Hill (43%) and Baldersby Gate (33%) is extensive and suggests the sites may not be suitably located as they require high levels of screening to accommodate such large scale development.
- iv) HBC identifies the area including the A1 as being sensitive to large scale development where it is inappropriate to provide large areas of woodland planting. The extensive use of such land for mitigation at Kirby Hill and Baldersby Gate is difficult to justify in landscape terms, thereby indicating that their locations are unsuitable.
- v) The Motel Leeming proposals show at 10%, a particularly low proportion of planting and mounding mitigation land. This reflects the low importance placed by that promoter on achieving effective screening.
- vi) The proportion of mitigation proposed at Kirby Hill, Baldersby Gate and Motel Leeming lie outside the optimum 10-30%; reflecting problems with the site layout and the development proposals. Whereas the extended MOT sites would lie within the range.
- vii) Developable area percentages under 45% or over 75% reflect respectively under use of the land or potential over development for an MSA depending upon the site characteristics (MOT4/12). Kirby Hill and Ripon are below 45%. Wetherby and Scotch Corner are within the optimum range as are Baldersby Gate and Motel Leeming.

11.6.3 In summary: too much mitigation suggests the site is unsuitable to accommodate large scale development (Kirby Hill and Baldersby Gate); too little area for mitigation suggests a low importance placed on achieving effective screening and the successful assimilation of the site (Motel Leeming); too low an area percentage for development suggests ineffective use of the land (Kirby Hill and Ripon); and too big a site suggests an unnecessary land take for the requirements of the proposed use (Ripon). The most efficient sites are the extended MOT sites where both mitigation and developable area are in balance.

The Individual Sites

Kirby Hill

11.6.4 The Kirby Hill site area has increased in size from the earlier Inquiries, and increased the number of cars and HGVs for parking. The eastern perimeter mound has increased in length, now approximately ¼ mile long (as opposed

- to 180m at the previous Inquiry (CD12.1 para10.6.65)), with a near vertical face of 9 metres on the MSA side with no details provided for construction. The outer slopes are also steep at 1:2 and 1:4 for the central and northern section. Wetherby MSA, is built and functioning as expected within the local and wider context.
- 11.6.5 The Landscape Character Area 81 assessment notes that 'new development must take into account the openness and views and should not impact upon the valued characteristics' and that 'extensive large scale tree planting' and 'large scale development' would be of detriment to the landscape character and 'impact upon views' (CD8.4). These views include the Hambleton Hills and the North York Moors. HIA's proposal would adversely affect the landscape character of the surrounding area and the views to the hills which are a key characteristic. HIA simply disagrees with the District Landscape Assessment as its proposals are so clearly at odds with it.
- 11.6.6 Being located on a tourist route to Ripon Cathedral, Fountains Abbey and Newby Hall, the proposals would affect the views towards the surrounding hills (CD12.1 para10.6.49, MOT4/2 para6.25 9th bullet).
- 11.6.7 There are local views from Kirby Hill village, footpaths, accessible tracks and roads towards the MSA proposal. Significant direct adverse effects would result including views of the top third of southbound amenity building and the northbound fuel forecourts (MOT4/2 paras6.26-27, Cross-sections B09014 /KH553-4³ and MOT4/4, App.5 Table KH1).
- 11.6.8 Views from the Listed Grade I All Saints Church and Grade II Skelton Windmill and would suffer adverse impacts on their settings contrary to PPS5 (CD1.6). From the first floor of the windmill in year 1 there would be views of the southbound MSA where the construction of the new sliproads and underbridge remove the existing A168 and A1(M) vegetation, and of the northbound amenity building and part of the HGV and coach parking. From the upper floors the views would be considerably more extensive of the proposed MSA (MOT4/2 paras6.28-29, 6.32 and Cross-sections B09014 /KH553-5).
- 11.6.9 Photomontages (HIA2/3 App2 figs17-18) are noted by Mr Rech to exclude lighting columns. The Year 1 (or zero) position from the Skelton Windmill adjacent path fails to show the HGV and coach parking on the northbound MSA, and the fuel forecourt's canopy, shop, HGV amenity building and southern section of HGV parking on the southbound MSA. For the church view footpath for Year 1 (or zero) the top of the southbound amenity buildings is not shown. They are clearly inaccurate when compared to the MOT cross-sections (Cross-sections B09014 /KH553-5) and for year 10 the growth rates of proposed planting, as illustrated are over optimistic in an exposed area (MOT4/7 App7 & MOT4/6 s3). The effect of the north westerly winds on the stonework of Skelton Windmill is clearly noticeable.
- 11.6.10 The layout and scheme have been continually changing and the 'voluntary' Regulation 19 submission (CD3.29) shows: final positions for the rear entrances to the MSA, comparison between the vision splays and the

³ Kirby Hill FPCR Building Height Information 28/01/11 within HIA/205 states the maximum height assessed for the amenity building is 9.0m. However, recently submitted cross-section A-A on Drg No. 1500-SK-05 within HIA/119 shows an amenity building with an overall height of 8.5m

existing A168 planting and planting on the Boroughbridge embankment slopes, identifying the extent of existing vegetation that would be removed should these be implemented. This was not assessed in the updated ES. HIA's zone of visual influence did not extend sufficiently to the north or east to include all the viewpoints of significance as identified by MOT, nor to include its own viewpoint E on Highfields Lane (MOT4/7 App1, B09014.KH557-4, & MOT4/6 para2.4).

Ripon Services

- 11.6.11 Although partly enclosed by slip roads, the site is elevated and positioned in an open landscape with very little vegetation and far ranging views to North York Moors and Yorkshire Dales (MOT4/2 para7.3). The Area 81 Assessment identifies the same key characteristics as for Kirby Hill and the impact of the MSA on these key characteristics is similar, including a significant impact associated with the proposed planting within the open landscape (CD8.4).
- 11.6.12 To allow for additional HGVs, the revised layout narrowed the extent of planting proposed on the south-west boundary allowing less mitigation in the views from the A61 and Hutton Grange Cottages. As illustrated on the MOT cross-section, the proposed hotel and food court buildings would appear on the local skyline (JT3/3 Fig PWB07A, MOT4/7 App4 - B09014.BG604, MOT4/6 para8.8).
- 11.6.13 The MSA would be viewed from a wide range of footpaths, roads and permissive paths to the north-west, south-west, south and east. Within these views the elevated slip roads of the Baldersby Gate junction would only be partially effective in screening or as a backdrop to the development, as the site and buildings extend considerably further to the south and at relatively high levels. This would enable views of the forecourt canopy, shop roof, hotel, food court building and lighting columns to appear on the skyline. The lighting columns would greatly extend the lit area of the junction (MOT4/3 - B09014.BG600, MOT4/2 para7.18: Photos 1, 10-12, paras7.19-21, & MOT4/4 App6 Table BGS1).
- 11.6.14 Located on a tourist route with a wide panorama of the North York Moors and Yorkshire Dales, the MSA would impact upon these views (MOT4/2 para7.23). JT has not considered fully the extent of visibility of the proposal in Year 1 and prior to mitigation, particularly to the south-west (MOT4/7 App2 -B09014.BG606, MOT4/6 para2.5).

Baldersby Gate Services

- 11.6.15 The site is elevated, with almost no vegetation, and the land provides a part of the far ranging views to the North York Moors and Yorkshire Dales (MOT4/2 para8.4). REL fixes the upper height of the structures below the upper level of the Baldersby Gate junction. Although this leaves flexibility as to the ground levels for parking and buildings, it leaves uncertainty as to the precise levels and extent of proposed boundary mounding (REL3/2 para6.54) and ultimate amounts of cut and fill. The screening by the junction and slip roads, or the provision of a backdrop to the proposed development would only apply when viewed directly from the east or west. That does not overcome the extent of visibility of the structures and their effect on the skyline in views from the north-west, south-west and south, which is where most of the direct views would occur from footpaths, roads

and residential properties. Within these views the building and structures would appear in part or entirely on the skyline (MOT4/3–B09014.BG600, MOT4/2 paras 8.17-20, & MOT4/4 App7 Table BGN1).

- 11.6.16 The same Area 81 key landscape characteristics and relevant impacts equally apply as for the Kirby Hill and Ripon proposals (CD8.4). REL incorrectly identified the sensitivity of this landscape as low (CD6.8 s4: 'Landscape Character', final para). The sensitivity should be correctly recorded as 'high' in relation to large scale development (CD8.4 heading: 'sensitivities and pressures', 4th bullet).
- 11.6.17 The mitigation works require the use of 'super semi-mature trees' and shrubs in an attempt to provide early screening (REL3/3 App7, REL3/2 paras4.10&6.23). However, the site is particularly exposed and the trees would be difficult to establish on the elevated boundary mounds taking many years to provide successful screening (MOT4/6 para3.2, MOT4/7 App7). Furthermore the planting would in itself impact upon the open landscape character (CD8.4: 'Guidelines', 1st bullet).
- 11.6.18 The proposals would obscure long views from the tourist route towards the Yorkshire Dales and Nidderdale (MOT4/2 paras8.24-25). Also, the lighting columns would extend the junction lighting within a prominent elevated area of higher ground (MOT4/2 para8.21). REL's Zone of Theoretical Visibility at Year 1 is inaccurate; it fails to extend sufficiently to include 3 of its own viewpoints (11, 15 and 7) (MOT4/7 App2 - B09014.BG605 and MOT4/6 para2.6).

Motel Leeming

- 11.6.19 The existing TRSA has permission for an extended HGV and coach park. Part of the associated landscape scheme has recently been completed, with 10 metre planting belts, rather than the approved scheme of over 20 metres on the northwest and southwest boundaries. The revised MSA landscape scheme (January 2010) would narrow these areas further to provide for the increased HGV numbers (MOT4/11 paras3.1-2&4).
- 11.6.20 The central tree belt which provides screening of the TRSA buildings and structures would be further narrowed, with 40 linear metres removed to create the new HGV entrance and the proposed MSA layout. A management note on the approved HGV and coach park scheme suggests this belt would be thinned with up to a third of the existing trees removed. The role of this important tree belt would therefore continue to diminish (MOT4/10 para5.1, MOT4/11 para.5.3-4).
- 11.6.21 The site lies within the Hambleton District Landscape Assessment (Woolerton Truscott 1992) 5c 'Intensively Farmed Lowland', with simple topography and open landscape. The landscape is open, large scale and highly managed. The acknowledged approach is to enhance the character (CD9.5 paras4.57, 4.69-4.71, 6.26, 6.29 bullets5&8; 6.31 bullet2, and 6.33 bullets 3,4&7). The proposed MSA scheme would not achieve this objective (MOT4/4 App8 Table L2, MOT4/2 para9.19).
- 11.6.22 The revised MSA layout (January 2010) would visually impact adversely on the PROWs within the site, the recreational users of the railway, the A684, local residential properties and the permissive path to the west (MOT4/3–B09014.L700 & L702, MOT4/2 paras9.20-21, MOT4/4 App8 Table L1 A, MOT4/11 paras4.3-4).

Coneygarth

- 11.6.23 The site is on a local ridgeline with a relatively open landscape adjacent to the site, with expansive views to the Yorkshire Dales and North York Moors (MOT4/2 para10.3, XLB3/2 paras3.3.3, 3.5.3 & 5.5.2).
- 11.6.24 Soil from the A1(M) works is stored on site and a large compound is in the former quarry to the north-west. Once the site is restored, only the existing coach park at Leases Farm would be viewed in the distant eastern views and the remainder would revert to a rural landscape. The Leeming Bar industrial estate would be separated to the south of the XLB proposal by open land, the recently planted tree belts and BALB if built. The proposal would extend the urban characteristics of the settlement significantly further north (MOT4/2 paras10.20&23).
- 11.6.25 HDC acknowledge the elevated position of the site, the open rural views and lack of landscape features. However, its report contained no input from a Landscape Officer (CD7.24 paras3.5-6).
- 11.6.26 The proposal would locate the main built elements to the north of the site (XLB3/2 para3.6.1), where the A1(M) is in cutting or at grade and so least able to screen the development (MOT4/9 App2: cross-sections EX1-EX4, MOT4/8, paras2.1-2). Furthermore, the entire length of hedgerow and single holly tree on Leases Lane would be removed to enable the road to be widened. The result would be a development on the skyline as viewed from the wider views from the west, north-west and east and locally from Low Lane (MOT4/3-B09014.E753). Within some of these views there lie the hills of the North York Moors and Yorkshire Dales on the distant horizon (MOT4/9 App1– B09014.E756, MOT4/8 paras2.4&3.2).
- 11.6.27 The landscape proposals (CD3.29 - XLB/3/5-2229/4) improve on the ornamental species mix and irregular banks and mounding as presented in the planning application. However, even this cannot overcome the shortfalls of the site location, elevated on the ridgeline and open to views from the east and west.
- 11.6.28 The site is in the Hambleton District Landscape Assessment (Woolerton Truscott 1992) 5b 'Intensively Farmed Lowland' area, with simple topography and intermediate enclosure. The management strategy is for restoration which seeks to augment the existing landscape elements and restore the landscape character and quality, using landform to naturally define settlements (CD9.5 paras4.57, 4.64-66, 6.8, 6.18, 6.20 bullets 4&11 – note missing heading 'Guidelines for Woodlands, Trees and Hedgerows', paras6.22 bullet7, 6.24 bullet1). The lorry park proposals fail to support these objectives. Furthermore, the planting scheme at less than 2 to 5 hectares of woodland planting would in itself be inappropriate according to the LCT guidelines.

MOT Sites and Overall Position

- 11.6.29 Within the existing Wetherby, Scotch Corner and proposed Barton roadside facilities there is available space for the future comprehensive provision of service area facilities within the permitted development envelopes and with minimal landscape and visual consequences to the local and wider setting (MOT4/2 para13.1&5).

- 11.6.30 Each of these proposals would have a detrimental impact on Landscape Character Area 81 and affect the views within and across the landscape (MOT4/2 paras 12.21-23, 13.2-3, MOT4/3 –B09014.301 & 302).
- 11.6.31 Both the Roads and Planning policies require the minimum necessary service provision, if exceptional circumstances are to be relied upon for development in the open countryside (MOT4/2 para 13.4). The proposals would be substantial and would introduce unnecessary harm to the landscape and visual settings and the countryside from Day 1 (MOT4/2 para 13.5). They do not accord with their respective development plan policies: Harrogate Core Strategy policy SG3 in the case of the three HBC sites (CD8.1); and Hambleton DPD policy DP9 in the case of the two HDC sites (CD9.2). All of the sites conflict with C01/08 para 54 (CD1.14).
- 11.6.32 It does not demonstrate compliance with these policies merely to assert that the landscape and visual harm caused by the developments would diminish over time; particularly when the periods of time involved are for longer than the plan periods of any of the relevant Development Plans.

11.7 Highway safety and free flow of traffic

- 11.7.1 In a comparative exercise between different options the aim must be to seek the safest option. No evidence has been brought by anyone to suggest that there are any impediments to highway safety or free flow of traffic with the existing and planned MOT facilities or at Londonderry. It follows that relying on the existing system has considerable weight in determining how any degree of need found should be met.
- 11.7.2 Since the introduction of new accesses onto a motorway or a connection road or junction inevitably carries with it an interruption to free flow and an impairment of safety, all of the proposals are at a highways disadvantage compared to the option of relying on existing facilities. If a new access is to be introduced, it should meet highways standards in full to compete with existing compliant facilities – there is no place, in a comparative exercise, for allowing new sites to fail the prescribed standards but to be allowed 'departures'. That was a matter considered by the Inspector and FSoS at the 2003-2004 Inquiry.

11.8 Departures

- 11.8.1 HA's normal approach is set out in "The Highways Agency and the Planning Application Process – a protocol for dealing with Planning Applications" (MOT110). Departures must be applied for and granted before planning permission is granted. Whilst the protocol did not apply at the time of the 2002/3 inquiry, its requirements were complied with by all the proposals, including Kirby Hill.
- 11.8.2 2004IR indicates that HA initially took the view that departures did not need to be applied for at planning stage, but changed its position, requiring departures applications from each site but indicating that a Grampian condition could be employed where no application was received because there was reasonable certainty that the necessary departures would be approved in every case. The Report also confirms (a) that departures were required in the case of Kirby Hill; and (b) that the necessary departures were applied for before the close of the inquiry (CD12.1 para 10.6.29, 8.4.30 & 3.2.38).

- 11.8.3 That departures application was required before the close of the Inquiry notwithstanding that access was a reserved matter in the case of the previous Kirby Hill scheme. It is applied for in detail in the current scheme. The option of a "tweak" of the access design at a later stage does not arise. With the Protocol in place and so many departures apparently needed at Kirby Hill, the possibility of a Grampian condition is not available.
- 11.8.4 HIA asserts that no departures from standards are required for its proposed access arrangements (and its 'voluntary' Regulation 19 Submission (CD3.29) asserts that the scheme complies fully with all relevant standards). However, MOT shows that the proposals embody a sequence of departures from standards. No evidence has been provided by HIA or HA to show that such is not the case; or to show that the necessary departures have been applied for or granted. That is not a matter in the gift of HA.
- 11.8.5 The Protocol at page 7 states where proposals are not fully consistent with DMRB, HA's procedure must be followed. It goes on to state that the developer will be required to demonstrate that a design that complies with standards cannot be reasonably achieved; and that the proposed design is safe and fit for purpose.
- 11.8.6 The approach to departures is addressed in TD22/06: "In exceptional situations, the Overseeing Organisation may be prepared to agree to a departure from Standard where the standard, including permitted Relaxations, is not realistically achievable. Design Organisations faced by such situations and wishing to consider pursuing this course must discuss any such option at an early stage in design with the Overseeing Organisation. Proposals to adopt departures from Standard must be submitted by the Design Organisation to the Overseeing Organisation and formal approval received before incorporation into a design layout." (CD1.17 para1.38).

The Kirby Hill Departures

Merges and diverges

- 11.8.7 The submitted drawings (Nos. 208006/11B, 208006/12B and 08006/24B) contained substandard elements in respect of taper lengths, nose widths, 'near straight' length and the application of the stopping sight distance. These are identified in MOT's annotated plans (MOT3/3 App PF9). The 'optional access proposals' addresses some shortcomings, but the southbound diverge still contains a substandard arrangement. This is shown in the annotated version of drawing No. 208006/63 M264/14 (MOT109 drg M264/14).
- 11.8.8 The second 'voluntary' Regulation 19 submission (CD3.29) seeks to address this. Paragraph 3.6 refers to "further drawings provided at Appendix 8". Two of the three are Drg Nos. 208006/63 and /64: these are identified in the list of application plans (HIA201). However these have now progressed in HIA108 to RevA – "revised road markings and change to the nosing width" – to address issues raised by MOT. These amendments are not application drawings and do not appear to have superseded the earlier unsatisfactory drawings listed in HIA201. The third is Drg No. 208006/75: this is now at Rev B and includes the retaining wall under the B6265 overbridge. It is not included in the list of application plans (HIA201).

Horizontal curvature

- 11.8.9 The diverge slip road to both sites would lead into a 75m radius curve. This is 4 steps below the desirable minimum radius based on a design speed of 70kph (MOT3/2 para6.49). Consequently the connector road needs to be considered as a 'Loop' where the minimum radius is 75m to be compliant with TD22/06 (CD1.17). The layout plans are not dimensioned. However, the radii scale from 75m reducing to 25m. This is a departure, as TD22/06 does not allow reducing radii in loops (CD1.17 para4.9). On leaving the MSA, the connector roads would also loop. The radii vary from 25m to 75m. This too is a departure from TD22/06.

Lane provision

- 11.8.10 The original plans as submitted show what appear to be two lanes on each connector road. The STA (CD3.29 App1 para3.7) confirms the intention for a single lane connector (merge MG1A and diverge DG1A). The plans of the 'optional access proposals' show two lanes, one of which appears to be 'hatched-out' and a hard shoulder which tapers in width from 3.0m to zero. This is not a standard layout and therefore it is a departure from TD27/05 (MOT111). The plans in CD3.29 have sought to address this, however there is uncertainty over which plans are included as application plans.
- 11.8.11 There is no lane widening shown on either the original plans or the plans of the 'optional access proposals', or the latest plans in the second 'voluntary' Regulation 19 submission (CD3.29). This is a departure from TD22/06 (CD1.17 para4.9) and in turn TD42/95 (paras4.3.2 and 7.25 and Table 7/2). This continues to be an issue.
- 11.8.12 The design speed for the slip roads is 70kph (CD1.17 Table4/1). The Desirable Minimum Stopping Sight Distance for 70kph is 120 metres (CD1.18 Table3). Para4.16 states that this is to be provided on all connectors roads. Para2.57 allows a relaxation of one design step on the diverge (ie to 90 metres). The original plans show 90 metres but fail to show the outline of the bridge structures. The 'optional access proposals' (Drg No. 208007/75) show forward visibility of 70m (CD3.29 App7 of App1). This is particularly relevant on the egress from the southbound MSA where the relaxation on merges is not permitted.
- 11.8.13 HIA provides further details, on Drg No. 208006/75 RevB, showing how forward visibility is to be achieved under the existing B6265 overbridge (HIA108). This reaffirms the intention to provide 70m forward visibility which is two steps below the Desirable Minimum Stopping Sight Distance of 120m for the design speed of 70kph on connector roads. As no relaxation is permitted on the egress, the forward visibility continues to be sub-standard. This represents a TD22/06 departure (CD1.17 paras2.57&4.16).
- 11.8.14 In summary, despite the ever changing plans, the access arrangements are sub-standard and no departures have been agreed. The application is not, therefore in a form that can be permitted. Furthermore as identified in legal submissions in MOT300 Annex II⁴, these difficulties of design and access relate to land which is not a part of the application and for which an application for planning permission is required. The HIA proposal must be

⁴ This is produced in full, with notes of verbal additions, at Annex 2 of my report

considered incomplete and development must be considered landlocked and undeliverable. This makes the Kirby Hill application as presented premature and incapable of being permitted in its inchoate form.

The Ripon Services Departures

Site Access

- 11.8.15 Access is not a reserved matter: it is unclear which drawing is relied on to provide the detail. Drawing No.TSP-315/001 Rev Pa appears to be an application plan. Mr Finlayson's evidence (MOT3/2) highlighted an entry path radius greater than 100m (MOT3/2 para6.93) and in his examination in chief he referred to MOT108, an annotated version of drawing no. 222260/601 showing the entry path curvature. It was claimed that drawing no. 222260/100/01 RevE (Appendix A) shows entry path curvature (JT112 para3.3). It does not. The scale of 1:1000 is too small to plot the entry path curvature accurately. The drawing is titled 'illustrative site layout'.
- 11.8.16 The list of application plans in the drawing schedule comprises plans at different scales which make comparison difficult (JT201). It refers to drawing no. 222260/100/01 RevE as 'Highways Site Plan'; but in fact it is the 'Illustrative Site Layout'. The list contains a number of errors in the titles of the drawings. In recent email correspondence, the applicant's solicitor has indicated that drawing TSP-315/001-Z2 can be relied on to determine access. That drawing is entitled "General Site Layout". It shows defective entry path curvature; that access is not reserved. The plan is shown as illustrative – the plan for which planning permission is sought is defective. The latest layout plan 222260/602/A is shown as illustrative.
- 11.8.17 To overcome the problem of entry path curvature, the roundabout has to be revised; the central island has to be increased in size; the circulatory carriageway needs to be reduced in width; the entries have to be re-orientated and reduced in width. Without these revisions being provided, a fundamental element of roundabout design is not satisfied.
- 11.8.18 JT states that 'entry path curvature' has been addressed to the satisfaction of the Road Safety Audit team (JT2/6). There have been a number of Road Safety Audits; they include:
- i) RSA 9062A dated April 2010 which accompanied the 'Impact Assessment' raised 'entry path curvature' as a problem. This was in respect of drawing No.TSP-315/001 Rev F. It remained a problem with Revision I, the version submitted as part of planning application.
 - ii) RSA 9347A dated 13 September 2010 contained in the TA dated September 2010 (CD5.32) which refers to 'high entry angle' and 'racing line'. This was in respect to drawing No. 222260/100/01.
 - iii) RSA 9583 dated 9 December 2010 contained in the SOCG (CD14.20). The Auditors were specifically requested to consider the Site Access Roundabout shown on drawing No. 222260/601. Whilst no *additional* road safety issues were identified, this RSA had to be read in conjunction with the earlier RSAs which had identified the problem of entry path curvature.
- 11.8.19 NY states that it is satisfied with drawing No. 222260/602/A but does not make it clear that it was not satisfied with the earlier plan (NY104). That earlier plan, No. 222260/601, shows the roundabout layout incorporated into the application plans to be approved, ie the 'Site Layout' and the

'Highways Site Plan' as listed in JT201. Therefore, the application plan still shows the 'entry path curvature' greater than 100m and is in conflict with TD16/07 (CD1.19) and has not been approved by NY. There is a departure in respect to the 'entry path curvature' on two of the three approaches on application plan No. 22260/601 (MOT108). JT is incorrect to reject this by saying that both the Safety Auditor and NY's consultant are content.

- 11.8.20 This has highlighted the role of the Road Safety Auditor: the Road Safety Audit is not a technical check that the design conforms to Standards (CD1.20 para2.12). It is for the designer to identify departures and for the audit brief to contain information of details of approved departures and Relaxations from Standards (para2.62). None were or have been advised. There are unauthorised departures in the design of this access roundabout.

Equestrians

- 11.8.21 JT refers to formal consultation being made regarding the PROW; the Ramblers Association, the British Horse Society etc. made no adverse comment (JT112 para2.5). The SOCG confirms that the matter needs to be examined at the detailed design stage (CD14.20 para3.15).
- 11.8.22 This is relevant to the access because JT's proposal alters HA's Baldersby junction. The plans in JT106 highlighted the need for carriageway widening around the dumbbell roundabout which impinged on the embankment on the western edge. TA90/05 states that equestrian crossings are not recommended on dual carriageways, and TA91/05 (MOT112) says that equestrian crossings are not normally appropriate when AADT is above 25,000 (CD1.36). With the Ripon proposal, the AADT on the A61 rises from around 20,000 to 29,000, significantly above the threshold of 25,000.
- 11.8.23 The proposals are likely to require a diversion of a PROW for equestrians into the MSA site and onto what would be private land to place the crossing point at a location with sufficient visibility for safety. This is potentially worse for Ripon than for Baldersby Gate if the HA complies with its own advice in TA90/05 (CD1.36) and TA91/05 (MOT112). This 'loose-end' at Ripon is another example of an unsatisfactory access provision.

The Baldersby Gate Departures

Site Access

- 11.8.24 Access is not reserved for subsequent approval. There is a shortfall in the design of the access proposals (MOT3/2 para6.104). Drawing No. 22280-6 'Detailed Access Proposals' is not in accordance with TD16/07 (CD1.19). HA will retain responsibility for the dumbbell roundabout, therefore its Protocol in respect of departures will apply (MOT110). REL seeks to overcome the deficiencies by amending the access layout (Drg No. 22280-6F in REL118). If the revised plan is accepted, the matter of access is addressed. If not the departure procedure needs to be approved before planning permission can be determined.

Equestrians

- 11.8.25 The proposals involve a diversion of a PROW for equestrians well into the MSA site and onto private land to provide the crossing point with sufficient visibility for safety. This is made worse with the Baldersby Gate arrangements if TA90/05 (CD1.36) and TA91/05 (MOT112) are to be complied with and because of the depth it is necessary to ride into the site.

Coneygarth Truckstop

- 11.8.26 The proposed Site Layout Phase 1, drawing No. 6162/D101 is now at Revision J. This revision is dated 15 Dec 2010 although the drawing is dated Jan 2010 (XLB/201). The truckstop would be served off Leases Road via the link road to the new Leeming Junction, described as Phase 1. The roundabout on Leases Road restricts the size of vehicle that can reach the truckstop. In the event that BALB is built, the Leases Road roundabout would be reconstructed at a lower level requiring a realignment of Leases Road - described as Phase 2.
- 11.8.27 In Phase 1, the carriageway of Leases Road would be widened to 7.3m. The arrangements for Phase 2 are less certain. Despite the planning approval for the BALB scheme that has been granted, evaluated and which forms the basis for the decision whether or not to proceed, NY is considering altering the priority between Leases Road and the realigned Low Street. It has to do this in order to address concerns over the turning movements, the swept path of large vehicles (MOT3/4 para25). The developer claimed that a s106 agreement would address the optional access arrangements; however such agreement does not make it inevitable that the BALB would not be prejudiced by having to make further changes to its assessed scheme.

11.9 Layouts

Abnormal Loads

- 11.9.1 The minimum provision for MSA parking for abnormal loads is a single bay capable of accommodating a vehicle carrying loads up to 30m rigid length, 6.1m wide and 150,000 kg total weight (C01/08 para86). To allow for tractor/trailer combinations, the bay should have a minimum length of at least 47.5m. Changes have been made to the layouts and the access arrangements of each site. In the case of the Ripon, Baldersby Gate and Motel Leeming, since the proposals are off-line sites it is the design of the motorway junction that restricts the size of vehicle and in turn the load that can access the MSA. The same is true of Coneygarth; although it is not an MSA, it includes abnormal-loads vehicle provision at the request of the HA.
- 11.9.2 The maximum size of abnormal-loads vehicle that can be accommodated by the new motorway junctions is the subject of the HA's Note HA-02 (Revised) (CD11.9). The junctions at Leeming and Baldersby would accommodate the standard vehicle permitted under the Motor Vehicles Construction and Use Regulations 1986 (C&UR) (CD11.9 para1.28). That is a length up to 16.5m, width 2.9m and gross vehicle weight (including load) of 44,000kg.
- 11.9.3 The Baldersby junction design vehicle has an overall length of 23m, a rigid length of 19.7m with a chassis width of 3.55m (CD11.9 para1.29, CD14.20 para3.56) – less than the C01/08 design load dimensions even allowing for overhangs. The limitation imposed by the design of the motorway junctions diminishes the benefits that should be achieved by the provision of additional services at the Motel Leeming and Baldersby Gate junctions.
- 11.9.4 There is potential to comply with the policy requirement at the on-line Kirby Hill proposal. The A1(M) is also a designated High Loads route, requiring a minimum headroom clearance of 6.45m. HIA modified its scheme to increase the headroom under two overbridges on the southbound site, and

incorporated changes to accommodate the swept paths of abnormal loads (CD3.26 and refined in December 2010 in CD3.29). However, access is not a reserved matter and procedurally the changes proposed are not capable of inclusion within the terms of the planning permission sought. This, coupled with the identified departures, reaffirms the prematurity of the Kirby Hill application and that it is incapable of being permitted in its inchoate form.

- 11.9.5 The layout of the Leases Road roundabout built as part of the A1 upgrade limits the size of vehicles capable of reaching the Coneygarth site. Leases Road is part of the High Load route. This is to continue in view of the height restrictions on the A1(M) between Baldersby and Leeming New Junction that would remain in the upgrade scheme (MOT3/4 para18). The layout of the access into the truckstop does not accommodate movements to/from the north using this route. The bridge under the A1(M) at the Leeming New Junction has a headroom of 5.3m preventing a northbound High Load benefiting from the proposed truckstop facilities, thereby reducing the efficacy of Coneygarth to serve the A1(M) (MOT3/4 para21).

Internal layout

- 11.9.6 Coneygarth has serious layout defects. Light vehicles appear to be restricted to entry into and out of the fuel area only, with limited parking and remote from the other facilities; HGV drivers wishing to park before or instead of fuelling must squeeze through a relatively narrow area within which it would appear from the plans to be a diesel supply bay for the forecourt and a facility within which another HGV is likely to be re-fuelling. Wide loads would require precision manoeuvring to access the wide bays through barriers and right angle turns.

11.10 Sustainability

- 11.10.1 Kirby Hill would require complicated optional permissions to be considered although no planning applications are before the SSCLG and no fees have been paid. Procedurally, HIA is in a muddle regarding the 'voluntary' Regulation 19 EIA submission (CD3.29) (MOT115). The site is a remote site without connection between either side of the A1(M), inevitably leading to duplication of all operational aspects of an MSA.
- 11.10.2 The Baldersby junction sites are remote from their likely sources of employment. They are not so remote as Kirby Hill and do not present such duplication. The Motel Leeming and Coneygarth sites are remote from available labour. The evidence from HDC is that there is a shortage of labour in Leeming and that it has to be brought in from as far afield as Teeside (CD9.11). Consequently, any staff required are likely to have to be unsustainably bussed in from afar.
- 11.10.3 The most sustainable solution would be to introduce no extra mileage for drivers. That option is available on the A1(M) by relying upon the existing permitted roadside facilities to meet such need as there is. The availability of this option has to be weighed against such need, if any, that is found and the type of any such need. Wetherby would require no additional deviation and no need for significant increase in staff to cope with existing and future demand; it would have nil adverse impact in terms of sustainability. Scotch Corner would require no significant additional staff requirements. Even if there were difficulties at Barton, it is much nearer to Teeside than Leeming and accordingly that much more sustainable.

- 11.10.4 The most sustainable option for XLB would be to continue at Londonderry with its existing loyal card-bunkering clientele and staff. No extra staff would be required to be brought in from a distance. There would be no significant additional mileage for the HGV drivers using the site. In the overall balance the benefits to the principles of sustainability weigh heavily in favour of meeting the degree of need found, if any, by reliance on existing planned and permitted facilities.

11.11 Conditions/s.106 Obligations

- 11.11.1 Kirby Hill: The application seeks detailed permission for access. There is no power for the SSCLG to change an application. The HA conditions 1, 2 and 3(a) and Harrogate Conditions 19 and 20 are unlawful as they purport to grant permission and/or reserve matters on land which is outside the application area red line. As the site is landlocked and no access has been applied for the only lawful option for the SSCLG appears to be to refuse permission. There is no evidence that the landowner has power to construct the works on land outside the red-line without making an application for permission (MOT300Annex II, MOT115).
- 11.11.2 With regard to the Coneygarth site, no agreement or conditions have been produced which shows how the promoter can require, facilitate or achieve the necessary alterations to BALB without potentially prejudicing the provision of that scheme.

11.12 Ministerial Statements

- 11.12.1 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12).
- 11.12.2 MOT's case, in short, is that the provision of additional facilities beyond those already authorised (whether MSA or truckstop) is not necessary, would cause harm in conflict with policies of the relevant development plans for the areas concerned, and would prejudice the completion of the already authorised developments, undermining planning decisions already taken by the local planning authorities and the Secretary of State. In such circumstances, none of the proposals could be regarded as sustainable development and all should be refused planning permission (DOC12.9).
- 11.12.3 It is only where development is sustainable and necessary that it can benefit from the favourable consideration offered in the Statement. None of the promoters identifies that the developments are needed to support economic growth, relying on the HA's mistaken interpretation of its policy. In the absence of need, each proposal is the antithesis of sustainable development as they needlessly duplicate existing or permitted facilities, involve development in open countryside, prejudice the completion of authorised development at Wetherby and Barton and the continued effective use of Scotch Corner, and contradict the FSoS's decision in 2005 (DOC12.9).
- 11.12.4 Written representations were also invited and presented on the ministerial Statement dated 22 June 2011 (DOC13). The support in the statement offered to new truckstop developments is subject to the very important qualification that they should not be allowed to prejudice the provision of new MSA facilities. This is explicit endorsement of MOT's position at the Inquiry (MOT300 para100) (DOC13.9)

Conclusion

- 11.12.5 There is no compelling case for the provision of an additional MSA on the A1/A1(M) at this stage. There is no application before the Inquiry for an MRA and no need for a new large truckstop. Need is not absolute, particularly if it is simply a policy need without empirical evidence to support a particular need at the site in question. Even if some need were to be found, it would be insufficient to outweigh the harm that each proposal would cause to material planning considerations.
- 11.12.6 In terms of localism, all of the MSA proposals have been or would have been refused by their respective planning authorities. Had HDC attempted a lawful consideration of XLB's application, it would have identified that there was no need and that the site failed to accord with their very recent and up to date local development plan. Given the existing but uncompleted roadside facilities already expressly permitted by the Secretary of State to deal with the long-term future of this stretch of road, there is no sufficient exceptional or good reason to justify a recommendation that any permission be granted.

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12. The Case for Kirby Hill RAMS (Residents Against Motorway Services) (KH)

12.1 Introduction

- 12.1.1 KH was formed solely to object to HIA's proposals for an MSA. 728 local people signed the original mandate supporting its objections at the 2003 Inquiry. For the present Inquiry, the mandate was extended to include the representation of the seven local Councils nearest to the proposed site, namely the Parish Councils of Kirby Hill and District, Marton-le-Moor, Langthorpe, Skelton-cum-Newby, Roecliffe-with-Westwick and Dishforth, as well as Boroughbridge Town Council (a combined electorate of 4,793 people).
- 12.1.2 Whilst KH has no professional qualifications in the field of planning, its case is based on evidence that accurately reflects the first-hand knowledge and day-to-day experiences of local people. Thus, KH is uniquely positioned to provide a valuable, first-hand, local perspective on the issues.

12.2 The Big Society

- 12.2.1 The draft Localism Bill provides clarity that the Government's current emphasis and future direction is to increase the influence that local planning authorities, local communities and local plan policies have over development, especially major development, and to reduce the role of central Government.
- 12.2.2 HIA accepts that there would be benefits to this new "bottom-up" approach to planning (HIA1/7 para2.2). HIA does not acknowledge that its case, which relies on the premise that "the HA knows best", is exactly the type of centrally-led planning imposition that the SSCLG wishes to end, by empowering local and better planning decisions. Locally, HIA's proposals for an MSA at Kirby Hill have been consistently rejected whenever they have been put forward over the last 14 years. HA's evidence does not provide grounds for overturning this view.
- 12.2.3 HIA indicates that the Big Society is not a charter for local opponents to resist development that has a wider public benefit (HIA1/7 para2.2). Any claim of a wider public benefit for the proposed Kirby Hill MSA must rely on HA's evidence, because HIA has not advanced any Need or Safety case. Further, HA's evidence to this Inquiry shows clearly that here the HA does not know best, if indeed it knows anything at all for certain.
- 12.2.4 The HA has incorrectly measured the gap on its own road network, incorrectly counted the traffic flow data on its own motorway, incorrectly interpreted its own policy in C01/08, incorrectly approved plans and drawings from HIA that contain manifest errors and has allowed itself to be led by HIA through a series of changes in its position to the one it now holds, but is unwilling to field a witness to defend, at this Inquiry. Further, this position is at variance with the correct interpretation of C01/08 policy used in the Agency's own National Review of Service Area provision published in January 2010. HA has changed its position several times, from February 2009 when it said that a compelling need and safety case was required (KH1/4 App2), to the end of the same month when it decided a need and safety case was not required but that it didn't wish to express a

preference for a site allocation (KH1/3 para10.3.3-4), to May 2010 when it formally objected to the Motel Leeming site allocation, and to October 2010 when HA said it did not require a need or safety case and that it preferred the Kirby Hill site. There has been no change to the policy framework during this time.

- 12.2.5 In light of this catalogue of errors and misdemeanours, little weight should be attached to HA's evidence. This must be a case where the evidence of the Big Society should receive more weight than the evidence of a central Government department.

12.3 The Issues

Policy in PPG13 and DfT Circular 01/2008

"The extent to which the proposed development is consistent with the advice in Planning Policy Guidance 13 and DfT Circular 01/2008 on Motorway Service Areas."

- 12.3.1 Contrary to HIAs claims of full compliance (HIA1/2 para8.1), the proposed development is not consistent with the advice in PPG13 and C01/08 in a number of important respects. This provides grounds for a refusal of planning permission.

Need

"In particular, whether there would be a need for an MSA in the locality, following the completion of Phase 1 of the upgrading of the A1(M), bearing in mind the siting of the other facilities on the strategic road network."

- 12.3.2 The Inquiries in 1997 and 2003 considered the need for an MSA on a 70-mile section of the SRN between Ferrybridge and Durham. Following both Inquiries, the Secretary of State agreed with the Inspector that there was only a need for one new MSA on this section of the network. That need has now been met by the provision of Wetherby MSA.
- 12.3.3 Common sense suggests that if there is a need for only one MSA in the Ferrybridge to Durham section, there would be no need for another in the 40-mile Wetherby to Barton sub-section. Even if additional need were to arise in future in the 70-mile gap, building another MSA at the C01/08 Absolute Minimum Spacing Distance of 12 miles from Wetherby MSA would not be an effective response to meeting that need.
- 12.3.4 Neither HIA nor HA has shown an overriding need or the clear and compelling safety case that would be required to justify an MSA at Kirby Hill (CD1.14 para58). Instead, they argue that it is not necessary to demonstrate such a case, because of a claimed 40-mile gap between Wetherby and Barton Park MSAs. This argument does not stand up to scrutiny for three reasons:
- 12.3.5 Firstly, the claimed 40-mile gap does not exist as HA/NY confirm that the gap is 39.6 miles. HA claims that this does not matter, because its practice is to round-up distances on traffic signs to the nearest whole number (40 miles in this case). However, examples of signs containing fractional distances are seen in C01/08 (CD1.14 parasA2.2.1.6 & A2.2.2.2). In fact, there is a newly-erected motorway sign on the A1 stating: "Wetherby Services 1½ miles".

- 12.3.6 Secondly, C01/08 only requires that where a gap in excess of 40 miles exists, an infill Core MSA, rather than an infill MRA, must be provided (KH1/3 para4.3.16). Nowhere does C01/08 state that a 40-mile gap is sufficient to justify a new MSA without a compelling need or safety case being made. HA's second witness accepted that he had written to HIA setting out the HA requirement for a need and safety case (KH1/4 AppB p7) and that it was only after a meeting with HIA that HA wrote the letter of 26 February 2009 (HBC1/3 p207), which said that it was not necessary to demonstrate need if there was a 40-mile gap. It is unclear how and why this change to an incorrect interpretation of C01/08 policy occurred.
- 12.3.7 Thirdly, C01/08 requires not only the demonstration of a compelling need, but also that a safety case should be made (CD1.14 paras14,58). Both HIA and HA witnesses acknowledged that they had not assessed or made a safety case for the proposed Kirby Hill MSA. Yet the HA letter of 26 February 2009 does not say that because a 40-mile gap exists, no safety case is required. The absence of a safety case is a very serious omission.
- 12.3.8 There is no need for another MSA between Ferrybridge and Durham. The D2B upgrade of the A1 will reduce journey times and reduce need. Any long-term increase in need can be met by the development of Barton Park and expansion of the Wetherby MSA. These strategies for meeting the need should be given time to work before another planning permission is granted for a new MSA in the open countryside.
- 12.3.9 The section of the A1(M) that runs through Harrogate District is just 21-miles long and already includes one MSA. As the target for MSAs is a 28-mile spacing, the District itself clearly has no need of a second MSA and HBC is right to maintain its policy of only one MSA in its District.
- 12.3.10 HA's position on Need conflicts with the conclusions of the HA Spatial Planning Framework Review of SRN Service Areas: National Report. The introduction to this report, published in January 2010, says: *"the information presented in this report provides the evidence base from which to identify the existing gaps in MSA provision"* (CD11.9 para1.4). The report does not identify a need for a new MSA between Wetherby and Barton. Yet at the first MSA Inquiry since the report was published, the HA is taking a contradictory position in saying that the National Report should be disregarded in favour of a position on Need that KH has shown it adopted just days after a meeting with HIA. In making any assessment of need, the evidence base should be relied upon.

12.4 Alternative Sites

The availability of alternative sites which would meet any such need

- 12.4.1 In the event that SSCLG considers that there is a need for a new MSA, then there is a clear priority to the alternative sites: Motel Leeming should be given preference, because it is an existing Service Area that is located 28 miles from Wetherby, at exactly the C01/08 target spacing. While it is closer to Barton Park at 14 miles, it is not as off-centre as HIA's proposal would be. The brownfield Motel Leeming site would not involve the same levels of landscape and environmental harm as the other MSA proposals – the Motel Leeming impact would be so insignificant that the Applicant was not required to prepare an ES (CD4.27). Its selection would safeguard a local business and 50 local jobs.

- 12.4.2 The many planning advantages of the Motel Leeming site would overcome the disadvantage that it would be remote from the motorway. It is also worthy of note that this disadvantage is not the fault of Motel Leeming promoters. It arises because the A1 upgrade moved the junction away from the site. Ferrybridge MSA is just such a remote site providing services to the A1(M). The planned extra capacity at Barton Park and Wetherby plus development of Motel Leeming into an MSA would make it absolutely not necessary to grant planning permission for any new MSA on greenfield sites in the North Yorkshire countryside.
- 12.4.3 The Baldersby junction sites should be the next preference, as they are located roughly halfway between existing MSAs; the preferred C01/08 location (CD/1.14 para59). They would involve less: built development; land-take; construction work on the A1(M); and risk of adding to motorway accident numbers, than would the on-line site at Kirby Hill. The Baldersby sites fare better than Kirby Hill in terms of sustainability considerations and spacing policy. Neither of the Baldersby sites is as close to residential settlements or to an operational military airfield as the Kirby Hill site.
- 12.4.4 It has been suggested, anecdotally, that junction sites such as Baldersby may attract a lower turn-in rate than an on-line site and hence would be less effective at meeting the need. However, HIA's highways witness provided documentary evidence from JMP, consultants to the HA, that a turn-in rate of 8% should be used for both on-line and junction sites (CD3.29 tab1 App1 p3). These rates were described as being "*appropriate and robust in the context of this assessment*" (CD3.29 tab1 para2.3). This documented, independent, expert evidence on turn-in rates which HIA was happy to accept in its original assessment should carry more weight than the anecdotal evidence.
- 12.4.5 Kirby Hill is the least preferable of all the sites in terms of meeting the need. At just 12 miles from Wetherby Services to the south and 7 miles from the TCS-Midway Services on the A168 to the north-east, it is more likely to attract trade from these facilities than to meet a need in its own right. The evidence of potential harm from a twin-sided, on-line MSA at Kirby Hill is compelling. In cross examination, HIA's planning witness identified seven types of harm that he considers inevitable if the proposed Kirby Hill MSA were to be built (loss of countryside, loss of openness, loss of BMV agricultural land, loss of hedgerows, loss of views, sub optimal MSA spacing, and the creation of a long mound). No need exists to justify causing this harm. If it did, HIA would have demonstrated it, as it did in 2003, rather than advancing a need case that relies on the HA.

12.5 Policy T7

The weight to be given to policy T7 of the Harrogate District Local Plan

- 12.5.1 Policy T7 was formulated in the face of a compelling need for MSA provision that existed and it took account of the high quality environment along this part of the A1 corridor. It was based on the then government guidance that sought the provision of facilities every 30 miles, rather than the current 28 miles. However, the section of A1(M) in Harrogate District is just 21 miles long and contains the Wetherby MSA, for which permission was granted under policy T7. Only if the target spacing were reduced to 21 miles or less would policy T7 be in conflict with national policy guidance.

- 12.5.2 The second strand of Policy T7 states that provision of an MSA is to be dependent on there being a need for additional services, in which case any proposal would be assessed against a range of site specific criteria. Even in a situation where the first strand of the policy were set aside, it is still necessary to assess whether there is need for the proposed MSA and then to balance this against any site-specific harm. This is consistent with the approach of C01/08, which requires demonstration of a clear and compelling need. It is perverse to suggest, as HIA does, that a policy intended to ensure there should only be one MSA in Harrogate District should somehow become invalidated when that one MSA is built: it is only after one MSA is built that such a policy becomes effective. It follows that significant weight should be attached to saved Local Plan Policy T7.
- 12.5.3 HIA makes a general claim that saved policies of the Local Plan should carry less weight, simply because they are some years old and will be updated as work on the new LDF progresses. Those saved policies remain in force and, in the absence of specific evidence (e.g. a Deposit Draft) of the intention to replace an existing policy with something significantly different, it should be assumed that the emerging LDF will be consistent with the saved policies, and full weight afforded to them.

12.6 Landscape Impact

The impact of the proposals on the landscape character of the area and its surroundings

- 12.6.1 HIA's proposals conflict with National, Regional and Local policies concerning sustainable development in rural areas (KH2/1 paras4.2.7-4.2.12) and do not fulfil the landscape criteria in C01/08 (KH2/1 paras4.2.71-4.2.75). In view of the substantial body of Government policy devoted to protecting the countryside from unnecessary development, this is a matter which should attract significant weight.
- 12.6.2 Kirby Hill is within Landscape Area 81: "Dishforth and Surrounding Farmland" (CD8.4). The Landscape Character Assessment provides a detailed assessment of the local landscape, produced by the LPA, in consultation with local experts who know the area well. For this reason, as well as the Government's new emphasis on the importance of the Local Development Framework, significant weight should be afforded to the Landscape Character Assessment – far more weight than to third party landscape assessments from experts who have reached their conclusions on the basis of a just a few short visits to the site and whose descriptions of the landscape KH does not recognise.
- 12.6.3 The HIA proposal involves an irreversible change of land use that is out-of-keeping with the general character of the area. The open fields on the northern fringe of the settlement of Kirby Hill would be replaced by mounding and woodland planting intended to screen the proposed MSA, contrary to the documented landscape character of the area.
- 12.6.4 The proposal could not be successfully assimilated into the landscape at Kirby Hill and would cause substantial harm (KH2/1). HIA's landscape witness accepted that the proposals would result in the loss of views that in his opinion deserve to be protected. He also accepted that the site lies in attractive, open countryside and that it would inevitably cause long-term,

permanent harm (HIA2/4 para2.9). HIA's planning witness concurred and identified seven specific types of harm that he described as "inevitable".

- 12.6.5 At the 2003 Inquiry, the proposed mound intended to screen the MSA from Kirby Hill village was shown to be 180m long and 8m high. 2004IR indicates that *"this mound would clearly be out of character in the landscape and that it would take a considerable number of years before the woodland planting would grow sufficiently to effectively soften its visual effect."* (CD12.1 para10.6.45). The current proposal is for a mound 480m long and 9m high, which represents a significant increase in adverse landscape impact and visual intrusion from this alien feature. The MSA and its mound cannot be successfully assimilated into the large-scale, open landscape at Kirby Hill.
- 12.6.6 The Countryside Act 1968 imposes a duty to *"have regard to the desirability of conserving the natural beauty and amenity of the countryside in the exercise of their functions relating to land."* Because of the substantial landscape and environmental harm that are inevitable consequences of HIA's MSA proposal, that duty should lead to the dismissal of HIA's Appeal on landscape grounds alone.

12.7 Loss of Agricultural Land

The weight to be given to the loss of agricultural land which would occur as a result of the proposal

- 12.7.1 Two significant policy shifts with regard to BMV agricultural land have occurred since the last Inquiry: First, PPS7 now says: *"the presence of BMV agricultural land should be taken into account alongside other sustainability considerations (e.g. biodiversity; the quality and character of the landscape; its amenity value or heritage interest; accessibility to infrastructure, workforce and markets; maintaining viable communities; and the protection of natural resources) when determining planning applications."* HIA's ES Update (CD3.5 para8.4) quotes this, but omits the list of other sustainability considerations. The new policy emphasis is on BMV agricultural land being just one among many factors in assessing if a proposal represents sustainable development. Destruction of 18ha of such land for a twin-sided MSA, when the alternative proposals would use a significantly lower quantity and quality of BMV land, is yet another indication that the proposed Kirby Hill MSA is not sustainable development.
- 12.7.2 Second, rather than enshrining the protection of BMV agricultural land in national policy, PPS7 now says that: *"It is for local planning authorities to decide whether best and most versatile agricultural land can be developed, having carefully weighed the options in the light of competent advice."* Once again, the policy shift has placed more weight on the considered opinion of the LPA, which in this case is that the destruction of so much BMV agricultural land at Kirby Hill is unacceptable.
- 12.7.3 It is important to focus not just on the quantity of BMV land that would be lost, but on its quality and its rarity in the surrounding area. For 14 years HIA has claimed that the site comprises Grade 2 and Grade 3 agricultural land. However, much of the site in fact comprises Grade 1 agricultural land and that the proposed MSA site and its surroundings stands on one of the largest tracts of Grade 1 agricultural land anywhere in North Yorkshire (KH2/1 para4.3.23). KH's evidence on this point is not challenged. In view

of this, increased weight should be given to the loss of BMV agricultural land compared to 2003. A loss of this quantity of Grade 1 land in this location is not sustainable and the proposal does not comply with the Government's policy in PPS7 (CD1/7).

12.8 Highway Safety

The implications for highway safety and the free flow of traffic on the A1(M)

- 12.8.1 HIA's proposal does not comply with Government policy requirements to maintain traffic and highways safety and does not achieve the required balance between increased safety risks and improved safety benefits required by C01/08 (KH1/1, KH1/2). In summary, the proposal fails to meet the requirements in terms of Traffic and Highways Safety because:
- (i) There is no over-riding need or safety case to justify a new MSA at Kirby Hill;
 - (ii) The site fails spatially – if it were just 0.3 mile further south, it could not even be considered under C01/08 spacing policy;
 - (iii) The introduction of motorway slip roads would increase the risks to safety on the SRN for no improved safety benefit. Because the safety case has not been assessed, it is possible or even likely, that the safety risks of new slip roads to/from the motorway would outweigh the safety benefits of a new MSA, particularly since it would be so close to the existing Wetherby MSA;
 - (iv) There would be a real risk of accidents on the slip roads, especially in relation to the complicated and confusing layout for the southbound MSA;
 - (v) There would be increased trips on the motorway for staff, suppliers and visitors to the MSA, increasing the road safety risks; and
 - (vi) The site has highly questionable abnormal load provision.
- 12.8.2 KH has no Traffic and Highways experts, so is seriously concerned that, as laymen, its members have been able to find numerous errors in plans and drawings, such as HIA115, that have been prepared by professionals on HIA's team, reviewed by HA and signed off as safe and conforming to standards. While the latest version of HIA115 is an improvement, it is still not correct. If HIA's technical drawings are still not right after 14 years of applications and appeals, it is questioned whether this team can actually deliver proposals that meet the relevant safety standards and implement them correctly.

12.9 Impact on the Local Road Network

The impact on the local road network arising from the need to provide access from the A168 and B6265 to construct slip roads on the motorway

- 12.9.1 There would be a significant impact on the local road network from the need to use it for construction access. The A168 itself would need to be diverted in order to construct the proposed southbound access tunnel, creating a new exit from the local roundabout near the B6265 overbridge. Slow-moving, heavy construction traffic using the A168 and B6265 to make access to the site would create additional safety risks for local drivers, with no corresponding benefits.

- 12.9.2 HIA's highways witness confirmed that if the option to have permanent local accesses is implemented, HIA would not implement the recommendations in the Stage 1 Road Safety Audit (CD3.29 Tab1, App19, paras6.1.1 & 6.3.1) to construct a right-turn lane and extend the lighting on the A168 and B6265 to provide better visibility at these junctions. The result would be an unacceptable permanent adverse impact on the safety of the local road network. Inclusion of pedestrian accesses would increase the problem of parking on the local road network, especially in the village of Kirby Hill.

12.10 Staff Travel

Whether the proposal makes adequate provision to encourage staff to travel to the site by means other than the private car

- 12.10.1 The on-line MSA would be very difficult to access by means of transport other than the private car. HIA has responded to NY's concerns about staff travel by including an option for rear access, but perversely this also includes access and parking spaces for private cars. The proposed shuttle bus would be highly impractical, given the long distance tour around the surrounding villages that would be necessary to collect staff and return them to their homes. By comparison with other major development on the A1, HIA's assumptions concerning the proportion of staff using means other than the private car are hopelessly optimistic (KH103).

12.11 Foul Water Pollution

Whether the foul water generated at the site can be dealt with in a manner that would not cause a risk of pollution to the environment

- 12.11.1 Whilst there is concern about the likely route and environmental impacts of providing upgraded sewerage connections to the Boroughbridge WWTW, this does appear to be a feasible option. By contrast, the onsite WWTW option is a poorly thought through last-minute addition that carries the risk of pollution to the major aquifer under the site. The local community was never consulted on this option. Bearing in mind the sketchy plans and the concerns of the experts, HIA's on-site WWTW option at Kirby Hill should be withdrawn.

12.12 Archaeological Impact

Whether the site is likely to have an archaeological value that would be unacceptably harmed by development

- 12.12.1 A large volume of pottery has been recovered from the site, with the potential to be of national and regional significance (KH3/2 AppF). A Neolithic ring ditch and pits have been found on the site, which has already produced the largest carbonised cereal grain deposit from the Neolithic period in the north of England (KH3/1 para3.9.6). A professional community archaeologist with extensive local knowledge, described the finds from the site as "breathhtaking" (IP10). Fields 88 and 89 where these finds occurred are within the proposed northbound MSA site. Development there could destroy archaeological sites of national significance.
- 12.12.2 Although the report at KH3/2 AppF has been publicly available in the County Record Office for over 15 years, HIA does not include it in its archaeological assessment. This causes concern about whether any finds on the site during development would be disclosed if archaeology were simply covered

by a condition. A site potentially containing archaeological remains of national significance deserves better protection.

12.13 Residential Amenity

The impact on the living conditions of local residents, with particular regard to light, air and noise pollution

- 12.13.1 The proposals would create a number of adverse impacts in an area that is highly sensitive to changes in residential amenity (KH3/1 & KH3/2). Although varying in individual severity, the overall effect of these impacts would be a reduction in residential amenity and quality of life in the rural areas surrounding the site, in particular for the residential properties nearest the site and in the village of Kirby Hill.
- 12.13.2 There is a dramatic difference between the night sky illuminated by the Wetherby MSA lighting columns and the dark night sky at Kirby Hill (KH105). The proposal would permanently alter the night sky just 500m from Kirby Hill homes. HIA challenged this assessment on the basis that the lights at Wetherby MSA must have been incorrectly installed (HIA114), however MOT, the Wetherby MSA operator, confirms that this is not the case (KH109).
- 12.13.3 HIA has not challenged KH's evidence that MSAs are associated with increased levels of air pollution, however it challenged the assessment of the prevailing wind direction at Kirby Hill and claimed that the wind would carry pollutants away from the village. This seems to be based on data that in the UK as a whole, the prevailing winds are from the south-west (HIA2/4 para8.3). Evidence that the prevailing winds locally blow from the north-west, towards Kirby Hill, comes in the form of Skelton Windmill, which has stood on the hill above the site since 1822. The prevailing wind has weathered the stonework on the north-western side of the windmill, while the stonework on the side facing the site and Kirby Hill village is not weathered. Thus it is clear that the wind would carry airborne pollutants from the site directly towards nearby Kirby Hill village. A retired local GP spoke of his concerns for the health of the local population as a result (IP9).
- 12.13.4 The prevailing wind direction means that noise would also be carried towards Kirby Hill village from the site. The Area Environmental Health Officer himself expressed concerns in respect of noise pollution from the site (HBC1/3 p17).
- 12.13.5 The problems of light, air and noise pollution would be exacerbated by the fact that HIA's proposal would be by far the closest of the sites to a rural village containing a large number of residential properties. By comparison, Wetherby MSA is three times as far from its nearest residential settlement at Kirk Deighton. One interested person said that the adverse impact at Kirby Hill would be far worse than the adverse impact that Wetherby MSA had on the village of Kirk Deighton (IP7).
- 12.13.6 Considerable weight should be attached to the large body of local expert opinion expressing the view that an MSA at Kirby Hill would cause permanent, continuous day and night, all year round harm in an area that is highly sensitive to changes in residential amenity. This harm would affect the health, livelihood, and happiness of local people. Compared to the other sites, the Kirby Hill proposals would maximise the harm to residential amenity, heritage interests and archaeology.

12.14 Public Perception of Harm

The public perception of harm.

- 12.14.1 Over the last 14 years, HIA's repeated applications and appeals for an MSA at Kirby Hill and its lack of proper consultation with the local community have created a Public Perception of Harm in relation to the proposed development (KH5/1 & KH5/2). This is a material planning consideration to which significant weight should be attached. The Public Perception of Harm is real and justified and HIA has not made any attempt to address it; its actions may in fact have increased it. This was borne out by some of the statements at the Boroughbridge Evening Session. Local people have lived in fear and apprehension of the proposed MSA for an unreasonably long period of time. Fear of crime is included in the catalogue: HIA's public consultation drew 19 comments about harm arising from criminal activity at the proposed MSA. In the past, criminal activity has been associated with Service Areas in North Yorkshire and an increase in crime has resulted from the development of Wetherby MSA. On this basis, the long-standing public perception of harm in relation to crime is justified (KH5/1 para 3.3.23).
- 12.14.2 It is unclear whether HIA accepts or not that there is a public perception of harm here. In questioning KH's witness HIA sought to compare the level of public concern at Kirby Hill with that at the Stalbridge Docks Resource Recovery Site in Liverpool (HIA111). While one might take issue with comparing a quiet rural village with Liverpool docks, KH's analysis shows that the proportion of the electorate objecting to the Kirby Hill MSA is some ten times the proportion at Liverpool (KH108). HIA also suggested that Public Perception of Harm should not on its own provide a reason for refusal of planning permission. However, the Liverpool decision shows clearly that, if justified, Public Perception of Harm can in appropriate circumstances be a reason for refusal (HIA111 paras 54-55).

12.15 Aerodrome Safeguarding

The implications for the safe operation of Dishforth Airfield.

- 12.15.1 HIA's own archaeological assessment (CD3.29 Tab 2 para 4.8.6) provides evidence that, in living memory, two military aircraft using Dishforth Airfield have crashed onto the proposed MSA site. The proposal's location, within an aerodrome safeguarding zone and just 900m from an operational military airfield, is contrary to planning best practice and creates birdstrike and lighting hazards that are in direct conflict with Government policy on aerodrome safeguarding (KH4/1 & KH4/2).
- 12.15.2 HIA challenged the historic birdstrike data for Dishforth Airfield, but did not challenge that the proposed Kirby Hill MSA would increase both the bird population and the level of disturbance to birds at a site 400m from the extended runway centreline. The birdstrike risk does not appear to have been acknowledged and researched by the responsible Government bodies as part of the consultation process on this planning application, despite KH raising it at the 2003 Public Inquiry.
- 12.15.3 The HIA ES Update 2008 (CD3.5 paras 11.128-129) describes a reed bed creation scheme that is an integral part of the proposals and then states: *"In this context reed bed creation will add to the overall habitat diversity, provide important shelter and foraging resource for passage and wintering birds and also increase bird breeding opportunities during the summer."*

The Impact assessment table describes how the proposal would attract larger bird species such as corvids due to food waste and would increase disturbance of the bird population due to increased human activity (CD3.5 ch11). The risk of increased birdstrikes is both real and significant and has not been properly evaluated.

- 12.15.4 Very careful positioning and setting up of lighting columns and advertising lights would be required, to avoid confusing pilots making a final approach to Runway 33 in the dark or during poor visibility/low cloud base. Even then, the glare from the MSA would present Army pilots with a very challenging night vision goggles environment. The DfT C01/03 note on Roads and Railways near Safeguarded Aerodromes (KH4/2 AppB) states that the intensity of lighting close to an airfield can distract pilots, by causing glare in the direction of an approaching aircraft.
- 12.15.5 Any airfield activity is subject to safety risks from a number of sources. These risks would be significantly increased by the construction of the proposal in close proximity to both an operational airfield and a village. The increased risk to safety posed by HIA's proposal would not be acceptable, especially when there are alternative sites without such risk.

12.16 Other Submissions

HIA Environmental Information

- 12.16.1 On 21 January 2011 KH made representations in respect of the two volumes of Environmental Information that were received from HIA on Christmas Eve (KH111). Information about the environmental impact of the proposed Scheme is fragmented and spread over three large volumes, with the later volumes, in many cases, updating or correcting material in the earlier volumes and the earliest volume (the 2002 ES) relating to a different scheme and planning application from the one the SSCLG is now being asked to consider at Appeal. Consequently, it is extremely difficult for a layman to find all of the Environmental Information related to a particular issue (for example, air or light pollution) and understand exactly what was assessed for its environmental impact and how this compares to what is now being proposed.
- 12.16.2 The nature and timing of HIA's provision of the Environmental Information has seriously prejudiced the general public and their interests in this Appeal. Its production in the holiday period prevented the public from properly informing themselves about the Environmental Information regarding the proposed Scheme and its impacts until 24 December 2010. In so doing, HIA created a situation in which the public could not effectively question HIA's experts about the Environmental Information, or ask KH to do so on their behalf, until after HIA had presented its case to the Public Inquiry. By providing just 28 days over the 2010 festive period to review and respond to two of the three volumes of Environmental Information, HIA also placed the general public and KH, as volunteers who must work in their spare time, at a significant disadvantage compared with the other professional parties at the Inquiry, in particular the HA, who happen to support the Scheme. (KH111)
- 12.16.3 We consider this prejudice to have been incapable of remedy during the Public Inquiry. In our view, the only effective remedy would have been if all

the Environmental Information had been made available to the public well before HIA presented its case, as indeed it should have been. (KH111)

- 12.16.4 The amendments to the HIA Scheme contained in the December 2010 Regulation 19 submission are material and have in many cases been made to overcome the original reasons for refusal. The revised Scheme includes significant new alternatives for local accesses and for onsite waste water treatment, about which the public was never consulted. In fact, during consultation the public was specifically promised no local accesses. A grant of planning permission for the revised Scheme now would deprive those who should have been consulted of their opportunity for such consultation and would be contrary to the principles of fairness and natural justice. (KH111)
- 12.16.5 KH has considered HIA's Voluntary Regulation 19 submission with reference to the Wheatcroft principles set out in the Planning Inspectorate's Good Practice Guidance Note 9 (KH111 Annex). Our conclusion is that the HIA Scheme has been so altered and the public so prejudiced by HIA's actions in the course of this Appeal that an appropriate application of the Wheatcroft principles would be for the SSCLG to dismiss this Appeal and refer HIA back to the HBC for a fresh planning application. HIA does not accept this view and states that KH is "simply trying to frustrate the development" (HIA117). It deserves to be frustrated.

Gloucester Gate MSA

- 12.16.6 HIA submitted details of the recently-approved Gloucester Gate MSA proposal (HIA110), its planning witness saying that case is an example of "exactly how it should happen". It is worthy of note that an outline application for the Gloucester Gate MSA was dismissed at Appeal and that permission was only granted on the basis of a full planning application that enabled all the details of the scheme and its impacts to be properly assessed (HIA110 p12 para5). In view of the incomplete and constantly changing information base regarding HIA's proposal and the inevitable adverse impacts HIA accepts it would cause, a similar process that allows a full and proper public examination of all of the details must be followed. The appeal should be dismissed and HIA referred back to HBC for a full planning application.

12.17 Ministerial Statements

- 12.17.1 After the inquiry closed, written representations were invited and presented as to the implications of the Ministerial Statement dated 23 March 2011 on the case made to the Inquiry (DOC12).
- 12.17.2 The Statement refers to "development needed to support economic growth"; there is no such basis for the Kirby Hill proposal just 12 miles from Wetherby Services. That proposal would have a negative impact as evidenced in the Inquiry – business would be taken from Wetherby Services and from Boroughbridge, and it would result in the closure of Leeming Bar Services. The Statement does not weaken the overriding priority of achieving sustainable development, and evidence was presented at the Inquiry that the Kirby Hill proposal would not be sustainable. The Statement increases the weight given to sustainable development considerations which, in Kirby Hill's case, must strengthen the case against it.

12.17.3 Written representations were also invited and presented on the Ministerial Statement dated 22 June 2011 (DOC13). The statement is principally about truckstops and not directly relevant to the Kirby Hill proposal that KH objects to. However, the Minister's general comments serve to confirm that increased weight should be given to local views (DOC13.10).

12.18 Conclusions

The main planning advantage of the Kirby Hill proposal claimed by its supporters is that it is an on-line site. There are many planning disadvantages to set against the supposed on-line advantage:

- a) The benefits of an on-line site in this particular location would be outweighed by its poor spacing, just 12 miles from the Wetherby MSA;
- b) the site is poorly located to complete the 28-mile network. It is too far south and too close to Wetherby;
- c) It is on an accident-prone section of the A1(M) and would reintroduce slip roads where they have previously been closed on safety grounds;
- d) The proposal would involve tunnelling under the A168 to provide southbound access arrangements that are complicated and unsafe;
- e) The proposal would be in conflict with development plan policies, an important consideration under section 54A of the Town & Country Planning Act;
- f) It would be in substantial conflict with Government policies on protecting the countryside and conserving the historic environment;
- g) It would involve the largest land-take, 90% of which is BMV agricultural land;
- h) It is the closest proposal to a residential settlement - just 500m from the village of Kirby Hill;
- i) It would involve more built development than the other proposals, in the most open landscape;
- j) It would have the highest visual impact, affecting the largest number of people;
- k) It would damage the character and setting of two listed historic buildings;
- l) It would destroy archaeological sites of potential national significance;
- m) It would damage the local economy – including that of the nearby town of Boroughbridge;
- n) It would not be sustainable development;
- o) Kirby Hill is the only proposal in close proximity to an operational military airfield, increasing the risks to and from aircraft operations;
- p) It has attracted more local opposition than any of the competing proposals;
- q) It is the only site where a public perception of harm has been shown to exist; and
- r) Kirby Hill was not the Inspector's preferred choice at the 1997 or 2003 Public Inquiries.

Some of these planning disadvantages are sufficient on their own to outweigh the 'on-line' advantage. Taken together, they represent a compelling case to dismiss this appeal.

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13. Other Third Party Representations

13.1 Representations at the Boroughbridge public meeting (IP1-18).

- 13.1.1 The focus of those attending the meeting was wholly on the HIA proposal at Kirby Hill. The speakers tended to focus on one particular aspect of the proposal, whilst endorsing the other speakers. I was told that Boroughbridge has a minimal amount of unemployment, with many jobs relying on "imported" staff. The argument that the proposal would create employment for local people is misleading; any recruitment of staff would be at the expense of local businesses (IP1). Further, some of the local service traders are only marginally viable, the proposed facilities would discourage people from visiting Boroughbridge and threaten trade (IP1).
- 13.1.2 The current application is for a massive development and the visual intrusion would dwarf Kirby Hill and the ridge north of the River Ure (IP1,13,16). The A168 roundabout already causes light pollution, the proposal would increase that and introduce noise and exhaust pollution to the detriment of the Kirby Hill community (IP2,13,16). The suggestion of building accesses for employees to local roads would make the scheme even more intrusive (IP13). Building the MSA in this area would be detrimental to the whole area (IP4). Traffic and parking problems would increase in the village (IP16), and it is more than a perceived threat that MSAs near a town or village increase crime (IP1,2,8,14,16,17,18).
- 13.1.3 It is difficult to justify the loss of BMV agricultural land to an MSA (IP2). Effluent, treated or untreated, should not be allowed to leach into the aquifer under the finest Grade 1 agricultural land in North Yorkshire, where boreholes are still used; that would lead to a potential public health problem (IP1,3,9,17). The HIA appeal site is an unsuitable area for an MSA because it is in a low-lying flood-prone area, the proposal would adversely impact groundwater levels (IP12). There would be a further public health hazard from air pollution (IP9).
- 13.1.4 The introduction of the MSA would lead to a less attractive approach to Newby Hall and Gardens, damaging Ripon's own attractiveness and tourist economy (IP2). The development would blight the views to and from the Grade 1 listed Church of All Saints at Kirby Hill (IP3), and it would harm the treasured historic setting of the grade II listed Skelton Windmill as well as the views from the area (IP5). Archaeological finds show that fields 88 and 89, both of which are on the northbound MSA site, have witnessed intense prehistoric activity during the Neolithic and Bronze Age. This archaeological history should not be ignored (IP10).
- 13.1.5 The village of Kirk Deighton is three times the distance from Wetherby MSA than Kirby Hill would be from HIA's proposal. The Kirk Deighton residents' experience is the sense of urbanisation from lights, litter and the potential for crime; these would be felt much more strongly at Kirby Hill if the MSA proposal is allowed (IP7,8). Regarding Dishforth Airfield, the lighting hazard, though not unsurmountable would be undesirable, and the MSA would provide a feeding and roosting area for large birds such as corvids and gulls that would unacceptably increase the hazard from birdstrike (IP6). Local wildlife would suffer if this proposal were to proceed (IP11,16). It was

also said that the community has been put at a disadvantage in being able to access information about the proposal in good time (IP15).

13.2 Representations at the Leeming Bar public meeting (IP19-40)

- 13.2.1 The meeting focussed almost exclusively on the XLB proposal. In opposition, it was said that there would be noise pollution from the 2,000 HGVs per day visiting the site (IP19,27,37). The noise would arise from gear changes, air brakes, refrigeration units, shunting of vehicles, and changing of trailers on the concrete standings. XLB's data from the Londonderry site would seem to suggest 898 cars and small vans would also visit the site daily (IP27). Even when there were three squadrons of Tornados stationed at the RAF station some years ago, there was no noise and disturbance at the weekend as there would be with this proposal (IP27). Those vehicles would also produce air pollution (IP19,27).
- 13.2.2 Argyle House would be particularly adversely affected as it is about 130m from the XLB site and its entrance/exit. The proximity would intensify other effects such as light pollution from the site itself and from lorry headlights sweeping across the landscape (IP19). Similarly effects would be felt at Fairfield Farm at Roughley Corner, about 160m away, and the neighbours (IP20). There would be a negative effect on local businesses, in particular the Pembroke Caravan Park on Low Street, some 175m from the access road to the truckstop. The business is noise sensitive as caravans have thin walls and headlights sweeping across the site would be a source of light pollution: a bad experience at the site would mean that customers would not return, with repercussions on the business and on local businesses that the customers support (IP19,22).
- 13.2.3 The route along Low Street, Roughley Bank and Leases Road is a recreational route used by walkers, runners, horse riders and cyclists, and is on the Sustrans Cycle Route 71 Bedale to Thirsk, it would be made unsafe and unpleasant by the introduction of so many lorries (IP24,27). The proposal would also result in illegal parking (IP19,20,24) and other criminal activity (IP19). The presence of the XLB proposal would result in the A684 being used as a ratrun to Teesside, resulting in danger the A684 because of the narrow footway (IP38). The small roundabout from the A1(M) link road could lead to accidents and lorries overturning. Any accident would result in the use of the very narrow Roughley Bank (IP20,24). Any fuel or chemical spill would flow downhill into Leeming Bar.
- 13.2.4 Local drainage is by way of the beck to the east of Low Street, some of which goes through Fairfield Farm land. Road gullies on Leases Road and Low Street may also drain that way. There is uncertainty as to how water from the site would be dealt with, run off from the XLB site could affect Low Street land and houses; and there are already problems with the Leeming Bar village sewerage. The septic tank at 24 Low Street has been increased already to cope with seepage, and neighbours have made similar provision. In addition, spillages from the site or any accident especially on the roundabout may end up polluting the land and/or the beck. Foul sewers in the lowlands have surcharged, but Yorkshire Water Services have no plans to improve sewerage until 2025. It is difficult to understand how the system would cope with the sewerage arising from about 2,000 visitors per day at the XLB site (IP19,20,28,38,39). The drains in the area are not fit for purpose and already flood with both storm and foul water (IP23).

- 13.2.5 The proposal would have an adverse visual effect on the open countryside, standing on the skyline when viewed from the east in particular (from Low Street, Ham Hall Lane and Moor Lane) (IP19,20, 23,24,27). XLB's estimate of 12 years for planting to reach a height that would screen the development is too generous, given the west wind and the poor soil; it should be revised to 20 years. Even then, the many lorries using Leases Road to gain access to the site would not be screened (IP19,27).
- 13.2.6 Others favoured the proposal. It was said that if it were not allowed, the bunkering facilities at Londonderry might wither and die; the proposal would be beneficial to haulage contractors (IP29,31). The landscaping scheme would ensure that the scheme would quickly become part of the landscape. HGV drivers would be encouraged to park on the site rather than 'laying over' on the industrial estate roads. (IP30,32). The scheme would ease congestion, reducing the number of HGVs on local roads; it would be more economic for HGV businesses using the facilities and security would improve (IP30,32,34,35). The Londonderry Café would be relocated – it would be uneconomical to update the old café; and the relocation would mean that the café business would be able to continue to operate (IP36). The scheme would provide additional employment (IP30). A horse riders' representative endorsed the proposal because it would be safer than lorries gaining access through the villages; the situation of the proposal would make it a more plausible access to the A1(M) (IP40).
- 13.2.7 Two representations were made supporting the LES proposal at Motel Leeming. It was said that the other MSA proposals and the XLB proposal threatens livelihoods at the current business at Motel Leeming. 50 jobs would be created by allowing that business to become an MSA, and all the jobs would be protected by refusing the Coneygarth application, allowing Londonderry Lorry Park to co-exist with Motel Leeming as it does now (IP25,26).

13.3 Representations made during the Inquiry sessions

Representations on the JT, REL or HIA proposals

- 13.3.1 Mr Brown (IP41) said that the value of the area should not be underestimated. Any of the three MSA proposals, which would be on greenfield land, would contribute to creeping industrialisation of the area. He endorsed HBC's reasoning for refusing the planning applications.
- 13.3.2 Mr Skidmore (IP42) pointed to the local concerted effort to turn the Ripon economy round; despite financial pressures, HBC has set aside support to assist this effort. Planning permission for any of the proposed MSAs would exacerbate Ripon's economic problems by deflecting travellers who would see no need to detour to Ripon.
- 13.3.3 Ms Potter (IP50) indicated that the brownfield Motel Leeming should be given preference as it would be the most compliant with government policy. The three greenfield proposals in HBC district would be harmful to the countryside and its heritage; they would result in the loss of BMV agricultural land. All three are too close to the Wetherby MSA to justify need. CPRE supports the MOT opening statement (MOT101). None of the three would be sustainable in so far as staff would need to travel to work by car or bus.

- 13.3.4 Mr Archer (IP43) said that his representation was not to do with choosing one or other of the sites, but to indicate that the aquifer must be protected from waste water.

Representations on the proposals at the A61/A1(M) junction (JT and REL)

- 13.3.5 Mrs Wainwright (IP44) said that Wetherby, Barton, Boroughbridge, Thirsk and Ripon provided services sufficient to serve the A1/A1(M) without the need of another MSA. The landscaping/screening of the proposals would be out of keeping with the wide open views to and from the North York Moors (e.g. Sutton Bank) and the Yorkshire Dales (e.g. Dallowgill Moor). Either proposal would generate a large increase in traffic on the A61, cause damage to the countryside and introduce noise, litter and light pollution.
- 13.3.6 The Chapter of Ripon Cathedral began a project of co-operation with others in 1998 to regenerate Ripon and grow its tourism. Research showed that many visitors to Ripon chanced upon it, attracted by the brown tourist signs on the A1. Canon Punshon (IP45) on behalf of the Chapter, indicated that if the REL or JT proposal were to be granted planning permission, motorists would be attracted and induced to stay on the Motorway and not to enjoy the City of Ripon and its attractions, a point echoed at IP51. It is feared that this would lose thousands of visitors. Mr Bateman (IP46) made similar points, adding that the development of either site would adversely affect the outstanding image on leaving the A1(M) towards Ripon – a point also made at IP48.
- 13.3.7 Mr West (IP47) indicated that light pollution would overspill into the Melmerby and Middleton Quernhow villages area, and at just a mile away, noise would affect villagers. Waste water is likely to be diverted to the local beck to the detriment of the environment. The local aquifer could be adversely affected by a large development, as could the archaeology of the area. Traffic generated by an MSA encountering local traffic would cause gridlock. Mr J Milner (IP48) made similar points on traffic and light pollution, indicating that the night glow would also affect Hutton Conyers and Baldersby.
- 13.3.8 Mr Richardson (IP49) said that there is no need for a greenfield MSA when the previously used sites of Motel Leeming and Coneygarth lie at the ideal distance of 27 miles from Wetherby MSA. Either of the Baldersby junction applications would provide employment, but at the cost of jobs at Leeming Bar. The attraction of shops within an MSA at the junction would compromise the commercial and historic integrity of Ripon. The proposal would cause light, litter and air pollution.
- 13.3.9 Sir James Graham (IP51) is part of the newly founded group, Friends of Wath, Melmerby, Nosterfield and East Tanfield, which has 20 active members. He said that there would be a probable environmental impact from either proposal, which would be visible for many miles, with no intervening features and few trees in the vicinity. Round the clock traffic noise is already obvious from Norton Conyers, where the house and garden are open to members of the public. There would be an increase in traffic noise not only from the MSA, but from employee's vehicles. The proposal would offend national and local strategies for sustainable development. The brownfield Motel Leeming would be the best site.

- 13.3.10 Lady Graham (IP52) is a member of the same group. She said that there was evidence that by 2030 there would be food problems in this country, which would be exacerbated by the loss of BMV agricultural land if planning permission were granted to any of the proposals. When the wind blows a certain way, she is more and more aware of the motorway traffic noise in the II* listed Norton Conyers Garden. That would be exacerbated by an MSA development at Baldersby junction.
- 13.3.11 Dr S Moorhouse (IP53) summarised the principle evidence for the form and development around the historic landscape of the three HBC MSA proposals. With regard to the impact on the historic landscape, he considers that the proposed site that would have least effect would be that at Motel Leeming, a previously used site.

Representation on the HIA proposal

- 13.3.12 Mr Brown (IP56) endorsed the KH representations at the Inquiry. He was particularly concerned that the HIA proposal would result in light pollution. He was also concerned about the public consultation that HIA had carried out, in particular that HIA had informed local people that a 'key change from its previous appeal proposal was that there would be no access from local roads'; but the proposal now included such access.

Representations on the XLB proposal

- 13.3.13 Mr Kettlewell (IP54) indicated that a meeting of the Exelby, Leeming and Newton Parish Council had unanimously agreed that the Coneygarth site is an ideal location for a truckstop. It would affect very few properties compared to the Londonderry site, where lorry drivers currently take short cuts through Leeming Bar past 2 primary schools. If the proposal were not allowed, it would cause traffic problems. Ms Dixon (IP55) supported the XLB proposal indicating that traffic, especially HGVs, would be removed from local minor roads improving safety and the environment. Horse riders, pedestrians and cyclists using Roman Road would benefit particularly.
- 13.3.14 Mr Crisp (IP57) said that Aiskew and Leeming Bar Parish Council objected to the XLB proposal and reported on the concerns expressed at a public meeting. The Londonderry truckstop is served by a new bridge from the A1(M) specifically designed to carry the weight and volume of traffic, consequently the distance required to access Londonderry would be very similar to that to gain access to the Coneygarth site. This combined with the fact that there are already petrol, diesel and red diesel outlets in Leeming Bar meant there was no need for the proposal.
- 13.3.15 He went on to say that as the Coneygarth site is on a windy hill, it would be a litter trap, and pollution would take other forms including noise and fumes and light both from the installations on the site and from the headlights and rooftop light of lorries. The small roundabout at Leases Lane would increase the risk of lorries overturning or crashing, and chemical, fuel or gas spillages would flow downhill to Leeming Bar, as well as polluting watercourses. It is unclear how storm water or sewage would be dealt with; the existing systems would not cope with either.
- 13.3.16 He continued that without a bypass there would be an increase in vehicles using Leases Road as a rat run to Northallerton, Wensleydale and Teesside, this would adversely affect highway safety. Whilst there would be some jobs created at the site, others would be lost; it is doubtful if the caravan

site would remain viable. There are concerns over increased crime including theft, burglary, illegal immigrants being dropped off, and prostitution. The traditional walking route of Leases Road and Aiskew Back Lane would be rendered unsafe by the generated traffic, and at night time, drivers would park on the nearby highways rather than pay to use the truckstop.

13.4 Written Representations

- 13.4.1 Mr Julian Smith, MP for Skipton and Ripon, wrote on behalf of his constituent Mr Peter West MBE regarding the proposals at Baldersby junction on 13 December 2010. Mr West presented his views personally to the Inquiry on 18 January 2010 (IP47); my report takes those views into account.
- 13.4.2 Miss Anne McIntosh, then MP for Vale of York, wrote on behalf of her constituents Mr Gareth Owens and Mrs Jane Mosely and on 23 April 2009 and 16 June 2009 respectively. Mr Owens is also the Chairman of KH RAMS, a rule 6(6) party; he has conducted the KH case and addressed the Inquiry. I note that Mrs Mosely's concerns are also outlined in her objection to the HIA appeal (DOC5). My report addresses the concerns of both constituents.
- 13.4.3 Many of the people making written representations on the HIA proposal (DOC4, DOC5) attended the Inquiry (some 263 people indicated their presence on the attendance sheets at the Boroughbridge public meeting). The well organised Kirby Hill Residents Against Motorway Services (KH) has had a long involvement with previous HIA proposals on the site, opposing the company at previous inquiries. Further, KH is a Rule 6(6) party at this inquiry making substantial representations and cross examining witnesses. That involvement and local knowledge appears to have covered all the points raised in the written representations.
- 13.4.4 Many of those making written representations on the XLB proposal attended the Inquiry, in particular the public meeting at Aiskew School in Leeming Bar (42 people marked the attendance list, but I estimate that there were 80-100 people in attendance). Consequently, the points raised in the written representations appear to have been well covered by those present, by Councillor David Crisp (the Chairman of Aiskew and Leeming Bar Parish Council who reported on a public meeting specifically held to discuss the XLB proposal locally), and by MOT. Cllr Crisp also cross-examined XLB witnesses.
- 13.4.5 Regarding the other proposals; some support was expressed for Motel Leeming as being a service station that is at the 28 mile distance from Wetherby MSA satisfying the C01/08 spacing; it was argued that, because of that, there is no need for an MSA at the Baldersby junction – especially as it would result in the loss of BMV agricultural land. Any employment created at Baldersby would result in a loss of jobs at Motel Leeming. The written representations reflected arguments put forward in the inquiry against JT and REL on the themes of impact on water supply, drainage and sewerage systems, pollution from noise, light (at Melmerby) and litter, traffic congestion at the junction, with a security/crime problem and a negative impact on the local economy. (WR15,16,18,74,75).
- 13.4.6 One correspondent said that the Baldersby junction would not be safe given the traffic increase if either the JT or REL proposal were built out. The

facilities for horse riders would be far too dangerous in coping with the lorries in particular. It is important to note that the traffic at the time of the Inquiry is not representative as drivers are avoiding the A1 upgrade roadworks in the area (the evidence for this is that the takings at the Farm Shop in Baldersby have dropped 35%). (WR127)

- 13.4.7 The National Trust considers that the Baldersby junction acts as the gateway to the area. It is concerned that the affect of an MSA at the junction on the open countryside would compromise the "sense of arrival" as visitors leave the A1 to make their way to the World Heritage Site of Fountains Abbey and Studley Royal (WR132).
- 13.4.8 One correspondent objected to all of the proposals at the Inquiry because of the unknown effects of the proposals on the aquifer (WR73). Another indicated that he represented the Friends of Thornborough Henge, which organisation was concerned not just with the monument complex, but with the wider archaeology of the Ure-Swale Catchment. It wishes to ensure that the full importance of the area's archaeology is considered in determining planning applications. The Friends stated that the Ure-Swale catchment is of international significance and that the Kirby Hill and Baldersby junction sites would be detrimental to the assets of that catchment. It would appear to the organisation that Motel Leeming is least likely to have impact on the setting of heritage assets (WR133,134).

13.5 Written Representations by EA and Yorkshire Water

- 13.5.1 The EA made written representations to the Inquiry with regard to drainage and water matters at the Motel Leeming site in the form of a statement and appendices (DOC6,DOC7). The original application indicated that foul flows would be discharged to the existing mains sewer connection. However, subsequently a non-mains solution was pursued by LES because of identified capacity issues. At the time of submission of DOC6, details were insufficient and EA maintained its objection to the proposal (DOC6 para8.4).
- 13.5.2 Subsequent work was undertaken on the management of foul water at the site (CD14.21 App2 & App3) with the consequence that EA would not now object to the domestic discharge to the public sewer net and WWTW. That solution obviates the need to provide any on-site private foul drainage solution. A SOCG has been issued to the effect that neither EA nor YW has any further objection to the foul drainage proposals at Motel Leeming (CD14.21). That is subject to the imposition of planning conditions.
- 13.5.3 The EA also made written representations to the Inquiry with regard to drainage and water matters at the Coneygarth truckstop site in the form of a statement and appendices (DOC8,DOC9). EA's conclusion is that the information provided by XLB has shown *"a level of understanding of the hydrogeological context and the implications of the proposed foul discharge, proportionate to the proposed development and appropriate to this planning stage. It has also provided us with comfort that surface water drainage and the potentially polluting elements of the development can be satisfactorily managed."* (DOC8 para7.3)
- 13.5.4 *"whilst further detail may be necessary at the Environmental Permit stage, the information provides us with reasonable certainty that the proposed discharges from the development can be adequately controlled under the pollution control framework. As a result it addresses our concerns such that*

we are able to withdraw our objection to the proposal" (DOC8 para7.4).
Again, that is subject to planning conditions.

- 13.5.5 Yorkshire Water Services Ltd has also written regarding this site (DOC10). It indicates that as the foul water would drain to a private WWTW, it would have no impact on the public sewerage network. However, the letter goes on to suggest conditions that would help ensure protection of the aquatic environment into which the WWTW would discharge its final effluent.

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14. Inspector's Conclusions

14.1 Need for MSA provision

(references to the bypassing of Motel Leeming are best appreciated by reference to the plan at CD11.9-IN-01 Fig5)

- 14.1.1 I consider only the general need for servicing provision in this section; the merits of each case and subsequent comparisons in terms of location etc. are examined in later sections of my conclusions. The SSCLG's call-in and recovery letters require each case to be considered against national policy for MSAs. I will deal first with the need for an MSA associated with the A1/A1(M) with reference to the four competing MSAs, followed by whether or not there is a need for a truckstop at Coneygarth.
- 14.1.2 C01/08 indicates that the Government's objective is to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue-related accidents. [2.2.2, 3.5.1, 5.6.1, 9.2.7]
- 14.1.3 The starting point in considering the current cases is that two core MSAs are defined by the HA as being the extremities of the gap to be considered in the context of the current proposals: these are Wetherby MSA and Barton, which is currently a Lorry Park, but which has planning permission for redevelopment as an MSA; this planning permission has been implemented. The distance between the southern bridges at the relevant junctions at the two core MSAs is 39.622 miles, and is agreed by all parties [2.1.6,7]
- 14.1.4 The HA and the promoters of the four MSAs agree that the Government's aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. HBC and MOT do not seem to demur from this reading. Whilst C01/08 does not make this explicit, paragraph 55 describes the evolution of the existing network and requires that any new application for a core MSA should be considered on the basis of a 28 mile distance. I consider that it is reasonable to conclude that the Government's aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. [2.2.4, 3.5.4, 4.6.3, 5.6.5, 6.7.2, 8.2.10, 9.2.10, 11.4.11]

The significance of a 28 miles gap

- 14.1.5 REL goes further, it says that drivers must have the opportunity to stop at intervals of 28 miles or less, describing it as a mandatory provision where any new application must be considered on the basis of no more than 28 miles between MSAs. JT takes a similar position saying "The last sentence of paragraph 55 provides that new core MSAs should '... be considered on the basis of a 28 mile (45km) distance, or 30 minutes' travelling time, from the previous core MSA, whichever is the lesser'"; insisting that the words 'whichever is the lesser' necessarily makes a maximum distance for spacing purposes. LES also states that where the gap exceeds 28 miles there is a need for a further facility. [5.6.4-5 &13, 6.6.2,3]
- 14.1.6 Working from the basis that the Government's aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles, it is fair and reasonable to say that at that distance some need for provision of an infill MSA exists, and that need would increase as the gap between MSAs increases beyond 28 miles. The last sentence of paragraph 55 in full is this: *Any new application for a core MSA should therefore be considered on the*

basis of a 28 mile (45km) distance, or 30 minutes travelling time from the previous core MSA. [2.2.4]

- 14.1.7 That sentence merely indicates the basis on which a new application should be considered. However, REL, JT and LES seem to misread the policy and turn this on its head by deducing that 28 miles is a maximum for spacing purposes. But, if that were the case, it would mean that any gap between MSAs of 29 miles or more would not be acceptable, it would generate a compelling need for an infill MSA. The result of that interpretation of policy could be that there would eventually be a network of MSAs with gaps of 14½ miles and upwards, but not less than the absolute minimum acceptable distance of 12 miles. Leaving aside problems such as finding suitable sites at such tight margins, if that were the case, C01/08 would have said so; it does not, it merely indicates that its aim is to achieve a network of MSAs with gaps of 28 miles maximum. [2.2.4, 8.2.12-13]
- 14.1.8 I conclude that the mere existence of a gap of 28 miles is not sufficient by itself to show an overriding need for an infill MSA.

The significance of a 40 miles gap

- 14.1.9 HA indicates that the intention of C01/08 was to relieve developers of the burden of having to demonstrate a need for an MSA if the gap between two existing MSAs was 40 miles or more. HIA agrees that a core MSA is needed where the gap is 40 miles or greater; it suggests that notwithstanding the poor drafting the intention is clear because the author of the policy has told the inquiry how the policy should be interpreted. [3.5.4, 4.6.8, 9.2.14]
- 14.1.10 However, DfT adopted C01/08 as written; there is no published annex or separate explanatory text – it does not need interpretation by the author. C01/08 does not say that there is a need for another core site if there is a gap of 40 miles. It does indicate that if there is a proposal put forward and accepted in such a gap, it will be designated a core MSA. HA goes on to summarise that a proposal that completes the core network (i.e. one that will be designated a core MSA) is one that fills a gap of 40 miles or more between existing MSAs. [9.2.12-13].
- 14.1.11 HA says that “where the gap to be filled is 40 miles or greater, the proposal will be designated a core site ... If what is proposed would not be part of the core network of MSAs, the policy in C01/08 does not assume need”. In other words, the mere proposal within a 40 miles gap is described as a core site by HA, where the policy at para59 is quite clear that “any infill site that might be permitted will also be designated a core site”. In other words, the proposal does not become a core site until after it has been considered and given planning permission. An MSA development will only become a core site after the event of being granted planning permission in a 40 miles gap, not before as suggested by HA and HIA. [9.2.11-12]
- 14.1.12 HA refers to the draft of a revised circular published for public consultation and says that the opportunity has also been taken in that document to “re-package” the existing C01/08 in order to make it more user friendly. Despite saying that it does not suggest that the terms of the draft circular applies to any of the current proposals, HA goes on to say that paragraph 134 of that document confirms that for gaps of 40 miles or greater a detailed examination of need will not be required, whereas such an examination would be required for gaps below 40 miles. However, HA’s

witness was unable to identify anything in C01/08 that supported his interpretation. [2.2.11, 8.2.17, 9.2.15]

- 14.1.13 However, the draft Circular is a public consultation document that declares that its contents are not retrospective and will only be relevant when changes are proposed; it rules itself out of consideration in this case. Moreover, it indicates that the opportunity has been taken to repackage C01/08 to present it in a more user friendly format. Not only would such repackaging necessarily change the words used to explain policy, rendering it open to different meanings and interpretations, it would in itself be the subject of potential change. [2.2.11]
- 14.1.14 It is noteworthy that HA indicated that the section of C01/08 on spacing of roadside facilities on motorways between paragraphs 52 and 61 is not well worded, which almost certainly contributes to the different interpretations of the policy. Poorly written or not, the scarcity of any other policy advice on the provision of MSAs means that significant weight should be given to C01/08. I suggest above that very little weight indeed should be given to the consultation document on revision of C01/08, so I return to what C01/08 actually does say. [3.5.4, 4.6.8, 9.2.13, 11.4.1]
- 14.1.15 Paragraph 68-72 lists the mandatory features of and levels of provision for roadside facilities on motorways. Paragraph 68 includes that these facilities would also apply to the network of core sites defined at paragraph 57.
- 14.1.16 Paragraph 57 says: *"All existing MSAs, and new facilities that have been registered in the planning systems prior to the date of publication of this document (which subsequently receive planning consent) and any future sites that fill existing gaps in the core network must provide the required features of a site having that status"*. I find that difficult to understand as a definition of a core network, it seems to be a provision to require all MSA sites to present a standard that has the features required of a core site by C01/08 – which is to say those listed at C01/08 paragraph 68.
- 14.1.17 Paragraph 57 refers to "sites that fill existing gaps", it seems clear that the "infill" service area referred to in paragraph 58 would be one of those sites, as would the infill sites in paragraph 59. This is consistent with the fact that HA considers an 'infill' site to be one between two existing or designated MSAs on the same route or routes. Paragraph 58 says that *"Where a clear and compelling need and safety case can be demonstrated, applications for an infill service area may be considered"*. [2.2.8, 8.2.7, 9.2.11, 11.4.1]
- 14.1.18 One sentence in C01/08 paragraph 59 refers to a 40 miles spacing: *"Where the spacing between two existing MSAs is 40 miles or greater, any infill site that might be permitted will also be designated as a Core site and must provide the required range of facilities"*. The only other mention of '40 miles', 'fill' or 'infill' in the document is at paragraph 60, which merely refers to the option of providing a Rest Area at an infill site where the spacing is below 40 miles. [2.2.8]
- 14.1.19 It follows that I consider that there is no indication in C01/08 that for gaps of 40 miles or greater a detailed examination of need will not be required. It is significant that any developer wishing to promote an MSA would submit a planning application on the basis of the requirements in C01/08. It would be for an infill MSA; if the application were successful and the gap to be infilled were 40 miles or more, only then would the MSA be designated a

core MSA (i.e. one that would help complete the core network). [14.1.12, 8.2.18, 11.4.2, 12.3.6]

- 14.1.20 I conclude that, whether or not the gap between consecutive MSAs is 28 miles or 40 miles or over, any proposal for an MSA in the gap between Wetherby and Barton would be for an infill MSA. If the gap is 40 miles or more, a successful application would be designated a core site. In all cases, the requirements in paragraph 58 of C01/08 should apply; *"Where a clear and compelling need and safety case can be demonstrated, applications for an infill service area may be considered"*. [2.2.7]

The significance of the gap of 39.622 miles between Wetherby and Barton overbridges

- 14.1.21 If the SSCLG disagrees with me and concludes that a 40 miles gap is significant in the requirement or not to establish a clear and compelling need and safety case, the discussion moves to how the actual Wetherby to Barton distance of 39.622 miles should be regarded. HBC, MOT and KH take the 39.622 miles measurement at its face value: they consider that as it is less than 40 miles, any consideration of facilities at a spacing of 40 miles or more should have no bearing on the cases. They believe that whatever HA's practice for indicating the distances on road signs, there is no basis for rounding the gap up to 40 miles as the effect would be to change the C01/08 policy distance from 40 to 39.5 miles for no apparent or valid reason. [8.2.4 & 18-19, 11.4.5, 12.3.5]
- 14.1.22 However, HA asserts that the gap, expressed in whole figures, is 40 miles and should be considered as such; HIA agrees. First, because C01/08 approaches distances on the basis of whole figures; an approach that accords with the HA's approach to signing the distance between facilities on the motorway network. Secondly, because in meeting a need to stop and rest, a gap of a few hundred metres below a precise threshold of 40 miles would be imperceptible to a driver – some 26 seconds at 56mph. [3.5.5, 9.2.18]
- 14.1.23 HBC and KH consider that rounding to whole miles for signing is patently not policy or general practice for HA because C01/08 Annex A depicts signs with ½ mile intervals; and a sign on the A1(M) shows: "Wetherby Services 1½ miles". C01/08 Annex A provides the policy on the design and use of traffic signs to services on the SRN. It does show pictures of motorway signs at ½ mile or 1½ miles before MSAs. The circumstances when these are used are prescribed in the text (e.g paras A2.2.1.3 & 9). Their purpose is clearly to ensure safe navigation into an MSA slip road from the fast moving traffic on the motorway. I consider that this has no bearing on HA's practice of generally rounding distances to whole miles on motorways, nor is there any reason to doubt that HA does have such a practice, whether it is declared in policy terms or not. [8.2.19, 12.3.5]
- 14.1.24 Rounding to whole miles on signs to pass on information to drivers is a sensible thing to do; any further precision regarding long distances would be of minimal use and hard to digest at speed. Thus, if required to sign an MSA from 39.622 miles away, HA would rightly round it to 40 miles for signing purposes. However, I see no imperative to apply that logic to a policy document such as C01/08; for instance, I have no doubt that an MSA application marginally below the absolute minimum acceptable distance of 12 miles would have minimal chances of success; the increment that places Kirby Hill above 12 miles (actual distance 12.363 miles) is regarded as

crucial. I give little weight to the argument that the policy document should be subject to approximations of distances. [2.2.4]

- 14.1.25 HA's second point is that a gap of a few hundred metres below a precise threshold of 40 miles would be imperceptible to a driver. Using that rationale, a distance of 39.5 miles would round up to 40 miles and would automatically provide an overriding need and safety case, whereas 39.49 miles would round down to 39 miles, and would not. The difference between the two distances would be less than 20 metres. I do not believe the argument around where to position the incremental tipping point to be a convincing one. In which case there is little reason to move away from the meaning on the face of C01/08 that 40 miles exactly is the tipping point.
- 14.1.26 HIA adds that the 39.622 miles measurement does not take account of the distance between the motorway carriageway and the entrance to Wetherby/Barton (the HA methodology is to include the journey from the motorway slip road to the entrance of the MSA parking area). JT extends that point, saying that there is no convention that reference points should be at over-bridges – HA, in its National Report reviewing SRN service areas, chose the centre of the MSA as the reference point; whilst for junction MSAs the reference point was the car park entrance. [3.5.5, 4.6.5]
- 14.1.27 There is some force in this point. The distances in the SOCG on Distance Verification Data were ascertained on the ground by technicians using a precision odometer. However, the SOCG includes an invitation for parties to use other data in considering matters of distance. JT takes up the invitation to show that the distance between the centres of the main car parks at Wetherby and Barton would be 40.19 miles. The Inquiry mainly used the distance between the overbridges at Wetherby and Barton as a surrogate for the distances between the MSAs. However, on balance, I would consider that the additional distances from the motorway to the centre of the main car park would place the separation distance beyond the 40 miles tipping point. [2.1.8, 4.6.5]
- 14.1.28 My overall conclusion on the gap between the Core MSAs at Wetherby and Barton is that the gap is 40 miles or more. Any successful application within that gap would be an infill MSA that would be designated a core site. However, the requirements in paragraph 58 of C01/08 should apply, and a clear and compelling need and safety case should be demonstrated.

Consideration of whether a clear and compelling need and safety case is demonstrated

- 14.1.29 C01/08 paragraph 58 points out four factors that are likely to be of importance in all cases when considering need and safety:
- *the distance to adjoining roadside facilities;*
 - *evidence (such as queuing on the roadside facility approach roads or lack of parking spaces at times of peak demand) that nearby existing roadside facilities are unable to cope with the need for services;*
 - *evidence of a genuine safety-related need for the proposed facilities (such as, for example, a higher than normal incidence of accidents attributable to driver fatigue);*
 - *whether the roadside facility is justified by the type and nature of the traffic using the road; the need for services may, for example, be lower*

on motorways used by high percentages of short-distance or commuter traffic than on those carrying large volumes of long-distance movements.

I will consider each in turn. [2.2.7]

The distance to adjoining roadside facilities

- 14.1.30 The first element of this factor has been dealt with in the previous section on the gap between MSAs.
- 14.1.31 MOT says that spacing on its own does not amount to a clear and compelling need and safety case, and that HA give no spacing reasons for further MSA provision when considering this heading. However, others believe the gap to be so great that the distance between Wetherby and Barton alone sufficiently demonstrates a need for a new MSA; HA has been of the view that there is a need since at least February 2009 for a new MSA in the gap following the completion of D2B Phase 1. On this last matter, however, KH is puzzled as to why HA has changed its mind from its written requirement for Kirby Hill to provide a compelling need and safety case at the beginning of February 2009. [3.5.4, 4.7.1-2, 5.6.9-12, 9.2.21, 11.4.8, 12.2.4]
- 14.1.32 No explanation has been offered as to why HA changed its opinion, but I believe that none is required. The Government's objective is to encourage drivers to take breaks more frequently and so reduce the number of fatigue related accidents. That is an expression of a need that the Government wishes to satisfy – to the extent that its aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. C01/08 recognises that the need to take a break increases with the separation of core MSAs such that any MSA permitted within a gap of 40 miles will itself be designated a core MSA. That proffered designation is an expression of need that should be given great weight, whilst not being determinative in itself. [14.1.2 & 4 & 10]
- 14.1.33 Although regarded as a fixed point, Barton is yet to become an MSA. In practice, the gap between MSAs is some 60 miles (Wetherby to Durham MSAs) until the extant consent is implemented. A1D2B phase 1 has resulted in the loss or bypass of seven local services. A northbound motorist having passed Wetherby MSA would now not encounter signed services until just short of Scotch Corner Services; and none offers the level of provision which an MSA provides. Southbound, there is no opportunity to rest from Scotch Corner to Wetherby unless drivers detour 2.6km to the bypassed Motel Leeming. [3.5.6, 4.7.3, 5.6.15, 9.2.1, 11.2.17]
- 14.1.34 Also, the A1D2B Phase 2 upgrade postponement results in the A1 being a three lane motorway ending at Leeming, and proceeding north to Barton with a two-lane all purpose dual carriageway from Leeming to Barton. The significant volumes of traffic on the A1 are set to grow. That combined with a lack of road improvement could extend the time taken for the northern part of the journey to the detriment of tired drivers and to the Government's ambitions for the core MSA network. Whilst MOT has planning permissions to increase car parking at Wetherby and to construct Barton MSA no such provision would aid a tired driver on the 40 miles journey between the two. [5.6.15, 9.2.3 & 21]
- 14.1.35 This overall picture serves to emphasise the expression of need that I find in paragraph 14.1.32 above.

- 14.1.36 That situation is not clarified by MOT's stance in closing that there is "no decision as to investing in developing [Barton] being possible until the impact of any decision is known". MOT speculate on the alternative spacing results without Barton being built out but with one or other of the proposed MSAs in place, concluding that should such be the financial effect of the SSCLG's decisions, the Roads Policy would have achieved nothing in spacing terms. [11.4.37]
- 14.1.37 MOT and KH refer to HA's publications on the Spatial Planning Framework Review of SRN Service Areas of January 2010 as being the latest valid HA opinion that only Barton MSA is required in the gap between Durham and Wetherby. The documents cover a range of topics on service area provision. HA points out that this stretch of SRN is outside the study. In any case, the 2010 analysis as regards future MSAs is not detailed – table 8.1 of the Yorkshire and Humber document indicates separation distances between MSAs and highlights those over 40 miles (two in number) on the understanding that such gaps would be contrary to the requirements of C01/08. [11.4.40, 12.3.10]
- 14.1.38 The document follows with the brief observation and recommendation at paragraphs 10.4 and 10.5: "*(10.4) Despite being Non-Motorway at the present time, the A1 between Dishforth and Scotch Corner is to be upgraded to Motorway standard. Upon completion, there will be a separation of 63 miles between MSAs. (10.5) Therefore it is recommended that a new MSA be located along this route – it is understood that a new MSA is being considered for this route at Barton*".
- 14.1.39 To be more precise, it is common ground that the distance between the relevant motorway junction bridges at Wetherby and Durham is almost exactly 60 miles. Nonetheless, the Review documents do not preclude the more detailed examination and conclusions that arise from the current Inquiry. I give them little weight in the current consideration. [11.4.17]

Evidence that nearby existing roadside facilities are unable to cope with the need for services

- 14.1.40 HBC indicates that Wetherby MSA operates well within capacity and there is no evidence that Barton MSA would not be able to cope. MOT and HBC believe there to be no car park capacity problems. JT produced surveys to suggest the car park comes under pressure at Wetherby and that motorists experience congestion problems in times of peak demand. [4.7.5-8, 8.2.25-26, 11.4.17-24]
- 14.1.41 JT's evidence under-reports the number of Wetherby MSA car parking spaces. MOT undoubtedly use marshals to direct drivers to available car parking areas; this may be a wise precaution and/or there may be sound business reasons for keeping drivers/potential customers well advised. Either way, it assists in providing a break to rest drivers. MOT have planning permission for further car parking at Wetherby, but I am not aware if and when that permission will be implemented. In the meantime, with reference to C01/08 para58, I do not consider the evidence sufficient to show that there is, or there is about to be, a lack of car parking spaces at Wetherby MSA at times of peak demand. [2.2.7, 4.7.5-8, 8.2.25, 11.4.18]
- 14.1.42 HA has no data of its own on the use of existing facilities, but MOT and HBC refer to HA's support for their case in its November 2010 letter to MOT. They report that HA says that Barton Park and Wetherby MSAs will provide

capacity way beyond anticipated demand, and that there is no specific capacity problem affecting the A1/A1(M). Read correctly, the letter means that there is no capacity problem resulting in queuing on the live carriageway on the A1/A1(M). That being said, and with reference to C01/08 para58, I do not consider the evidence sufficient to show that there is, or there is about to be, a lack of car parking spaces at Wetherby MSA at times of peak demand, nor is there evidence of queuing on the approach roads to Wetherby, Scotch Corner or Barton [9.2.21, 11.2.4 & 17]

- 14.1.43 Absent the build out of Barton MSA and the construction of A1D2B Phase 2, Scotch Corner TRSA provides the major opportunity for stopping for motorists at the northern end of the Wetherby to Barton gap. JT's brief survey observed that 216 of the 249 Scotch Corner car parking spaces were occupied (about 87%). MOT indicates that it has a planning application outstanding to increase the number of spaces to 294, and relies on this figure to report that the occupancy would be 73% and well within the 90% at which it begins to be slow to find a space. [4.7.6, 11.4.18]
- 14.1.44 I am not convinced by this argument that relies on a yet to be approved planning application. Furthermore, I consider that both Wetherby and Scotch Corner will be required to accommodate drivers who would be unable to use the seven local services that have been bypassed or lost in the construction of Phase 1 of the A1D2B, and users transferring from the bypassed Motel Leeming. I consider that there is the potential for the demand to use Scotch Corner to increase until Barton MSA is built and open for use. [4.7.6, 9.2.3]
- 14.1.45 Given that Barton is one of the fixed points in relation to consideration of the provision of another MSA in North Yorkshire, this potential must be considered to be a short term matter; it is not indicative that the services would be unable to cope with the demand that might be placed on them. The analysis and the evidence on this the second bullet point of C01/08 para58 focuses on demand, rather than need which the bullet point seems to demand; they are not necessarily the same thing. The need for services between Barton and Wetherby might occur anywhere up to nearly 40 miles from the services, and there would be some considerable time before the need could be satisfied. There is no analysis, and hence no evidence, of the ability or otherwise of nearby services to satisfy need in that regard.

Evidence of a genuine safety-related need for the proposed facilities

- 14.1.46 The accident data pre-date the opening of Wetherby services in 2008, the opening of the Wetherby bypass and the A1(M) upgrade between Dishforth and Leeming. Some parties suggest that the HA does not consider the data to support the provision of a further MSA, and the historic accident rate on the unimproved trunk road is irrelevant. However, HA seems to go no further than to indicate that it places no significant reliance on the accident information. [8.2.24, 9.2.21, 11.4.31]
- 14.1.47 It must be assumed that A1D2B Phase 1 will perform as designed and provide a safe environment for users of the A1(M). However, the section of A1 between Leeming Bar and Barton has not been improved, it is as it was when the accident data was recorded and will remain until, and unless, A1D2B Phase 2 is completed. The historic accident evidence is a material consideration for the unimproved section of the A1. [4.7.11, 8.2.23, 11.4.25]

- 14.1.48 As the evidence in HA's Inquiry Note IN-03 (CD11.9 part) has been drawn together using local statistics between 2005 and 2008 and nationally available statistics, the internal comparisons in that document should be given weight in this case. I am not convinced by references to C01/08 para53 that "research shows that up to 20% of accidents on monotonous roads (especially motorways) are caused by tiredness" – there is no indication of matters such as what the research was, how large was the sample and what was the time scale of the research; I give that 20% figure little weight in considering this section of the A1. [4.7.11-13, 11.4.28 &31]
- 14.1.49 JT extracts the information from the Inquiry Note that between 2005 and 2008, the record of fatal and serious injury accidents on the A1 between Dishforth and Barton was above the national average (19.7% and 13.9% respectively), where fatal and serious casualties were 13.9% and 10.7% respectively. Fatigue was a 'possible or very likely' cause in 11% of all accidents between Wetherby and Barton compared to a national average on motorways of 6% where fatigue was a factor. MOT would prefer to make the comparisons with the 'very likely' figures in the Inquiry Note rather than the 'possible or very likely' figures. However, as the comparison is being made with the national figure of 6% where fatigue was recorded as being a factor rather than a very likely cause, I consider that the appropriate comparison is with the 'possible or very likely' figures. JT's analysis should be preferred. [4.7.12, 11.4.27]
- 14.1.50 MOT says that it would be premature to find a safety case before the impact of Wetherby and Barton are assessed to see whether Wetherby has not already reduced such accidents even further below the expected levels. However, it appears to me that waiting for an accident situation to manifest itself, especially given the indeterminate dates of the opening of Barton MSA and introduction of A1D2B Phase 2, is contrary to the ethos of C01/08, the aim of which is to provide MSAs at intervals that would help prevent fatigue accidents taking place. [5.6.3, 11.4.28]
- 14.1.51 MOT also says that there is little reliable evidence to justify the provision of MSAs to prevent accidents. It asserts that 'there is no evidence to show that providing additional or infill MSAs at reduced distances apart has any beneficial safety effect whatsoever'. The information before the Inquiry is limited in this area. It is not known upon what basis the policy in C01/08 is derived, but this appears to be an attempt by MOT to attack the heart of C01/08. C01/08 aims to encourage drivers to take breaks more frequently and so reducing the number of fatigue-related accidents; it aims to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. I give minimal weight to this apparent attempt to discredit the basis of the policy in C01/08. [11.4.29-31, 14.1.2, 4]
- 14.1.52 In conclusion, given:
- that the A1 between Dishforth and Barton had a record of fatal and serious injury accidents above the national average on motorways from 2005 to 2008;
 - that fatigue was a 'possible or very likely' cause in 11% of all accidents between Wetherby and Barton compared to a national average on motorways of 6% where fatigue was a factor;

- that the section of A1 between Leeming Bar and Barton has not been improved and it will be some indeterminate time before the introduction of A1D2B Phase 2; and
 - the indeterminate date of the opening of Barton MSA,
- I consider that there is evidence of a genuine safety-related need for the construction of an MSA between Wetherby and Barton.

Whether the roadside facility is justified by the type and nature of the traffic using the road

- 14.1.53 In 2004, the traffic flows between Dishforth and Barton ranged between 42,900 and 56,200 AADT. There is some disagreement between the parties on the growth factors applied to forecast future traffic levels, but HA's latest forecast is generally reliable in predicting there to be some 76,000 vpd north of Wetherby in 2012 increasing to about 90,000 in 2022. These flows reduce the further one gets north of Wetherby, but at Baldersby Gate the prediction is still some 54,000 vpd in 2012 and 62,000 in 2022. [4.7.13, 5.6.17, 9.2.21, 11.4.34]
- 14.1.54 North of Wetherby, HGVs account for about 23% of all A1 traffic in 2012 and 2022. Past Baldersby Gate, the HGV content is about 27% of the traffic in 2012 and 2022. These compare with the national average for HGV traffic of about 12%. The increasing percentage of HGVs against a falling base flow the further one travels up the A1 underlines the importance of the A1, and also indicates that many make longer distance strategic trips whether turning onto the A66 at Scotch Corner en route for Scotland or continuing up the A1 to the North East. [4.7.14, 5.6.17]
- 14.1.55 HBC and MOT argue that there is nothing out of the ordinary about the type and nature of the traffic that uses the SRN between Wetherby and Barton. They say that traffic flows are not above average for a motorway; nor is there any congestion causing slower than average speeds. There is no evidence of large volumes of long distance movements. MOT places emphasis on numbers of vehicles, pointing out that Wetherby MSA has almost double the amount of passing traffic as the Baldersby junction and more than double the HGVs, and that MSAs permitted elsewhere had significantly more passing HGVs than the competing sites. [8.2.28, 11.4.33-34]
- 14.1.56 Numbers of vehicles may be a contributory factor in deciding whether an MSA may be required in some circumstances, such as when heavy flows lead to slower journey speeds. However, numbers are not determinative by themselves, nor does lack of numbers diminish the requirement on any particular route for drivers to take breaks. The numbers of vehicles using the A1 are not insignificant (some 76,000 rising to 90,000 vpd in 2022); after all the numbers would have been contributory to the decision to construct A1D2B to full motorway three lane standard. It is also beyond doubt that the mix of HGV in those numbers, whose drivers would be subject to the statutory rest regime is considerably higher (at 23-27%) than the proportion nationally (at 12%).
- 14.1.57 Despite MOT's insistence in closing that there is surprisingly little through traffic, I consider that the nature of traffic on the A1 would be a significant contributory factor in determining the need for an MSA because of the relatively high proportion of HGVs. In coming to this conclusion, I do not include traffic growth as a part of a compelling need case, but employ the

growth figures to indicate that the present high proportion of HGV traffic is not forecast to reduce within the current forecast range. [11.4.32 &38]

Other Matters

i. Motorway Rest Areas (MRAs)

14.1.58 Paragraph 60 of C01/08 indicates that where the spacing between existing Core sites is less than 40 miles, any infill site that might be permitted may take the form of an MRA. It is the contention of HBC and MOT that the relevant gap is below 40 miles and that any need found to exist could be met by the provision of an MRA. As there is a policy requirement to minimise the impact of schemes, it behoves the promoters to investigate provision of an MRA as one would almost certainly have less environmental impact than an MSA. [8.2.31-32, 11.4.6-7]

14.1.59 If SSCLG concludes that the gap is over 40 miles, consideration of an MRA falls away. If it is concluded that the gap is below 40 miles, the following considerations are relevant. Firstly, the provision says that the infill may take the form of an MRA; there is no imperative for a developer to submit a scheme for an MRA. Policy T7 refers to MSAs and indicates that sites and proposals will be assessed, inter alia, against *Safeguarding and or enhancing the existing landscape character of the surrounding area*. I can find no imperative that a promoter should assess a scheme other than the one it puts forward. [3.2.4]

14.1.60 Next, the main differences between the two types of facility are that MRAs are required to provide half the parking requirement of an MSA and there is no specific requirement to provide fuel, snacks or hot drinks as there is for an MSA. S01/08 para75 indicates that other facilities would be at the discretion of the operator – an MRA promoter may choose to put forward a petrol filling station and the other requirements of an MSA. The scheme would then be assessed against its ability or otherwise to satisfy policy T7 and other policies in exactly the same way as it would if it were an MSA. There is no certainty that it would have less impact; that is an assumption on the part of HBC and MOT.

14.1.61 Next, the developer would be guided as to the requirements of such schemes by the HA. The developers of the schemes now under consideration have already been advised by the HA; they have been advised that an MSA is required. HA wrote to HBC and HDC to indicate that requirement on 26 February 2009, and has maintained that position since then. Bearing this in mind, it would be unlikely that its advice would change now. I conclude that there is no requirement to assess the schemes against putative MRA schemes. [4.7.2]

ii. The previous Inquiry report 2004IR

14.1.62 HBC and MOT placed great weight on the Inspector's report from the previous Inquiry (2004IR) and the FSoS's decision. That Inquiry also worked on the basis that the permitted MSA at Barton would be the northern fixed point. They suggest that the one-site MSA strategy adopted which chose Wetherby to be an MSA was a long term solution, bearing in mind the short-term presence of Leeming Services; the core network of MSAs was thereby completed. Thus, given that the only policy change is from a 30 miles spacing to a 28 miles spacing, there was no rational reason to come to a different conclusion. [8.2.2 &10, 11.4.10-11]

14.1.63 However, there have been material changes in circumstances since the previous Inquiry. Apart from the introduction of C01/08, which revised the spacing requirement downwards to 28 miles, new proposals have come forward further north than Kirby Hill (which was the northernmost site at that time). The suggestion that the change from 30 miles to 28 miles makes little difference is another argument on incrementals; this time those who argued that 0.378 was a crucial difference in 40 miles now argue that 2 miles makes little difference in 30 miles. However, the difference is so significant that HA changed its policy bearing in mind its duty to promote highway safety. Further, the previous Inspector wrote that an additional 10 miles or so on any one gap is a considerable proportion of the 30-mile standard – I would agree, and note that it is a greater proportion of 28 miles. [4.9.1-2]

14.1.64 Regarding the core network, C01/08 para59 indicates that where the spacing between two existing MSAs is 40 miles or greater, any infill site that might be permitted will also be designated as a Core site. If the SSCLG agrees with me that the gap here is over 40 miles, it cannot be the case that the introduction of Wetherby MSA completed the core network. Whilst the previous Inspector and the FSoS rejected a two-site MSA strategy, it was in relation to the circumstance of that Inquiry. This Inquiry was held under different circumstances with fresh evidence and in the light of C01/08; even then it was recognised in IR2004 and the FSoS's decision that there might be pressure for another site in the Wetherby/Barton gap. I see no inconsistency if it were to be concluded that another MSA in the gap between Wetherby and Barton were needed. [2.2.8, 4.9.2-5, 8.2.5-9, 11.4.10-11, 14.1.19]

iii. HBC's support to allocate Motel Leeming as an MSA in Hambleton's LDF

14.1.65 HBC points out that its support for HDC's proposal to allocate Motel Leeming as an MSA in Hambleton's LDF was made on the basis that if there was any need, Motel Leeming could be expanded to meet it. HBC did not make any assessment on need at that time. [8.2.30]

iv. Need as evidenced by the existence of Motel Leeming

14.1.66 LES suggests that the existence of a site at Motel Leeming for the last 50 years is practical evidence that there is a need in that location for motorists to stop and rest. [6.6.4-5]

v. Whether a clear and compelling case must be shown both for need and for safety

14.1.67 HBC asserts that there is no safety case for any of the MSA proposals before the Inquiry, so the grant of permission for any of the schemes would be contrary to C01/08, which requires both a need case and a safety case to be demonstrated. Even if HBC is correct with regard to the safety case, the test in C01/08 para58 is the demonstration of a clear and compelling need and safety case, not a need case and a safety case separately; thus there is a balance to be struck. This can be illustrated by an extreme example. Driving on an unbroken dead straight motorway some 100 miles long would be monotonous and tiring. Even if the accident rate was zero, I do not think that even HBC would argue that there was not a clear and compelling need for at least one MSA in the length. [8.2.24]

14.1.68 The point is clearly understood by HA which says that if a clear and compelling need and safety case must be demonstrated, then the HA is satisfied that demonstration has been achieved by reference to two factors (amongst the four mentioned in C01/08 para58), namely the distance between facilities and the type and nature of the traffic on the A1 between Wetherby and Barton. [9.2.22]

vi. *Policy and need for MSA provision*

14.1.69 The Wetherby to Barton stretch of A1 passes through three local planning authority areas; Harrogate, Hambleton and Richmondshire. With specific regard to the provision of MSAs, the development plan background is:

- Harrogate Local Plan saved policy T7 is the only one specifically to refer to MSAs. The first part says: *Within Harrogate District Planning Permission will be granted for not more than one motorway service area serving the A1(M). The provision of an MSA is to be dependent on there being a need for such a facility, taking into account existing and planned services on the A1 and linked motorways elsewhere in Harrogate and Yorkshire;*
- Hambleton Core Strategy neither allocates nor has a criteria-based policy for any sort of roadside facility. [Its draft policy BC5 had allocated Motel Leeming as an MSA, and was supported by HBC, but it was deleted by the Allocations DPD Inspector who indicated that the best location for a new MSA may not be within Hambleton itself];
- Richmondshire District Council's Local Plan saved policy 73 allocates Barton as an MSA and indicates that development elsewhere along the existing A1(M) Motorway in Richmondshire will not be accepted if it would prejudice, directly or indirectly, MSA provision at Barton Quarry; and
- The RSS policy T4 refers to the strategic role of the A1, but has nothing to say on the provision of MSAs.

[3.2.3, 4.8.3, 7,11-12, 8.1.1-2, 11.2.1, 11.3.3-4, 14.1.65]

14.1.70 Richmondshire's policy is protective of Barton's MSA status; it is a material consideration that informs my analysis. Leaving aside other considerations such as protection of the countryside, HDC's policy is neutral on the provision of MSAs – as is RSS policy; which leaves HBC's policy T7 (first part). HBC asserts that Wetherby Services, which opened in 2008, satisfies policy T7's limit of one MSA in Harrogate District, so the three proposals within the District would be contrary to the development plan. Additionally, in preparing the Local Plan, the need for further MSA provision was assessed using Barton as the northern fixed point. [8.1.1-2 &8]

14.1.71 Notwithstanding HBC's assessment of need in preparation of its Local Plan, re-assessment in the light of C01/08 and the applications before the Inquiry is not precluded. Indeed, HBC's planning witness accepted that if the SSCLG concluded that there was a need for an MSA, then this would outweigh the first part of policy T7. This seems to be implicit in Ground one of HBC's reasons and putative reasons for refusal of each of the three Harrogate schemes which says: *In the absence of any overriding need the development would cause demonstrable harm to interests of acknowledged importance and would conflict with Policy T7 of the Harrogate District Plan.* [3.4.1, 3.5.1, 4.4.1, 4.13.1, 5.4.1, 5.5.1]

14.1.72 It follows that the level of need should first be established, and then that, and any harm that would be caused by the developments proposed, should

be weighed against the provisions of the development plan. In other words, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). [8.1.4, 11.3.9]

Conclusions on the need for MSA Provision

- 14.1.73 The gap between Wetherby and Barton Core MSAs is 40 miles or more, nevertheless a clear and compelling need and safety case should be demonstrated for the provision of an MSA in this length. [14.1.28]
- 14.1.74 The Government's objective to encourage drivers to take breaks more frequently and so reduce the number of fatigue related accidents is an expression of a need that the Government wishes to satisfy – to the extent that its aim is to establish a network of core MSAs on the basis of a spacing criterion of 28 miles. That any infill site in a gap of 40 miles or more will be designated a core site is an expression of such need that should be given great weight. That expression of need is given more emphasis by the loss of seven local services, the bypassing of Motel Leeming and the uncertainty of the provision of A1D2B Phase 2 and of Barton MSA. [14.1.2 & 4 & 29, 32-35]
- 14.1.75 There is some evidence of a genuinely safety-related need for MSA provision mainly arising from the above national average of fatal and serious and fatigue related accidents on the A1 between Dishforth and Barton, allied to the postponement of A1D2B phase 2 and the indeterminate date of opening of Barton MSA. In addition, the relatively high proportion of HGVs in the traffic flows on the A1 in North Yorkshire is be a contributory factor in determining the need for an MSA. [14.1.52-53 & 57]
- 14.1.76 **I conclude that this combination of factors constitutes a clear and compelling need and safety case for an infill MSA in the gap on the A1/A1(M) between Wetherby and Barton MSAs. The gap is over 40 miles, so the infill MSA would be designated as a core site in accordance with C01/08 paragraph 59.**
- 14.1.77 There is the suggestion in MOT's argument that, because traffic flows decrease as drivers move northward from Wetherby and flows on motorways elsewhere in the country are also higher, the need for a further MSA on the A1 is somehow diminished. I give little weight to such an argument because Government policy is to provide MSAs at about 28 mile intervals on all motorways irrespective of traffic flows. [11.4.34]

Satisfying the need

- 14.1.78 I have already concluded that there may be some considerable time before the construction of A1D2B phase 2, and the timing of the construction of Barton MSA is unknown. However, it would seem appropriate to consider the long-term position, particularly as a number of facilities formally available on the A1 have been closed or bypassed.
- 14.1.79 HA and HIA prefer the Kirby Hill location, indicating a reliance on the 'presumption in favour of on-line sites' contained in C01/08 paragraph 97. The explanation in the Circular for that presumption is that junction MSAs are more likely to generate undesirable trips from the surrounding area if the facilities are attractive to residents. It then goes on to say that sites

that are located further away from the motorway network might discourage drivers from stopping to rest: manoeuvring to use those facilities would increase the risk of accidents and may increase congestion. [2.2.9, 9.2.24]

- 14.1.80 However, these considerations are matters of degree; matters that should be weighed in considering and comparing the sites. Looking at the three matters in turn. Firstly, I consider Baldersby junction remote enough from Ripon and other centres of population to ensure that neither proposal at that junction would become destinations in their own right. HA adduces no evidence that they would. Secondly, neither of the Baldersby junction proposals would be remote from the motorway network – they would lie at the junction. It is the case that drivers would take some time to negotiate roundabouts to gain access to any MSA at the junction and to return to the motorway, but I do not consider that there would be a significant perception of time lost because the entrance to the MSA would be where it would be expected – at the junction. Discouragement to drivers to take a break would be minimal. That would not be the case with Motel Leeming, where a driver must leave the motorway, drive alongside it for nearly a mile (1.3km), use the services – and then return on the same route. [3.6.6, 5.6.2, 5.7.7, 6.1.2, 6.6.42, 12.4.4]
- 14.1.81 Finally, there is no analysis before the Inquiry to show that the introduction of four slip roads between the motorway and an MSA would be materially safer than taking off the MSA bound traffic at the existing A1(M)/A61 junction. That junction is recently constructed to up-to-date standards by the HA's consultants. In addition, the access arrangements would be to a standard to be approved by the HA. Weighing these factors: because there would be no potential for non-motorway traffic to enter an on-line site, and there would some extra distance to be covered and manoeuvres to be made to gain access to a junction site, I consider that there is a slight advantage to the on-line site if all other things were equal, but that such advantage is by no means overwhelming. [4.11.3-4, 5.7.8]
- 14.1.82 It is noteworthy that HA's witness used the term 'all things being equal'. He said that HA would prefer Kirby Hill, but acknowledged that things were unlikely to be equal. I cannot see that HA has weighed these matters, its preference is basically premised on the words of the Circular; and indicated as such in its closing statement. Further, there was no opportunity to examine the witness on this preference. In the context of C01/08 and the Inquiry, I take this 'presumption' to amount to no more than a preference. [1.5.3, 4.11.9-10, 4.11.12, 9.2.24-25]
- 14.1.83 To place alongside this presumption, C01/08 paragraph 59 expresses the Government's preference for the location of infill sites roughly half way between MSAs unless it can be shown that an off-centre location is more suitable in either operational, safety or spatial planning terms or in its ability to meet a particular and significant need. [2.2.8]
- 14.1.84 There is clear conflict between the paragraph 97 'presumption' and the paragraph 59 'preference: I will consider an extreme example to judge which may best fit the ethos of C01/08. Consider a 56 miles gap between two core MSAs. The aim of the Government would be to place one MSA to create 28 miles spacing. Now assume that a number of proposals came forward to fill that gap, only one of which was for an on-line MSA, but that is at the absolute minimum distance of 12 miles. Nevertheless, following the HA's application of C01/08 policy at this Inquiry, that would be the one that

would be selected, and it would be a core MSA. The remaining gap would now be 44 miles.

- 14.1.85 Now assume that the same scenario for competing sites arises. A second on line MSA would be placed at the minimum distance of 12 miles, it too would be a core MSA, and there would still be a 32 miles gap. That would be 4 miles above the spacing aimed for by Government and could itself become the subject of a planning application for an MSA. I cannot believe that that would be the desired or aimed for outcome of C01/08 or DfT policy. It certainly seems unattractive in planning terms.
- 14.1.86 It is worth considering the language used in C01/08: the “absolute minimum acceptable distance” is 12 miles. That means it would be totally unacceptable to introduce an MSA below that 12 miles limit. It is difficult to accept HA’s selection of Kirby Hill, which – at 12.363 miles from Wetherby MSA – is very close to the point of total unacceptability, merely because it is on-line. It is important here to note that Leeming Motel is just 12.828 miles from Barton MSA. It is itself fairly close to the point of unacceptability. The current situation is not dissimilar to the hypothetical situation discussed in the previous paragraph. If either Kirby Hill or Motel Leeming were granted planning permission, the gaps would be 12+ miles and 27+ miles. As the absolute minimum acceptable gap is 12 miles, a 3 mile window would be left in each 27+ miles gap where a company might consider that it could make a case for an MSA, an MRA or, following the 22 June Ministerial Statement, a Motorway Truckstop. Each would appear within the other’s window if either were granted planning permission, with environmental and local implications especially in the case of Kirby Hill. [6.1.2]
- 14.1.87 It follows that I consider that the most important consideration is to place any infill MSA close to the mid point in an identified gap. In reaching this conclusion, I have taken full account of HIA’s argument that the paragraph 97 ‘presumption’ takes precedence over the ‘preference’ for a mid point solution. I reach a different conclusion by considering the intention and practicalities of C01/08, and the available evidence. Rather than providing an MSA at close to the absolute minimum acceptable spacing, a near mid point location would fit much more comfortably with the ethos of C01/08 which strives for regular breaks for drivers and regular spacing. Baldersby junction is 17.305 miles from Wetherby MSA and 22.317 miles from Barton MSA. [3.6.12, 4.1.2, 5.1.2]
- 14.1.88 Consequently, **I conclude that one of the Baldersby junction sites would best fulfil the need unless further consideration of the individual sites shows that an off-centre location at Motel Leeming or Kirby Hill is more suitable in either operational, safety or spatial planning terms or in its ability to meet a particular and significant need. In addition, I consider that the round journey of 2.6km to make use of the Motel Leeming would deter many motorists from taking a break when tired which would lessen its potential to satisfy the need for an MSA that would accord with the C01/08 need.**

14.2 The need for a truckstop at Coneygarth

(references to access to Londonderry truckstop are best appreciated by reference to the plans at CD11.9-IN-01 Figs1-5)

Coneygarth and C01/08

- 14.2.1 XLB's call-in letter identifies 'need' and 'the need for a truckstop at this facility and the proximity of other facilities' as factors to be considered (page 5 above). It is not intended that Coneygarth would be signed from the A1. HA indicates that two consequences follow. First, C01/08 is of limited relevance in determining the application and C02/07 is the appropriate tool by which to judge its acceptability. Second, if allowed, the truckstop would not contribute significantly to meeting the need for a core MSA identified by reference to the C01/08. I would agree with that assessment, as does XLB. [6.13.5, 7.7.1, 7.9.1, 9.2.26-27, 11.4.12]
- 14.2.2 No spacing policy for truckstops is described in C01/08; the only possible requirement being the absolute minimum acceptable 12 miles distance between facilities described in paragraph 56. However, that gap is with regard to signed facilities, so should not apply here. Coneygarth is 12 miles distant from Barton MSA, so that gap would comply in any case. It is 10 miles from Baldersby junction. The consultation document on revision of C01/08 suggests a minimum gap of 12 miles between any sort of facilities, however I have already advised that that document should be given very little weight indeed. I do not consider that the proposal would have any material effect on the proposed MSAs. [7.8.1, 14.1.14]
- 14.2.3 In this regard, the promoters of the three Harrogate schemes appear to be of a similar mind. HIA and REL make no submissions on the XLB scheme and JT has no objection provided that SSCLG is satisfied that the proposed development would meet a need for specialist truckstop facilities which cannot be met at an MSA. JT adds the proviso that legal undertakings should prevent signing to Coneygarth and truckstop use at Londonderry. To avoid potential policy conflict, XLB offers s106 undertaking not to request signing to Coneygarth for 5 years. Another undertaking would ensure that Londonderry would cease use as a truckstop. [3.5.1, 4.10.3, 7.8.2, 7.9.15]
- 14.2.4 LES asserts that XLB fails to demonstrate a need for a new truckstop and that any need would best be met with a single facility at Motel Leeming. There is little evidence to promote this assertion, which has not been tested in any case. I give little weight to it and I conclude that the distances between Coneygarth and other facilities would not adversely affect any consideration of need for a truckstop at Coneygarth. [6.13.4-5]
- 14.2.5 Although C01/08 is of limited reference in determining its application, XLB addresses C01/08 paragraph 58. It draws attention to the overall national need to improve safety for truckstops and lorry parks. XLB raises similar points to those made with regard to the MSA proposals; lorry drivers are subject to the high proportion of fatigue related accidents on the A1, and north of Wetherby the HGV content is considerably above the national average in overall traffic flows. My view is that, as Coneygarth would be unsigned, it would not meet the needs of general motorway users because it would not be brought to their attention, but it would be known by HGV drivers who could take advantage of the facilities. To that extent it would assist in satisfying the need to improve safety on the A1. [7.9.1, 14.1.54-56 & 75]

Spacing

- 14.2.6 The A1(M) upgrade included closing the direct access to Londonderry. To use the HGV facilities there, drivers must divert from the through A1(M) and use about 12.5 miles of local access road, incurring a time penalty of some 5 minutes. In a tightly controlled efficient business that would be a significant cost; and the perception of inconvenience could very well deter drivers from using it. XLB estimates that, without the move to Coneygarth, about 40-60% of its business would be lost, which would be insufficient to make the business viable if Londonderry had to be rebuilt. This was confirmed by the company's owner under cross-examination and I have no reason to dispute the information. [7.10.3, 11.4.15, 13.3.14]
- 14.2.7 It follows that, absent a relocation at Coneygarth and the loss of the pure truckstop offer at Barton, there is a real prospect that there would be no broadly comparable facilities (ie a pure truckstop) on the SRN [A1(M)/A66 and A1/A1(M)] between the M62 in the south and Newcastle and Carlisle in the north (over 100 miles on each route). Even if Londonderry did survive as a business, it would be in a reduced and impoverished form, even with XLB's loyal contract base, that would be to the detriment of choice and would not support the industry to best advantage. [7.9.2 & 5 & 16, 9.2.1, 11.4.13-15]
- 14.2.8 MOT asserts that the distances involved in XLB's spacing argument means that there is no spacing case to favour Coneygarth over any other location in North Yorkshire. However, XLB's search identified four other sites that were considered to be available: two on land adjacent to the Scotch Corner Services; one on Catterick Central; and one on Leeming Bar Industrial Estate. Site constraints and location made them unsuitable for the proposal. The Motel Leeming site was also rejected as it was considered too far away from the A1 junction, not cost effective and no better than the Londonderry location. I am satisfied by the thoroughness and range of this search, and consider the selection of the Coneygarth site was an appropriate decision even though it is in the countryside. [7.5.10, 11.4.13]

Demand

- 14.2.9 XLB believes that between 190 and 255 HGV spaces would be lost, made inconvenient or transferred as a result of A1D2B Phase1. MOT puts this figure at 145 spaces. The main reasons for the difference is that MOT does not consider that some 55 vehicles surveyed as being parked in lay-bys in the area overnight should be provided for, and estimates the capacity at Londonderry at 50 spaces rather than the 75-90 estimated by XLB. [7.9.12 & 15, 11.4.21]
- 14.2.10 Regarding lay-by parking, C01/08 paragraph 150 says that lay-bys should not be considered substitutes for full service areas and are not satisfactory locations to rest for more than a short period. Drivers should use lay-bys only when stopping is an urgent necessity or where provision of services is inadequate. In addition, NY has a programme to construct earth mounds to prevent HGVs parking in lay-bys. On this basis, I consider that the lay-by occupancy should be considered in the need for HGV spaces at formal service/truckstop areas in North Yorkshire. [7.9.15]
- 14.2.11 As regards replacement of the quantified loss from the present provision of spaces, only Wetherby MSA has permission for another 82 HGV spaces in addition to the 82 currently on site; the Barton MSA permission includes for the same number of HGV spaces as the current truckstop (90). That

represents a considerable shortfall. Even if one of the competing MSAs were constructed with a nominal 80 HGV spaces, and Londonderry operated at about 50% (such that half its custom is served direct from the A1), the difference would be in the range of a loss of some 50 spaces and a gain of 15 spaces.

- 14.2.12 That exercise is imprecise, being a cross between demand and current provision. However, in short, my conclusion is that without planning permission either for Coneygarth or one of the competing MSAs, there would be a serious shortfall in HGV spaces in the area. Without Coneygarth, but with one of the MSAs, there would be a slight shortfall in numbers of spaces. HA points out that the A1 carries significant, and growing, volumes of traffic which includes a high proportion of HGV (24.2% northbound and 31.2% southbound between Dishforth and Barton); which bears out the strategic significance of the route. In either scenario, I would anticipate the problem would worsen over time. MOT says that it could provide more spaces within its existing sites, but that must be taken as speculation; there were no schemes other than Coneygarth before the Inquiry. [6.13.4-5, 6.14.4, 9.2.1 & 21, 11.4.23, 11.12.4]

Choice and value for money

- 14.2.13 With either scenario, choice and value for money would also be seriously affected, and both are embedded in C01/08 as elements of the need to drive down the incidents of fatigue-related accidents. The Government's principal explicit objective is to encourage greater choice in the provision of service facilities for all road users. Paragraph 7 goes on to say that the Government aims to work with the private sector to increase public satisfaction with roadside facilities in terms of their quality and value for money. [7.9.8, 14.1.2]
- 14.2.14 XLB's comparative analysis identifies the distinctions between truckstops and MSAs in a 56 point analysis including topics such as Operational Provision, Fuel Service Provision, Forecourt Services and HGV Driver Welfare. XLB's customer surveys show that 79% of Londonderry customers do not use MSAs. It seems clear also that MOT markets and brands its own truckstops and MSAs separately and differently. [7.9.6-7]
- 14.2.15 For truckstops, value for money is key to delivering services; and it is central to XLB's case that the value driven, bespoke offer provided by a pure truckstop is different in nature from the HGV offer at normal MSAs. For instance client direct bunkering provides a large discount on diesel prices, and the general value for money approach drives the provision of all services; including food and secure overnight car parking. This approach combined with its separate clientele differentiates MSAs from truckstops (or specialist HGV facilities); a difference that is acknowledged in C01/08. This difference in 'type' of provision is reflected in national policy, and the DfT's Strategy for Lorry Parking Provision in England is most supportive of the role lorry parks play nationally. This support is highlighted in the Minister's Statement on 22 June 2011. [1.4.8, 7.9.6-9, 7.12.5]
- 14.2.16 MOT suggests that Coneygarth would provide nothing that did not already exist for HGVs on the existing A1(M); I saw little evidence to convince me of facilities either individually or collectively that could provide the truckstop package apart from Londonderry or Barton. However, Barton is set to change from a lorry park to an MSA. MOT said that Barton would have all the same lures as Coneygarth for truck drivers, but this is to confuse its

role. On the evidence it will not be both MSA and lorry park. MOT has approached the HA over co-signing Barton Park and Wetherby, but there would appear to be little prospect of success; I give very little weight to that possibility. Barton Park's role is prescribed as being an MSA. [7.9.4, 11.4.15 & 20 & 35]

- 14.2.17 The closing and bypassing of facilities has reduced choice for truck drivers, as has the reduction in the number of spaces available. It will take time for those lost facilities to be replaced – but only if planning permissions are granted, in the meantime need for them would increase over the years. Delays are costly for the tightly controlled truck business, causing drivers to strive to stay on the main direct routes without diversion. XLB identified four elements that can be associated with 'choice' in respect of HGV facilities: frequency, type, range of offer including quality and value for money, and scale. MOT's suggested expansion of MSAs would increase the scale of those facilities, but would not address the other elements. [7.9.13]

Conclusion on the need for an MSA at Coneygarth

- 14.2.18 The A1 in this section of North Yorkshire is an important route from the Southeast into Scotland by way of the A66 and A1. This stretch of road carries significant numbers of traffic with a high proportion of HGVs; a high proportion of accidents are fatigue-related accidents. Without a relocation of XLB's Londonderry facility and the loss of the pure truckstop offer at Barton, there is a real prospect that there would be no broadly comparable facilities (ie a pure truckstop) on the SRN A1(M)/A66 between the M62 in the south and Newcastle and Carlisle in the north (over 100 miles on each route).
- 14.2.19 The upgrading of the A1 has caused 190 to 255 HGV spaces to be lost, made inconvenient or bypassed, and there is a significant number of HGV drivers parking in lay-bys overnight in the area. It will take time for those lost facilities to be replaced – if planning permissions are granted – in the meantime need for them would increase over the years. Delays are costly for the tightly controlled truck business, causing drivers to strive to stay on the main direct routes without diversion.
- 14.2.20 The loss of facilities has reduced choice of type and places for lorry drivers to stop for a rest, and the accepted loss of Barton truckstop to an MSA together with the diminution of the attractiveness of Londonderry truckstop has reduced the availability of the value for money offer at truckstops. Both choice and value for money are embedded in C01/08 as elements of the need to drive down the incidents of fatigue-related accidents. XLB identified four elements that can be associated with 'choice' in respect of HGV facilities: frequency, type, range of offer including quality and value for money, and scale. MOT's suggested expansion of MSAs would increase the scale of those facilities, but would not address the other elements.
- 14.2.21 **I conclude that this combination of factors is sufficient demonstration of a need for a truckstop. The choice of Coneygarth for a truckstop site is an appropriate selection that would satisfy that need.**
- 14.2.22 Further, **I conclude that there is sufficient evidence of need to justify granting planning permission for Coneygarth truckstop and one MSA.**

14.3 The Kirby Hill MSA Proposal

- 14.3.1 I have already concluded on the general need for an MSA in the section of A1 between Wetherby and Barton (section 14.1). In this section, I will consider the site specific merits of the Kirby Hill proposal.
- 14.3.2 The recovery letter did not identify any specific matters of concern, but the main matters considered at the Inquiry were the effect of the proposal on highway safety and the local road network, access arrangements and staff travel, countryside and agricultural land, visual impact and landscape character, effects on sites of archaeological or historical interest, residential amenity, the drainage of the site, the impact on Dishforth Airfield, the availability of alternative sites, the extent to which the proposal accords with the development plan, and whether any permission granted should be the subject of conditions or accompanied by a s106 planning obligation. The need for an MSA was discussed above in section 14.1. The other factors identified with regard to PPG13 will be subsumed in the different aspects of the proposal identified in the section headings that follow.
- 14.3.3 The application is in outline form, with all matters reserved except for means of access. I will take into account the final illustrative masterplans at Drg. No. 1500-P-102-C (without rear staff access) and 1500-P-103-C (with rear staff access). The proposal is for a twin-sided on-line MSA with mirrored facilities serving each carriageway of the A1(M), and with the full range of facilities required by C01/08. HIA now wishes the proposal to include on-site sewage treatment works. [3.4.1-3]

Environmental Assessment

- 14.3.4 For consideration of its current proposal, HBC advised HIA to update its August 2002 ES that was produced for the previous Inquiry. The ESU was subsequently produced and covered the topics as advised. Then, in September 2010, HIA prepared a voluntary Regulation 19 submission but failed to advertise it. HIA amended and expanded that document, finally advertising it in the Ripon Gazette just before Christmas 2010. [3.4.4-5]
- 14.3.5 KH and JT objected to this late submission, indicating that the time given for consultation was insufficient. They said that the nature and timing of environmental information at the start of the holiday period seriously prejudiced the general public and its interests. KH said that the revised scheme included significant new alternatives for local accesses and for onsite WWTWs about which the public was never consulted; that prejudice was incapable of remedy during the Inquiry. [4.11.13 & 43, 12.16.1-4]
- 14.3.6 Despite HIA indicating within the voluntary Regulation 19 submission that it was being republished and re-advertised, there is no doubt that the first advertisement of it was on 24 December 2010. Furthermore, it contained new material that was not in the first version of September 2010 that was considered at the Inquiry; in particular it contained a preliminary groundwater risk assessment associated with proposed on-site WWTWs. I accepted submission for consideration at the Inquiry in my ruling of 10 January 2011 on the basis that my report would be more complete by including consideration of the information. [1.3.3, 3.4.5, 4.11.38]

- 14.3.7 Notwithstanding JT's insistence that the time given for the consultation response did not meet the EIA Regulations, I felt that sufficient time was available for the matters contained to be addressed. I do not believe that the general public would have been adversely affected because of the efficient and effective representations by KH and their self-evidently excellent lines of communication with the people in the parishes that they were representing. Regarding the groundwater assessment in the document, EA's response (on 27 January 2011) subsequent to my ruling shows that it is not an adequate assessment with particular regard to the underlying aquifer – a matter referred to below in 'drainage'. In addition, it is of concern that the groundwater assessment would appear to have been commissioned after HIA had presented its case. I consider that the voluntary Regulation 19 submission should be rejected insofar as it refers to on-site WWTWs. [4.11.43, 4.12.25, 8.3.4-5]
- 14.3.8 On a separate point, KH and JT considered that HIA's environmental information is too widely dispersed and difficult to follow. However, whilst the 2002 ES related to a different scheme, I consider that there are enough similarities for it to be reasonable and practical to produce an ESU to cover the current scheme. However, there is no evidence that the 2002 ES was submitted with the current application; HIA says it was, but HBC have no collective recognition – what is more certain is that HBC accepted the application as valid and considered that the requirements of the EIA Regulations had been met. I am inclined to believe that HBC carried out its function correctly in the first place and that it was submitted. [3.7.7 & 43, 4.11.42-43, 12.6.1]
- 14.3.9 Thus, there are 3 documents containing the environmental information; the 2002 ES, its update (the 2008 ESU) and the December 2010 voluntary Regulation 19 submission, which I deal with above. JT suggests that with regard to the environmental information, HIA has created the kind of paper trail deprecated by the House of Lords in Berkley. However, I consider that the spread and presentation of information is within reasonable bounds. In any case, I note HIA's suggestion that, in the event that the SSCLG favours the HIA scheme, he could use his powers to remedy any deficiencies in the environmental information. I consider the requirements to be met. And I have taken the environmental information into account in my consideration of the case. [3.7.50 & 54, 4.11.43]

Development Plan

- 14.3.10 The Statutory Development Plan for the area includes the Yorkshire and Humber Plan Regional Spatial Strategy, the saved policies of the Harrogate District Local Plan, and the Harrogate District Local Development Framework: Core Strategy Development Plan Document. The development plan is identical for Kirby Hill MSA, Ripon Services MSA and Baldersby Gate MSA. [3.2.1]
- 14.3.11 Policies in the RSS relate to matters such as improving efficient and convenient long distance travel on the SRN, efficient use of all modes of travel, and improving the management and capacity of the A1. General policies include matters such as safeguarding and enhancing: landscapes, biodiversity, and the historic environment. [3.2.12-14]
- 14.3.12 Core Strategy policy requires strict control over new development in the countryside and is protective of landscape character and the natural and

built environment. Saved Local Plan policy also seeks to protect existing landscape character. Saved Local Plan Policy T7 is the most directly relevant policy; it states that only one MSA will be approved in Harrogate District, and sets out the Council's criteria for assessing MSA proposals. [3.2.3-6]

Mandatory MSA features, parking provision and site layout

- 14.3.13 The Kirby Hill proposal would meet the specified minimum range of mandatory features required in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. It would not provide extraneous services and facilities. The illustrative scheme showing how the proposed facilities could be laid out satisfies me that an acceptable layout could be achieved at the detailed submission stage. [3.6.27, 9.4.1, 9.5.1]
- 14.3.14 The Kirby Hill proposal is the only MSA proposal of the four that would be capable of accommodating the full range of abnormal loads that C01/08 describes as a minimum requirement. The A1(M) is also a designated High Loads route, requiring a minimum headroom clearance of 6.45m. Following discussion with the HA, HIA modified its scheme to increase the headroom in putting forward its voluntary regulation 19 submission. MOT pointed out that as access is not a reserved matter; procedurally such changes are not capable of inclusion within the terms of the planning permission sought. I am of the opinion that the increased headroom is a matter of detail, and that the revised drawing should be accepted. [3.6.21, 11.9.4]

Highways and Traffic

Relationship with the Motorway boundary

- 14.3.15 This would be an on-line MSA. HIA asserts that Kirby Hill's closer relationship with the A1(M) means that over the lifetime of the MSA, the HIA would deliver substantial savings in terms of distance travelled and CO₂ emissions compared to the other schemes. [3.7.20]

Traffic flows and turn-in rates

- 14.3.16 Traffic flows south of Dishforth were calculated from automatic counter data. Traffic generation at the site was forecast using turn-in rates of 8% peak hour, 12% midday peak, and 10% daily; sensitivity tests were carried out using rates of 10%, 15%, and 12.5% respectively. HA accepted the figures and I have no reason to disagree with them. [3.6.5, 9.1.3]

Access arrangements

- 14.3.17 MOT asserts that there are shortcomings with HIA's drawings to the extent that they depict departures from standards in respect of matters such as taper lengths, nose widths, horizontal curvature, the application of stopping sight distance and forward visibility. It says that plans purporting to address shortcomings are not included in the list of application plans at HIA201, and that HA has not agreed any departures. Yet HA told the Inquiry in closing that it has reached a position whereby it is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN. [9.3.1-2, 9.5.1, 11.8.7-14]
- 14.3.18 I consider that the details under discussion would not materially change what is being applied for and would be covered within the conditions to be imposed if the appeal were to be allowed and the proposal granted planning permission.

- 14.3.19 Turning to staff travel: normally, rear accesses to MSAs are not acceptable, but where they are allowed they should be limited to access for staff, deliveries or emergencies. NY objects to the Kirby Hill proposal if it did not have rear staff accesses; HIA and KH consider that such accesses should be excluded. On-line MSAs do regularly have such accesses, and HA is content for such at Kirby Hill. Without a rear access for employees at Kirby Hill, the only access to the proposal would be from the motorway. The inclusion of a rear access would be the best realistic opportunity for non-car access by staff. I have no doubt that the access could be made secure and restricted to use by employees only by way of an access card system and a monitored staff car park. Thus, if someone did park in the village and walk they would not be able to get through the pedestrian access. [3.7.18, 3.7.38, 3.8.3, 10.1.3, 10.1.6, 10.1.13, 12.9.2, 13.1.2]
- 14.3.20 Without rear access there would be no possibility of pedestrian or cycle travel to work. Notwithstanding KH's scepticism about the figure, it would appear that some 9% of staff might travel from large residential areas such as Boroughbridge and Langthorpe which are within a 5km bicycle ride of the proposal. Without that facility a journey to work from, say, the Kirby Hill area would involve a round trip of 25km to the main entrance of the western site – a significant deterrence to local people wishing to work at the site. Rear access would benefit the proposed staff shuttle bus, replacing a lengthy circular route to use the main entrance by a very short free bus journey to places like Boroughbridge. [10.1.10-12, 12.10.1]
- 14.3.21 I consider that the use of rear staff accesses would render the proposal significantly more sustainable with regard to employees journey to work, and it would reduce unnecessary journeys on the SRN without harmfully affecting the living conditions of local people. In the event that the appeal succeeds and planning permission is granted, I recommend the imposition of a condition requiring the construction of rear accesses.

Departures

- 14.3.22 The normal approach is that departures should be applied for and granted before planning permission is given. The comments above show that if there is the need to seek HA's approval of departures there is every likelihood that any necessary approval would be forthcoming. [3.6.28, 11.8.1]

Accidents

- 14.3.23 The only accident record before the Inquiry relates to the years 2004-2008 and predates the opening of A1 upgrades around Wetherby and north to Walshford. It is of little relevance on the operation of the motorway as it now exists which, it must be assumed, has been designed to a high standard to address previous accident risk. Regarding the slip roads that would be associated with the proposed on-line twin-sided MSA: these would be to a high standard and approved by the HA, there is no reason to suppose that the merges and diverges would lead to any undue accident hazards. [11.4.25, 14.1.46-53]

Construction impacts

- 14.3.24 Although the form of the construction phasing is not known, a potential phasing arrangement provides for a temporary re-routing of the A168 during the bridge construction to allow for the connector roads into the southbound site to pass beneath the existing A168. All construction traffic

would use the A168 for access to the sites with construction traffic banned from access to Kirby Hill or Ripon on the B6265 beyond the access to the northbound site. This may cause some short-term disruption, but I do not consider that there would be any undue highway safety problems as many construction sites have similar effects. [3.7.14, 12.9.1]

- 14.3.25 There are local fears that, if permanent local access for staff were to be constructed, they would have an unacceptable adverse impact on the safety of the LRN. However, any condition would include an independent road safety audit and the approval of the accesses by HBC, who would themselves seek advice from the highway authority. I do not believe that the final scheme would be other than in accord with the principles of safe design. [12.9.2]

Countryside

- 14.3.26 There is no dispute that the appeal site, along with the sites at Baldersby junction, lies in the open countryside. The total area of 19.31ha within the red line would represent a significant encroachment into the countryside. [3.1.1, 3.7.5, 6.8.4, 8.1.29]

Agricultural land

- 14.3.27 The ESU acknowledges a loss of 14.7ha of BMV land if Kirby Hill were to be built out, and that planting on the western boundary would result in a reversible loss of 3.3ha. Although this land would not be re-profiled, it is safe to assume that the screen planting would remain for the duration of the existence of the MSA. Thus to all intents and purposes it would be permanently lost to agriculture. So I consider that the total loss of BMV agricultural land would be some 18ha – about 90% of the red line area. [3.7.10, 12.18]
- 14.3.28 That loss is acknowledged in the ESU to be mainly grade 2 and 3A. However some parties point out that MAGIC shows the Kirby Hill southbound site to be Grade 1 BMV agricultural quality. Notwithstanding the differences in grade, in considering the presence of BMV agricultural land in determining planning applications, PPS7 para28 does not differentiate between the different grades above grade 3a. The effect of PPS7 and PPS4 is that whilst the countryside is recognised as an important natural resource that requires protection, it also helps contribute to national and regional prosperity. [6.8.8, 11.5.4, 12.7.3]
- 14.3.29 PPS7 indicates that the presence of BMV agricultural land should be taken into account alongside other sustainability considerations such as the quality and character of the landscape, its amenity value and accessibility to infrastructure. Thus, whilst the loss of this BMV land may not be an overriding consideration, it is nevertheless a consideration to be weighed in the balance. [3.7.10, 13.1.3]

Landscape and visual impact

Landscape character

- 14.3.30 The site is not covered by any formal landscape quality designation at national, regional or local level. The HDLCA replaced the 1993 Woolerton Truscott Report that was extant at the previous Inquiry. HBC uses HDLCA for development control purposes to protect and enhance the District's landscape character. The SPG shows HIA's site as being within Area 81 'Dishforth and Surrounding Farmland' [3.1.4, 6.8.1, 8.1.10-13]

- 14.3.31 Although it does not appear in HIA's closing statement, HIA's landscape witness refers to the northbound site as sitting in a natural hollow, as distinct from the claim at the previous inquiry that the whole site sits in a shallow bowl. This is a point that appears to be picked up wrongly by HBC. For the avoidance of doubt, I consider that the undulations in the landform do not create a bowl or a natural hollow for the northbound site or for the site as a whole. [8.1.24, HIA2/2 para3.11]
- 14.3.32 In outlining the sensitivities and pressures on the area, HDLCA indicates that it is a uniform and open agricultural landscape where large-scale development cannot easily be accommodated without further detriment to the landscape character. The proposal is just such a large-scale development. There would be views of the proposed development from the Kirby Hill area, Ripon Road (B6285), the A168 roundabout bridge over the motorway and from wider areas. I do not consider that the open large scale landscape would materially mitigate the landscape effects of the proposal. [3.2.6, 8.1.25, 8.1.28, 11.6.5]
- 14.3.33 To help mitigate these effects, the developer would introduce large scale woodland tree planting adjacent to the northbound MSA and a large earth mound with less dense planting around the southbound MSA. I have no doubt that the planting at the northbound MSA when approaching maturity would appear as a block of planting of considerable dimensions; unlike any vegetation that I saw within or even close to the visual envelope of the site. The trees around the southern area of the site would appear to be a thin band atop an earth mound that would stand up to about 9m high above the surrounding land levels. Their ability particularly in winter to screen either the tops of the 9m high main building or the alien form of the mound itself must be considered to be doubtful.
- 14.3.34 The proposed mound would be some 450m long, more than twice the length of that proposed in the previous Inquiry, with most of it standing some 8m to 9m above existing ground levels. The Ripon Road roundabout is at about 43m AOD. The proposal would introduce a narrow plateau on the earthworks some 150m long at 43m AOD and, further north, there would be a ridge about 100m long at the same height. The dip and rise to 41m in the intervening 130m would do little to vary the apparent height of the mound because that dip would be in a shallow re-entrant and would still be some 8m above field levels. [3.7.4(5), 8.1.20-21, 11.6.4]
- 14.3.35 The general gradients in the fields that would accommodate the mound are about 1 in 25-30. The outside gradients on the south part of the mound are indicated to be as low as 1 in 8 (1 in 12 on one small stretch), but on the north section it would approach 1 in 2. The Ripon Road roundabout is 3-4m above the adjacent field level, with an embankment to the north to accommodate the A186 – it is clear in the landscape in views from the south and the east including the length of Boroughbridge Road south of the Rooker Hill Farm access and the north edge of Kirby Hill village. The mound would be more than twice as high as that embankment and considerably longer.
- 14.3.36 Indeed, from the footpath to the north of Kirby Village some 500m from the mound, the poles erected for my formal site inspection indicating the crest of the mound could be seen to break the skyline in places. The height and gradients of the proposed mound would render it a very prominent and incongruous feature in the landscape. Its visual effect may soften over the

years as the planting cover grows, but I do not consider that the form of the mound would be completely assimilated. Whilst there is some mounding in a layby on the approach to Kirby Hill village, apparently to deter lorries from using it, it is low key and cannot be used as any sort of precedent to justify the large scale mounding proposed in HIA's scheme. Such mounding is simply not part of the baseline situation. [3.7.4(5), 8.1.23]

- 14.3.37 I conclude from the above that the proposal would significantly harm the character of the surrounding landscape.
- 14.3.38 The internal slope of the mound would be very steep (the contoured plan showing a drop of 7m in a scaled distance of 5m). At my request, cross sections were produced to show how the construction of the mound might be achieved. In this regard, I was asked to visit the Oxford/Wheatley MSA to see, among other things, gabions being used to retain earth mounding. There, I did see a gabion wall at about 3m high, topped with a low earth mound with a shallow gradient. But in the same site, I saw two areas of earth slippage on banking less than 3m high. [3.7.5(5), 8.1.21]
- 14.3.39 HIA's proposal at section CC (HIA119) shows the mounding rising to 43m AOD, up to 4m above a 3m gabion structure at a gradient of 1 in 2.5 – the foot of the gradient being only about 0.5m behind the face of the gabion. Furthermore, the gradient rolls over the top of the mound and then descends some 8m at a gradient of about 1 in 2.5. I saw nothing at Oxford, and I have seen no calculations, to assure me that the solution would be technically sound. Section CC also shows a 1 in 2.5 gradient above the gabion structure, but there is likely to be more flexibility at that location given the greater area covered by the mound and the less steep outer gradient. If SSCLG is inclined to prefer the Kirby Hill MSA, I would recommend that he reassures himself on this matter before allowing the appeal and granting planning permission. [3.7.5(5)]
- 14.3.40 The appellant also asked me to visit Tibshelf MSA to see what was described as an example of successful landscape integration including contoured mounding and woodland planting. I found the general terrain to be more detailed and undulating than the open farmland in Area 81. That, combined with the trees in the landscape, gave a different pattern altogether. It would not fit with the area 81 description/character assessment.
- 14.3.41 The trees in the area are in linear form and in blocks. The designer took advantage of the lines of mature trees in hedges beyond the site in Saw Pit Lane and at the southwest boundary of the site. Mounds are located behind these and the planted trees re-enforce the pre-existing trees; which, along with the hedges screen the mounds very effectively. In addition, the highest mounds that I saw were some 4-5m high – about ½ the height proposed at Kirby Hill. I found nothing at Tibshelf MSA to justify the harm that HIA's scheme would cause to the character of Area 81 in North Yorkshire.
- 14.3.42 Finally, HIA claims an environmental/landscape benefit in that its scheme would promote the appreciation of Hambleton Hills and the Kilburn White Horse through the signposted walk to the plateau on the mound. I give minimal weight to this supposed advantage because to achieve it the developer would be placing a very large incongruous element into the landscape to the disbenefit of the landscape – that thousands of car

occupants stretching their legs could stand on it throughout the year would be purely incidental. [3.7.5(7)]

Visual impact

- 14.3.43 I refer to harmful visual effects in the previous section from several vantage points. Users of the LRN on the Ripon Road, traversing the roundabout and the A1 overbridge would have clear views into both sides of the MSA. There would be a long term effect where the built elements would be prominent in the long views to the North York Moors and Hambleton Hills. I saw a similar situation during my visit to Tibshelf MSA from the elevated view near Whiteborough water supply reservoir when both sides of the MSA could be seen. That MSA jarred on the eye even in that busy landscape.
- 14.3.44 There are likely to be few pedestrians in this area but, although motorists are usually less sensitive to such views, this part of the LRN is a tourist route to Newby Hall, Fountains Abbey and Ripon Cathedral, which would add weight to the harmful impact. The motorway carriageway and the single roundabout are not dominant features in the landscape, so I consider that the visual effect of the MSA on the tourist route would be moderate to slight adverse. Some views would be available from the Highfield Lane overbridge, but these would be more distant. [11.6.6, 13.1.4]
- 14.3.45 There would be views into the northbound site from the A1(M), but vehicle occupants would anticipate seeing motorway facilities on such a road. Despite the high numbers of such occupants, views from the motorway would not be as important as those from local roads.
- 14.3.46 There would be no material visual harm to the nearest residential properties to the south of the proposal as they are separated from it by the elevated Ripon Road roundabout which would effectively obscure the proposal. A number of properties in Church Lane and Close Hill have open views towards the site. Residents there would have the clearest views of the mound and would experience slight adverse visual effects from it and, potentially, in winter from the top of the main building within the site.
- 14.3.47 The construction of the slip roads and underbridge on the southbound MSA would require the removal of the existing vegetation sandwiched between the A1(M) and the A168. Views from the Skelton Windmill area, the windmill being some 700m from the centre of the northbound site, where there are about 6 properties, in the early years of the project would thus include the northbound MSA's amenity building and the tops of other buildings as well as part of the lorry parking and views into the southbound MSA. I have no reason to agree with MOT's pessimistic view on the rate of growth of planting; I consider that intrusion into views would cause moderate to slight visual harm for at least five years, which would lessen to slight as the landscaping matures. [11.6.8-9]
- 14.3.48 The Ripon road roundabout is lit at night as is Dishforth Airfield some way to the north. Otherwise there are few light sources in the area containing the site. Thus the proposal would introduce numerous light sources into a large area of land that is currently dark at night. Whilst I have no doubt that the lighting scheme would be well designed, the luminaires, with other sources such as advertising signs and lit buildings, would be visible particularly from the LRN and from the west until the planted vegetation matures. Moreover, from my visits to the nearby Wetherby MSA, I consider that there would be

nightglow from the site. I conclude that the lighting would cause slight visual harm to the appearance of the area. [3.7.4(6), 12.13.2, 13.1.2]

Heritage

- 14.3.49 There are two listed buildings in the vicinity of the proposal; All Saints' Church in Kirby Hill which is listed grade I, and Skelton Windmill, listed Grade II. The wider setting of the church includes the land around the village, so I consider the MSA site and its proposed mound to be within the wider setting of All Saints' Church. However, that setting already contains the elevated roundabout and associated paraphernalia. The MSA would comprise a small part of the wide view, and I consider that there would only be limited harm to its setting. [3.7.16, 8.1.30, 12.18, 13.1.4]
- 14.3.50 Similarly, the MSA is within the wider setting of Skelton Windmill, standing as it does near the top of the hill on Ripon Road. I have described the effect of the proposal on the residents of the windmill above. As with the church, the MSA would comprise a limited part of the wider view, and I consider that the proposal would cause only limited harm to its setting. [3.7.16, 8.1.30, 12.18, 13.1.4]

Archaeology

- 14.3.51 This area is one of great historic interest, its archaeology includes various henges and a Roman road; and, it was pointed out, fields 88 and 89 on the northbound site have witnessed activity during the Neolithic and Bronze Age. There is also the potential for remains on the southbound site and the County Council's Heritage Unit initially took the view that that potential could not be addressed adequately by condition. However, that concern was not subsequently identified as a reason for refusal. HBC takes the view that any archaeological concerns could be dealt with in line with the approach agreed previously by the County Archaeologist and accepted by the FSoS after the previous Inquiry. The Heritage Unit does not appear to have dissented from that view. I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. In reaching this conclusion, I have had regard to the indication by the Friends of Thornborough Henge that the Ure-Swale Catchment is of international significance. [3.7.17, 12.18, 13.1.4, 13.4.8]

Ecology

- 14.3.52 The site mainly comprises arable fields with limited ecological value. The proposal would increase the biodiversity of the land by way of increased planting and the introduction of a range of habitats. [3.7.4(7)]

Site drainage

Flooding

- 14.3.53 The development has a low risk of flooding and will not have any off-site impacts. [3.7.27]

Surface Water

- 14.3.54 Surface water would be disposed of by means of soakaways or to existing ditches. The use of soakaways is accepted by the EA. [3.7.27]

Foul drainage

- 14.3.55 YW considers that there is no reason why, providing the funding and necessary infrastructure is in place, foul water cannot be disposed of by way of the public sewer network connecting to Boroughbridge WWTW. Given that reasonable prospect, HBC no longer seeks to rely on reason 6 for refusal subject to an appropriate condition on foul drainage. YW is the appropriate authority to determine the capabilities of its system, so I would agree with this assessment. [3.7.27, 8.1.16, 12.11.1]
- 14.3.56 JT insists that it would not be lawful or consistent with SSCLG's policy relating to the imposition of Grampian conditions to allow the appeal including the off-site drainage subject to such a condition. Although I have no legal qualification, I would disagree. The application is clear about the intention to drain through the mains sewer; and I consider that reference to associated infrastructure in the application's description of the proposal to be sufficient to include the sewerage infrastructure. The off-site solution has been on the table for a long time and it is one that appears to be feasible. I believe that the Grampian condition would be sufficient because there seems to be no impediment between YH and HIA in carrying out the necessary works. If SSCLG were minded to allow the appeal and decided that a s106 undertaking would be necessary, this could be achieved through a 'minded to allow' letter. [4.11.30-48]
- 14.3.57 During the Inquiry, HIA pursued an alternative solution utilising on-site WWTWs. The assessment for such a solution is not at all adequate. Shortcomings include that there is no quantitative assessment of the impact of the infiltration of treated sewage effluent on the underlying aquifer and on groundwater levels below the site, and there is no calculation to show the quantity of effluent to be dealt with. Most particularly, the EA follows a policy that unless it can be shown that connection to the public network is unacceptable, it will not grant an Environmental Permit for on-site discharge of treated foul water into the ground. The EA has declared that it would not grant an Environmental Permit in HIA's case. In view of the fact that the assessment of on-site disposal of treated foul water is inadequate and that in any case there is virtually no prospect of it being achieved, I consider that the on-site amendment should be discarded. [3.4.2, 3.7.31, 3.7.33, 4.11.41, 8.3.4-5, 14.3.3]

Employment

- 14.3.58 The application form shows that some 100 full time and 100 part time jobs would be created. KH argues that, as the unemployment in Boroughbridge is minimal, any recruitment of staff would be at the cost of existing businesses in Boroughbridge, Wetherby MSA and the closure of Motel Leeming. I have seen no evidence to corroborate this view, and HBC do not object to the proposal in those terms. It is clear from the potential numbers of employees and from the travel plan that recruitment is likely to take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [3.4.2, 3.7.35, 12.7.2, 13.1.11]

Crime

- 14.3.59 HIA's public consultation drew 19 comments about harm arising from criminal activity at the proposed MSA. Evidence seems to show that criminal activity has been associated with Service Areas in North Yorkshire and an increase in crime has resulted from the development of Wetherby

MSA. However, given that members of the public may only gain access to the MSA by way of the A1(M) and the fact that the staff access, if provided, would be securely controlled, I see no material opportunity for users of Kirby Hill MSA to engage in criminal activity in the village. I consider that the MSA would be most unlikely to cause an increase in crime in the area. [12.14.1, 13.1.2, 13.1.5]

Residential amenity

Visual Impact

14.3.60 I have already considered the visual impact upon residential properties above, in the context of landscape and night-time effects. I deduce that there would be no material visual harm to the nearest properties, but a number of properties further away at Church Lane would experience slight visual harm. A number of properties near Skelton Windmill would experience moderate to slight visual harm particularly in early years. At night, the effect would be slight adverse from the night-glow. [12.13.1-2, 14.3.46-48]

Air quality

14.3.61 The ESU indicates that flows for the design year of the current scheme are broadly the same as the traffic flows considered for the 2002 Air Quality Assessment, so the conclusions for that Assessment remain valid for the current scheme. The Voluntary Regulation 19 Submission indicates that predicted traffic volumes have reduced by about 3,000 vpd which suggests that that conclusion is robust. There is dispute about the prevailing wind direction, with KH claiming that the evidence of weathering on one side of Skelton Windmill proves that the wind mainly blows towards the village. I have no knowledge of local conditions, and prefer the results of what appears to be a properly conducted analysis. I have no reason to demur from the previous Inspector's conclusion in 2004IR that there is no sound reason for local people's concerns about air pollution, particularly as HBC does not raise any concerns. [3.7.13, 12.13.4, 13.1.2]

Noise

14.3.62 The situation and assessment with regard to noise is virtually unaltered since the previous Inquiry. Even the noisiest activities on the MSA were calculated to remain below the existing background noise level at each of the nearest properties and would be unlikely to give cause for complaint, by day or by night. The previous Inspector accepted this, and I see no reason to disagree. It was suggested that staff access could exacerbate the situation, but as the numbers of vehicles to use these would be very low and they would be positioned at the most remote points from the village, I do not believe that they would materially affect the analysis. [3.7.11-2, 12.13.4, 13.1.2]

Local parking

14.3.63 Local people suggest that the inclusion of staff accesses would increase the problem of parking on the local road network, especially in the village of Kirby Hill. I point out above that if someone did park in the village, or anywhere else in the vicinity, and walked to the site, they would be unable to enter the MSA. Similarly, if someone wished to use the staff buses to park and ride, the 'interchange' car parking locations could be located

further afield where an additional few cars parked would make no difference. [12.9.2, 13.1.2, 14.3.9]

Overall impact

- 14.3.64 Despite local concern about the effect on living conditions if the HIA proposal were constructed, apart from the visual and night time effects I have considered, I consider that there would be no other material harmful effect on the amenities of local residents.

Dishforth Airfield

- 14.3.65 The proposal would be within about 900m of Dishforth Airfield, and closer to the line of the runway extended. The proposal would provide habitats that would encourage wildlife including larger birds species such as corvids. KH is concerned that birdstrike risk does not appear to have been acknowledged and researched by the responsible Government bodies as part of the consultation process. However, there is nothing to suggest that Defence Estates did not consider the effect of birdstrikes; and it is unthinkable that they did not consider the potential. Yet the fact is that Defence Estates do not even express the view that a Bird Hazard Management Plan condition would be appropriate. [3.7.37, 12.15.1-3, 13.1.5]
- 14.3.66 There is no doubt that the proposal would introduce light sources close to the approaches to the airfield that would provide an additional challenge to night approaches to the runway, notwithstanding that the sources would be aimed downwards. I do not doubt that such conditions must exist at numerous airfields and that pilots are trained to deal with them. In any event, the MOD and Defence Estates conclude that there is no basis for objecting to the HIA proposal. I see no reason to disagree with that conclusion; that being said it is manifest that the choice of another site would avoid whatever risk might occur at Kirby Hill. I conclude that the proposal would not materially harmfully affect the operation of Dishforth Airfield. [12.5.4-5, 13.1.5]

Deliverability

- 14.3.67 YW indicates that there is no reason why, providing the funding and necessary infrastructure is in place, foul water cannot be disposed of by way of the public sewer network connecting to Boroughbridge WWTW. What is not clear is how long provision of those off-site works would take. There is the possibility that such provision could delay the implementation of an MSA at Kirby Hill. [3.7.27-29, 14.3.55-56]
- 14.3.68 It has been indicated that the application/appeal site boundary does not include all the land necessary to enable the access proposals to be achieved on the southbound MSA. MOT says that there is doubt whether the land is Crown land, in NYCC ownership, or in some other ownership. As to the last mentioned, no ransom-holder has been revealed in the 14 years that HIA has promoted this site for an MSA; it is likely that the land resides with the HA or NYCC. MOT also says that the southbound site should be considered as landlocked and incapable of being delivered in its current form. MOT and HIA dispute as to whether the work could or could not be carried out under The Town and Country Planning (General Permitted Development) Order 1995 Schedule 2 Part 13. I cannot indicate the way out of this legal impasse, but the SSCLG could no doubt pursue the matter if required. [11.8.14, 3.7.26, 11.8.14, Annex 2 to this Report]

- 14.3.69 Whatever the outcome, it appears to me that there is a requirement for an application for planning permission to be made before development can take place on Crown land. If permission were to be granted to the HIA scheme, any necessary further permission for work on HA/NYCC land is likely to incur a delay.

Sustainability

- 14.3.70 The Kirby Hill proposal would meet the specified minimum range of mandatory features required in C01/08 and would not provide extraneous facilities. It would not occupy countryside unnecessarily beyond what is required for a twin sided MSA. Sustainability would be adversely affected if rear accesses for staff were not provided as journeys to work, including by any staff bus provision would be unnecessarily protracted, and there would be no possibility of people walking or cycling to work. [14.3.13, 14.3.19]

Need on A168/A19 route

- 14.3.71 HIA points to a particular need for a service area in relation to traffic using the A168/A19. The purpose for providing MSAs is to service travellers on motorways. It follows that choice of location should be based on the needs of motorway travellers. The fact that travellers on other routes may find benefit from them is a bonus, but it is one that should carry limited weight in the planning balance. [3.5.7, 3.6.26]

Perception of harm

- 14.3.72 There is strong local opposition to the HIA's proposal which is evident in the representations made to the Inquiry. A number of specific planning considerations were addressed; KH included the public perception of harm among them. Local people, ably led by KH, have been articulate and analytical about the harmful attributes of the proposal that they identify, and I have dealt with the specific matters above. What KH appear to be putting forward is that the accumulated effects of the 14 years in which HIA has pursued the development of an MSA in the location has built up apprehension and fear in the minds of local people; in effect that the whole effect of the identified harmful elements is greater than the sum of the individual elements. I see no reason to give any material weight to that notion, or to any unidentified form of harm that may go under the label of public perception if my understanding is wrong. [3.7.39-41, 12.14.1-2]

Summary of the Kirby Hill MSA conclusions

The Proposal

- 14.3.73 The application is in outline form with all matters reserved except for access, it is supported by illustrative masterplans; one with and one without rear staff access. [14.3.3]

Environmental Assessment

- 14.3.74 The application was supported by an Environmental Statement and further information, including a Voluntary Regulation 19 submission, was provided at the Inquiry. I felt that sufficient time had been given to consider and respond to the information, but that the voluntary Regulation 19 submission should be rejected insofar as it refers to on-site WWTWs. The spread and presentation of the environmental information appears to be within reasonable bounds. I consider that the environmental information meets

the necessary requirements and I have taken the environmental information into account [14.3.4-9]

Mandatory MSA features, parking provision and site layout.

- 14.3.75 The proposal would meet the specified minimum range of mandatory features required in C01/08 without providing extraneous services and facilities, and is the only proposal capable of meeting the full range of abnormal loads specified. I am satisfied that an acceptable site layout could be achieved at the detailed submission stage. The revised headroom detail indicated for accommodating high loads is a matter of detail and the revised drawing should be accepted. [14.3.13-14]

Highways and Traffic

- 14.3.76 The access details challenged by MOT would not materially change what is being applied for and would be covered by the proposed conditions. If departures are applied for, it is very likely that any necessary approval would be forthcoming. Inclusion of rear staff accesses would make the proposal more sustainable and would reduce unnecessary journeys on the SRN without materially harmfully affecting the living conditions of local people. [14.3.17-22]
- 14.3.77 There is no reason to suppose that the merges and diverges would lead to any undue accident hazards. Nor would the construction of the MSA or the inclusion of staff accesses lead to undue highway safety problems. [14.3.23-25]

Countryside and agricultural land

- 14.3.78 The total area of 19.31ha would represent a significant encroachment into the countryside, of which some 18ha would be BMV agricultural land. The loss of BMV land is not overriding, but it is a consideration to be weighed in the balance. The scheme cannot be said to minimise the loss of BMV land because Baldersby Gate would have less such loss, and Motel Leeming would have none. [14.3.26-29]

Landscape and visual impact

- 14.3.79 The site is not covered by any formal landscape quality designation, but it has been assessed in the district's landscape character appraisal. It is a uniform large-scale agricultural landscape that would not easily mitigate the harmful effects of the large scale MSA. The development would be seen from closer viewpoints, mostly in the context of introduced large scale woodland planting and a 450m long mound up to 9m high that would mostly surround the development. Both would be alien features in the countryside here that would significantly harm the character of the surrounding open landscape. I give minimal weight to the claimed advantage that the mound would promote the appreciation of the Hambleton Hills and the Kilburn White Horse. [14.3.30-37 & 42]
- 14.3.80 The views of the MSA from the A1(M) would be of lesser importance, but there would be clear views from the LRN and Ripon Road roundabout which lie on a tourist route. I consider that the visual effect of the MSA on the tourist route would be moderate to slight adverse. The MSA and mound would cause slight visual harm to views from a number of residential properties in Church Lane and moderate to slight visual harm to residents

near Skelton Windmill particularly in the early years and in winter. There would also be a slight detrimental visual effect from nightglow. [14.3.43-48]

- 14.3.81 I conclude that the proposal would have a significant detrimental effect on the character and appearance of the surrounding landscape.

Heritage

- 14.3.82 There would be limited harm to the settings of the Grade I listed All Saints' Church in Kirby Hill and to the Grade II listed Skelton Windmill. [13.3.49-50]
- 14.3.83 There have been a number of archaeological finds in the area, and there is some expectation of more. I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. [14.3.51]

Ecology

- 14.3.84 There is limited ecological value in the site which may be improved by the proposal. [14.3.52]

Site Drainage

- 14.3.85 The development has a low risk of flooding and will not have any off-site impacts. Surface water would be disposed of by means of soakaways or to existing ditches. Foul water should be disposed of by way of the public sewer network connecting to Boroughbridge WWTW; notwithstanding JT's assertion that it would be unlawful, I consider that a Grampian condition would be sufficient to secure this solution. During the Inquiry, HIA pursued an alternative solution utilising on-site WWTWs. The assessment of on-site disposal of treated foul water is inadequate and there is virtually no prospect of it being achieved; I consider that the on-site amendment should be discarded. [14.3.55-57]

Employment

- 14.3.86 Recruitment is likely to take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [14.3.58]

Increase in crime

- 14.3.87 The MSA would be most unlikely to cause an increase in crime in the area. [14.3.59]

Residential amenity

- 14.3.88 A number of properties at Church Lane would experience slight visual harm. A number near Skelton Windmill would experience moderate to slight visual harm particularly in early years. At night, the effect would be slight adverse from the night-glow. Otherwise there would be no material adverse effect on the living conditions of residents. [14.3.60-64]

Dishforth Airfield

- 14.3.89 Having considered the possibility of birdstrikes and the effect that light sources associated with the proposal might have, I consider that the proposal would not materially harm the operation of Dishforth Airfield. [14.3.65-66]

Deliverability

- 14.3.90 There is the possibility that the disposal of foul water through the public sewer network could delay the implementation of an MSA at Kirby Hill. [14.3.67]
- 14.3.91 It appears that the appeal site boundary does not include all the land necessary to enable the access proposals from the motorway to be achieved. There is a requirement that an application for planning permission must be made before development can take place on Crown land. If permission were to be granted to the HIA scheme, any necessary further permission for work on HA or NYCC land is likely to incur a delay. [14.3.68-69]

Sustainability

- 14.3.92 The proposal would not occupy countryside unnecessarily beyond what is required for a twin sided MSA. Sustainability would be adversely affected if rear accesses for staff were not provided as journeys to work would be unnecessarily protracted, and there would be no possibility of people walking or cycling to work. [14.3.70]

Need on the A168/A19 route

- 14.3.93 The choice of location for an MSA should be based on the needs of motorway travellers. If travellers on other routes find benefit from them, that is a bonus, but it is one that should carry limited weight in the planning balance. [14.3.71]

Perception of harm

- 14.3.94 I have considered all the issues separately and see very little justification for giving weight to a generalised and unidentified form of harm. [14.3.72]

Compliance with the development plan and other considerations

- 14.3.95 Local Plan policy T7 says that planning permission will not be granted for more than one MSA within the Harrogate District. Wetherby MSA opened in 2008 and satisfied that need. It clearly follows that the three proposals in Harrogate District would conflict with the first part of policy T7. Given the conclusion that there is a clear and compelling need and safety case for an infill MSA between Wetherby and Barton, satisfying that need is a matter of national policy and is a material planning consideration to set against the conflict with the first part of policy T7. The second part of policy T7 provides a suitable matrix for assessing the schemes under consideration. [3.2.3, 3.5.1, 6.8.3, 8.1.2-4, 8.1.9, 11.2.1, 14.1.6]
- 14.3.96 The Kirby Hill proposal would provide the minimum range of mandatory features without providing extraneous services and facilities, thereby satisfying policy T7a&b. [3.2.4, 14.3.75]
- 14.3.97 The access details from the A1(M) have been challenged, but the HA is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN. There is no reason to suppose that the accesses would be other than safe and convenient and would not interfere with the free and safe flow of traffic on the motorway and on the local highway network. The proposal would comply with policy T7c. [3.2.4, 14.3.17, 75-77]
- 14.3.98 There would be a loss of 18ha of BMV land. Notwithstanding that this would be a two-sided MSA, in the sense that Baldersby Gate would have a lesser

loss, and Motel Leeming would result in no loss of such land, it cannot be said that this scheme would minimise that loss. The proposal would conflict with policy T7d. [3.2.4, 14.3.78]

- 14.3.99 There would be limited harm to the settings of two listed buildings, so the proposal would conflict with policy T7e. [3.2.4, 14.3.82]
- 14.3.100 The proposal would result in a significant encroachment into the countryside, and it would include substantial woodland planting and a very large earth mound; alien features in the landscape. The proposal would significantly harm the character of the surrounding open countryside. There would be clear views from the surrounding local highway network and from a number of residential properties; some views may be screened eventually, but only after a number of years. Thus, the scheme would not safeguard the existing landscape character of the surrounding area. The proposal would thus conflict with policies T7f, C2, HD20, SG3, SG4, EQ2 and ENV10 [3.2.4-7, 14.3.78-80]
- 14.3.101 There have been archaeological finds in the area, but archaeological interests could be accommodated by the imposition of an appropriate planning condition. There is limited ecological value, which may be improved by the proposal. The proposal would therefore accord with policy T7g. [3.2.4, 14.3.83-84]
- 14.3.102 There would be very limited effect on the amenities of local residents. The proposal does seek to minimise the impact on residential amenity and, to that extent, would comply with policy T7h and with policy C1. [3.2.4, 14.3.88]
- 14.3.103 From the above, I conclude that the proposal would conflict in part with policy T7 and related policies in terms of loss of BMV agricultural land, encroaching in the countryside and affecting the character of the landscape. There would be some limited harm to the amenities of local residents and the settings of listed buildings. These matters will be dealt with in the comparison exercise in section 14.8. I conclude that the proposal would conflict with the development plan. This conclusion does not turn on the policies of the RSS, I would have come to the same conclusion with or without them.
- 14.3.104 Most matters have been dealt with in considering policy T7, but there are some other policy matters to deal with. The proposal would seek to attain "very good" standards as set out in the Building Research Establishment Environmental Assessment Method (BREEAM) and to reduce risk to the environment by dealing effectively with matters such as waste and flood risk. Given the rear staff accesses it would produce a viable travel plan. Thus the proposal would comply with policies EQ1, TRA1 and T1. If it did not include rear staff accesses, it would not offer a sustainable travel to work model and would not comply with any of these policies. [14.3.85, 92]

Planning conditions

- 14.3.105 In discussing the Kirby Hill MSA proposal, I refer to the need for planning conditions. In section 15 of the report, I give my views on the conditions suggested by the parties. Annex 3A contains the conditions that I consider should be attached to any planning permission for the Kirby Hill scheme.

14.4 The Ripon Services MSA proposal

- 14.4.1 I have already concluded on the general need for an MSA in the section of A1 between Wetherby and Barton (section 14.1). In this section, I will consider the site specific merits of the Ripon Services proposal.
- 14.4.2 The Secretary of State set out the matters in which he particularly wished to be informed in the call-in letter, and I indicated other matters that should be addressed. The net effect is that the considerations are similar to those dealt with above in section 14.3 in relation to the Kirby Hill proposal, and I will deal with matters in the same order. The need for an MSA was discussed in section 14.1 above. The other factors identified with regard to PPG13 will be subsumed in the different aspects of the proposal identified in the section headings that follow. [14.3.2]
- 14.4.3 The application is in outline form, with all matters reserved except for means of access. I will take into account the site layout (drg. No.TSP/315/001 RevZ2) and illustrative landscape master plan (drg. No. PWB7 RevA). The proposal is for a junction MSA with the full range of mandatory facilities required by C01/08 together with a lodge with 80 beds. The access arrangements from the SRN were altered slightly during the Inquiry to accommodate revised traffic information put forward by the HA.

Environmental Assessment

- 14.4.4 JT produced an ES under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to accompany its planning application. Design work was required and new plans submitted to adjust the design of the Baldersby junction roundabout and the Ripon Services roundabout necessitated by HA's amendment in predicted traffic flows north of Dishforth, but these would be minimal in their environmental consequences. [4.12.28]
- 14.4.5 JT submitted plans with amended building locations, and I ruled that there was no need to invoke Regulation 19 powers regarding those locations. REL disputed this, saying that the developable area of JT's site has increased from 5% to 20%, which places in doubt the integrity of the scheme as originally assessed. I stand by my ruling because the proposed buildings did not change in form but in position and sensitive receptors are distant from the site, where the relocations would have no material effect on the overall visual and environmental assessment of the outline proposal. I note that no landscape witnesses sought to amend their assessment of the likely impacts on the landscape because of the relocation. [1.3.2, 4.16.8, 5.11.5, 5.12.2]
- 14.4.6 REL accepts that the Ripon Services drainage proposal has been signed off and that there is a reasonable prospect that a scheme could be achieved pursuant to the drainage condition. However, the company asserts that the EA's consideration of drainage does not comprise an assessment. The assessment is in the Appendices of document HBC3/4, which should have been subject to a Regulation 19 submission. [5.12.2]
- 14.4.7 The assessment is limited, but I consider that it was sufficient. It was enough for the EA to object and for JT to provide additional assessments to the EA. That information was sufficient to satisfy the EA and the information was made available to the Inquiry. I do not consider that

anyone was prejudiced by the provision of the information, and I do not consider that submitting it under Regulation 19 would have been necessary, nor do I consider the proposal to be flawed. [4.16.5-7, 5.12.3-5]

- 14.4.8 I consider that the environmental information meets the necessary requirements and I have taken the environmental information into account.

Development Plan

- 14.4.9 The development plan is identical to that for Kirby Hill MSA and Baldersby Gate MSA; it is outlined in paragraphs 14.3.10 to 12 above. [14.3.10-12]

Mandatory MSA features, parking provision and site layout

- 14.4.10 The Ripon Services proposal would meet the specified minimum range of mandatory features required in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. The illustrative scheme showing how the internal layout might be arranged satisfies me that an acceptable layout could be achieved at the detailed submission stage. In addition, the proposal for a lodge complies with the terms of C01/08 policy which permits overnight accommodation to serve road users on their way to their destination. [9.4.1, 9.5.1]
- 14.4.11 The proposal could not accommodate the swept path of the abnormal long load detailed in C01/08, but neither could the Baldersby junction. The application site could accommodate a significant proportion of the abnormal loads that are likely to use this part of the SRN. HA indicates that that does not render the scheme unacceptable, but informs its order of preference. [9.4.2]

Highways and Traffic

Relationship with the Motorway boundary

- 14.4.12 This proposal has a common boundary with the motorway and would result in a junction MSA. Access would be off a roundabout on the A61 just southwest of the recently constructed west dumbbell island at Baldersby junction on A1(M)/A61.

Traffic flows and turn-in rates

- 14.4.13 A1(M) traffic flows north of Dishforth were forecast from HA's A1D2B traffic model. Traffic generation at the site was forecast using turn-in rates of 8% for A1 northbound, 8% A1 southbound and 4% for A61 and local access road traffic; sensitivity tests were carried out using rates of 15%, 15%, and 10% respectively. HA accepted the figures and I have no reason to disagree with them. [4.11.5, 9.1.3]

Access arrangements

- 14.4.14 The HA has reached a position whereby it is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN and the local highway authority (NY) is satisfied that its objections to the proposal have been overcome. That position is recorded in a SOCG. [9.3.1-2, 9.5.1, 10.2.1-2]
- 14.4.15 Notwithstanding that the titles of the application drawings may be incorrect (for instance drawing no. 222260/100/01 RevE is a plan to be approved as part of the application (JT201); it is listed as the 'Highways Site Plan'; but is entitled on the drawing as the 'Illustrative Site Layout'. It is clear from the listing and from the SOCG (CD14.20) that the plan is to be regarded as the

plan of the horizontal design of the site access roundabout. It is equally clear that minor details may require to be amended. [4.4.2, 11.8.15-16]

14.4.16 It is not unusual to grant full planning permission with the imposition of a condition that requires final details to be submitted to and approved by the local planning authority. That is precisely what is proposed here. As I concluded with the Kirby Hill proposal, I consider that those details would not materially change what is being applied for and would be covered by the imposition of a planning condition requiring a stage 2 Safety Audit and final details of the scheme to be approved by the local planning authority. [10.2.2, 11.8.17, 14.3.18]

14.4.17 It is the case that no adverse comments on the design and diversion into private MSA land of the PROW have been received from the Ramblers Association and the British Horse Society, but that discussions with such non-motorised user groups have still to be satisfactorily concluded. This is a shortcoming of the proposal, but I consider it to be a matter of detail that could be resolved in an appropriate timescale in accordance with the condition mentioned in the previous paragraph. [11.8.21-23, 13.4.6]

Departures

14.4.18 As with the Kirby Hill and Ripon Services proposals, if MOT is right that departures and relaxations from standards are required, the normal approach is that departures should be applied for and granted before planning permission is given. The comments above show that if there is the need to seek HA's approval of departures there is every likelihood that any necessary approval would be forthcoming. [11.8.6, 14.3.22, 14.5.23]

Accidents

14.4.19 As in the discussion on Kirby Hill, the historic accident record has little relevance on operation of the motorway as it now exists. Regarding any accident risk to traffic using the Baldersby junction slip roads and roundabouts, these are designed to a high standard and approved by the HA, there is no reason to suppose that the revised highway layout would lead to any undue accident hazards. [14.1.46-53, 14.3.23]

Construction impacts

14.4.20 The construction traffic would gain access to the A61, and construction would take place against the background noise of motorway and the A61 traffic. The temporary effects would be no worse than at any other sizeable construction project and I do not consider that there would be any undue highway safety problems.

Countryside

14.4.21 Although the application site is bounded on two sides by the A1(M) and the A61, it occupies farmland and stands in open countryside. The area within the red line is 18.80ha, which includes land required to construct the access. The proposal would represent a significant encroachment into the countryside. [4.1.1, 4.12.2, 8.1.43]

Agricultural land

14.4.22 All of the 18.80ha is BMV land, defined in MAGIC as grade 2. The area to be developed would be relatively small at 7.37ha, and the developer claims that the rest of the land to be taken out of agriculture would plainly have

the potential to revert to agricultural use. However, it is safe to assume that the screen planting would remain for the duration of the existence of the MSA. Thus to all intents and purposes it would be permanently lost to agriculture. So I consider that the whole 18.80ha site would represent a loss of BMV agricultural land. [3.7.10, 4.15.2, 11.5.4]

- 14.4.23 The effect of PPS7 and PPS4 is that whilst the countryside is recognised as an important natural resource that requires protection, it also helps contribute to national and regional prosperity. PPS7 indicates that the presence of BMV agricultural land should be taken into account alongside other sustainability considerations such as the quality and character of the landscape, its amenity value and accessibility to infrastructure. Thus, although the loss of this BMV land may not be an overriding consideration, it is nevertheless a consideration to be weighed in the balance. [4.15.1, 13.3.10, 13.4.5, 14.3.28-29]

Landscape and visual impact

Landscape character

- 14.4.24 The site is not covered by any formal landscape quality designation at national, regional or local level. HBC uses HDLCA for development control purposes to protect and enhance the District's landscape character. The SPG shows JT's site as being within Area 81 'Dishforth and Surrounding Farmland'. [4.1.3, 4.14.12]
- 14.4.25 In outlining the sensitivities and pressures on the area, HDLCA indicates that it is a uniform and open agricultural landscape where large-scale development cannot easily be accommodated without further detriment to the landscape character. The proposal is just such a large-scale development standing on an open field sloping gently from north to south. [4.1.4, 14.3.2, 4.14.3]
- 14.4.26 The triangular site is contained on two sides by the A1(M)/slip road, and the A61. There is some hedgerow/boundary planting around the site with a few trees, and the emphasis in landscape mitigation would be to retain and enhance that planting and introduce some native species woodland. As there are some copses nearby close to Hutton Grange, that would seem to be an acceptable strategy. That strategy would avoid the necessity for wholesale screening around the site; such planting would be inappropriate to the area's characteristics and would impact upon views. [3.2.6, 4.1.2, 4.14.7-8, 13.3.5]
- 14.4.27 There are few close sensitive visual receptors, which is relevant to the assessment of the impact on the character of the area.
- 14.4.28 In views that include the site, the traffic on the A1(M) is a major element that attracts the eye. The buildings that would be erected on the site would be introduced into those views, but so would the landscape mitigation scheme. That scheme would not totally screen the buildings on the site, but it would provide some mitigation for the effects of the A1(M) traffic. Notwithstanding that there would be little alteration in site levels, from most long views, the lie of the land and the containment by the elevated Baldersby junction and the adjacent roads would mean that only the tops of the buildings may be visible. I consider that the proposal would cause a degree of change in the open landscape area, which would diminish over time, but long term residual harm would remain. [4.14.2, 8.1.40, 11.6.11]

- 14.4.29 I do not consider that the landscape effects would ever amount to slight beneficial as JT suggests. I conclude that the proposal would cause slight to moderate harm to the landscape character, which would soften over the years to slight. [4.14.10, 6.10.3, 8.1.40, 8.1.42]

Visual impact

- 14.4.30 I refer to harmful visual effects in the previous section. There are likely to be few pedestrians in the area but, although motorists are usually less sensitive to such service areas, the A61 is a tourist route to Ripon and Fountains Abbey which would add weight to any harmful impact. However I consider that the impact would be no more than slight because most visitors would arrive by way of the A1(M), passing the site by way of the elevated roundabouts at the top of the slip roads. There is a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well large volumes of motorway traffic. The service area would be below and to the left, and rapidly left behind by those driving to Ripon and other attractions. There would be views from the A1(M), but vehicle occupants would anticipate seeing motorway facilities on such a road. Despite the high numbers of occupants, views from the motorway would not be as important as those from local roads. A dip in the road near Hutton Grange means that the site is in view for only about 600m from the rise to the west dumbbell roundabout. The site is in view but the highway infrastructure is the dominant feature rather than the longer views. [11.6.14, 13.3.6, 13.4.7]
- 14.4.31 There are few close sensitive visual receptors to the Ripon Services site. Views of the site from the nearest properties at Hutton Grange and Hutton Grange Cottages (some 300-400m from the site) are currently screened by the landform and local vegetation, but occupiers may see the tops of the buildings from first floor windows. Again, I consider that views would include motorway traffic. The visual effect would ameliorate over the years as planting matures. At about 700m to the northeast, views from what I believe to be farm cottages to the south of Wide Howe include the tops of trees near Hutton Grange, the views being filtered by some vegetation cover. In particular, the busy A1(M) is an important element in that scene. The proposal would cause slight visual harm to those receptors, which would lessen as vegetation matures.
- 14.4.32 From the overbridge at Sleights and from Shambles Lane the site is visible below the elevated roundabout at Baldersby Junction. Again, the dominating force is the everpresent traffic on the A1(M). Notwithstanding that a new roundabout would be introduced at the entrance to the site, at over 1km away, the MSA would form a small element of the total scheme which would cause little visual harm. Melmerby is some 1.5km distant and the site is screened by a rise in the landform. [5.11.3]
- 14.4.33 The dumbbell roundabouts at Baldersby junction and the connecting motorway bridge are lit over a length of about 400m and elevated over the surrounding area, making a considerable impact at night. The 200m portion of A61 between the dumbbell roundabouts and the proposed site entrance roundabout would require to be lit if Ripon Services were built out, which would extend the effect of that lighting. Because it would extend an existing visual hindrance, the effect would be only moderate to slight additional harm at night when viewed from east or west. When the view is foreshortened as from Wide Howe, the A61 and Hutton Grange, I consider

that the visual harm would be slight adverse. Regarding lighting internal to the site: I have no doubt that the lighting would be well designed. However the lighting would spread some way from the junction in an open landscape; I consider that there would be a slight adverse effect of nightglow from the lighting on the site itself. [4.14.9, 5.11.1-2, 11.6.13, 13.3.7-8]

Heritage

- 14.4.34 Norton Conyers Garden is listed II*. The owners are concerned about increased noise from the vicinity of the motorway in particular. I have stood outside the garden, which is over 3km from the Baldersby junction, and I do not consider that the introduction of an MSA at the junction would make any material difference either visually or aurally at the garden; and I have seen no evidence to suggest otherwise. No listed buildings would be affected by the proposal. [13.3.9-10]

Archaeology

- 14.4.35 I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. In reaching this conclusion, I have had regard to the indication by the Friends of Thornborough Henge that the Ure-Swale Catchment is of international significance. [4.16.4, 13.3.7, 13.4.8]

Ecology

- 14.4.36 The proposal would improve the habitats currently present on site and introduce new habitats resulting in a slight beneficial impact overall for local ecology. [4.15.4]

Site drainage

Flooding

- 14.4.37 The development has a low risk of flooding and there should be no significant residual effects during construction or operation. [4.16.10]

Surface Water

- 14.4.38 Permeability tests show that the ground is sufficiently permeable to dispose of surface water from the site via infiltration beneath the attenuation basin, the HGV parking facilities and the car parking facilities. The drainage system would also implement Sustainable Drainage Systems as promoted by PPS25. [4.16.10]

Foul drainage

- 14.4.39 JT has supplied additional information to EA such that it has withdrawn its objection on the subject of foul water drainage and on site WWTW, as information provides the EA with reasonable certainty that the proposed discharges from the development can be adequately controlled under the pollution control framework. HBC has subsequently withdrawn that reason for refusal. I have no doubt that there is a reasonable prospect that a scheme could be achieved pursuant to the proposed condition. [4.4.1, 4.16.6, 5.12.2, 8.1.38]

Employment

- 14.4.40 The application form shows that some 200 full time jobs would be created by the proposal. Some third parties believe that the employment would be at the cost of jobs at Leeming Bar. I have seen no evidence to corroborate

this view, and HBC do not object to the proposal in those terms. It is clear from the potential numbers of employees and from the travel plan that recruitment is likely to take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [4.4.2, 13.3.8, 13.4.5]

Residential amenity

14.4.41 I have considered the visual impact on residential properties above in the context of landscape and the night-time effect, and judge that the proposal would cause little visual harm to residents. A number of chapters of the ES deal with residential amenity, including chapter 6 on noise, chapter 7 on air quality and chapter 9 on visual and landscape impact. The scheme has been designed to ensure that there would be no material impact on the nearest residential properties and the technical chapters to the ES confirm this (CD5.3 para3.58). I have found no reason to dispute this analysis. [4.16.11, 13.3.5, 14.4.31 & 33]

The local economy

14.4.42 A number of interested parties expressed concern that the proposal would affect the economy at Ripon, principally because they believe that people who wish to have a break on the motorway are attracted by the tourist signs and venture through to Ripon. There are two aspects here. Firstly, if people are attracted to take a break in Ripon, either by design or by being attracted by motorway signs, that will still happen. If people need to take a break from driving; they are precisely the people for whom MSAs exist. There may be a tension between safety on the Motorway network and perceptions of what the local economy needs, but the safety argument must hold sway. That being said, I have seen no firm evidence to suggest that the proposal would harmfully affect the local economy. [13.3.2, 6 & 8]

Deliverability

14.4.43 JT's proposed access roundabout would be on "Potter land", which is the subject of a CPO for the A1D2B. The Potter family may or may not be entitled to the return of that land. REL has an option on the land, the terms of which require the owners to pursue the re-acquisition of the land from HA – which may require legal proceedings. Once vested in the owners, under the terms of the option they are only able to dispose of the land after the expiry of 12 years. It also seems that the determination of the issue will not commence until after the results of this inquiry. [3.7.23, 5.13.6]

14.4.44 The Potter family has not objected to the JT scheme, so it may be that the land ownership matter could change quickly because, as JT puts it, it is really just a matter of money. Resolution of this subject would appear likely to require a significant length of time, and the effect on the deliverability of the scheme is difficult to predict. [4.16.3]

Sustainability

14.4.45 The proposal would provide the full range of mandatory facilities required by C01/08 together with a lodge with 80 beds. The inclusion of a lodge complies with the terms of C01/08 policy which permits overnight accommodation to serve road users on the way to their destination, thus there would be no extraneous facilities. The land take would appear to be high for the MSA (7.37ha developed area in an 18.08ha site; some 6ha larger than the REL site), which would count against the Ripon Services site

in terms of sustainability as the additional landtake would suggest that the proposal does not appear to have minimised the loss of BMV agricultural land. In any case, Motel Leeming would provide an equivalent MSA without the loss of BMV land. [3.7.10, 14.4.3, 10, & 22]

Summary of the Ripon Services MSA conclusions

The proposal

- 14.4.46 The application is in outline form, with all matters reserved except for means of access. It is supported by a site layout plan and an illustrative landscape master plan.

Environmental Assessment

- 14.4.47 The application was supported by an ES and further work, including amended access arrangements and drainage information, was submitted at the Inquiry. I consider that the environmental information meets the necessary requirements and I have taken the environmental information into account. [14.4.4-8]

Mandatory MSA features, parking provision and site layout

- 14.4.48 The proposal would meet the specified minimum range of mandatory features required in C01/08, as well as the minimum levels of parking and toilet provision. The lodge proposal complies with C01/08 policy and there would not be any provision of extraneous services. I am satisfied that an acceptable site layout could be achieved at the detailed submission stage. The proposal could not accommodate the swept path of the abnormal long load detailed in C01/08, but could accommodate a significant proportion of the abnormal loads which are likely to use this part of the SRN. [14.4.10-11]

Highways and Traffic

- 14.4.49 The local highway authority's objections to the proposal have been overcome. Some access details have been challenged by MOT, but they would not materially change what is being applied for and would be covered by the proposed conditions. If departures are applied for, it is very likely that any necessary approval would be forthcoming. Discussions with non-motorised user groups have still to be satisfactorily concluded. This is a shortcoming of the proposal, but I consider it to be a matter of detail that could be resolved in an appropriate timescale. [14.4.14-18]
- 14.4.50 There is no reason to suppose that the revised highway layout would lead to any undue accident hazards. Nor would the construction of the MSA lead to any undue highway safety problems. [14.4.19-20]

Countryside and agricultural land

- 14.4.51 The area of 18.80ha would represent a significant encroachment into the countryside, and the whole site would represent a loss of BMV agricultural land. The loss of BMV land is not overriding, but it is a consideration to be weighed in the balance. [14.4.21-23]

Landscape and visual impact

- 14.4.52 The site has no formal landscape quality designation, but it has been assessed in the district's landscape character appraisal. It is in a uniform and open agricultural landscape that would not easily mitigate the harmful effects of the large-scale MSA. The landscape mitigation would retain and

enhance planting around the site and introduce some native species woodland, avoiding large scale woodland blocks that would be inappropriate to the area's characteristics and would impact upon views. From most long views only the tops of the buildings may be visible. I conclude that the proposal would cause slight to moderate harm to the landscape character, which would soften over the years to slight. [14.4.24-29]

- 14.4.53 The views of the MSA from the A1(M) would be of lesser importance, but there would be clear views of the MSA from the A61, which is a tourist route. The visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well large volumes of motorway traffic. There are few close sensitive visual receptors to the Ripon Services site, the nearest being Hutton Grange and Hutton Grange Cottage. I consider that the proposal would cause slight visual harm to those receptors, which would lessen as vegetation matures. [14.4.30-32]
- 14.4.54 The extension of the A61 lighting to cover the distance to the access roundabout would cause moderate to slight visual harm at night when viewed from east or west. When the view is foreshortened as from Wide Howe, the A61 and Hutton Grange, I consider that visual harm would be slight adverse. There would be a slight adverse effect of visible nightglow from the lighting on the site itself. [14.4.33]

Heritage

- 14.4.55 There would be no material visual, audible or other harm to the list II* Norton Conyers Garden or to any listed building. [14.4.34]
- 14.4.56 I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. [14.4.35]

Ecology

- 14.4.57 The proposal would improve the habitats currently present on site and introduce new habitats resulting in a slight beneficial impact overall for local ecology. [14.4.36]

Site drainage

- 14.4.58 The development has a low risk of flooding and there should be no significant residual effects during construction or operation. Surface water would be disposed of on-site, including by implementation of Sustainable Drainage Systems. Foul water will be disposed of by way of an on-site WWTW. I have no doubt that there is a reasonable prospect that a scheme could be achieved pursuant to the proposed condition. [14.4.37-39]

Employment

- 14.4.59 Recruitment is likely to take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [14.4.40]

Residential amenity

- 14.4.60 I consider that there would be little visual harm to residents, and that there would be no material impact with regard to other matters of residential amenity. [14.4.41]

The local economy

- 14.4.61 I have seen no firm evidence to suggest that the proposal would harmfully affect the local economy. [14.4.42]

Deliverability

- 14.4.62 There is doubt that JT will be able to secure the land required for its access roundabout in a timely fashion. Legal proceedings may be required in the process. Resolution of this subject would appear likely to require a significant length of time, and the effect on the deliverability of the scheme is difficult to predict. [14.4.44]

Sustainability

- 14.4.63 The land take would appear to be high for the MSA (7.37ha developed area in an 18.08ha site, some 6ha larger than the REL site), which counts against the site in terms of sustainability. [14.4.45]

Compliance with development plan and other considerations

- 14.4.64 As with the Kirby Hill scheme: Local Plan policy T7 says that planning permission will not be granted for more than one MSA within the Harrogate District. Wetherby MSA opened in 2008 and satisfied that need. It clearly follows that the three proposals in Harrogate District would conflict with the first part of policy T7. Given the conclusion that there is a clear and compelling need and safety case for an infill MSA between Wetherby and Barton, satisfying that need is a matter of national policy and is a material planning consideration that may outweigh the conflict with the first part of policy T7. The second part of policy T7 provides a suitable matrix for assessing the schemes under consideration. [3.2.4, 6.10.2, 14.3.5, 14.3.95]
- 14.4.65 The Ripon Services proposal would provide the minimum range of mandatory features and a motel without providing extraneous services and facilities, thereby satisfying policy T7a&b. [3.2.4, 14.4.8]
- 14.4.66 The access details have been challenged, but the HA and NY (the local highway authority) are satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the highway network. There is no reason to suppose that the accesses would be other than safe and convenient and would not interfere with the free and safe flow of traffic on the motorway and on the local highway network. The proposal would comply with policy T7c. [3.2.4, 6.10.2, 14.4.49]
- 14.4.67 The area of proposed development compared to the loss of BMV agricultural land is high; it cannot be said that the loss of BMV has been minimised in two ways; Motel Leeming would provide an MSA without loss of BMV land, and Baldersby Gate would provide equivalent facilities on considerably less land. The proposal would conflict with policy T7d. [3.2.4, 6.10.2, 14.4.45 & 63]
- 14.4.68 There would be no harm to the settings of listed buildings, so the proposal would comply with policy T7e. [3.2.4, 14.4.45]
- 14.4.69 The proposal would represent a significant encroachment into the countryside. There would be some landscape mitigation, but the proposal would cause slight to moderate harm to the landscape character. There would be views from the surrounding local network and limited views from a few residential properties that would cause little visual harm. There would be harm, so the scheme would not safeguard the existing landscape

character of the surrounding area. The proposal would thus conflict with policies T7f, C2, HD20, SG3, SG4, EQ2 and ENV10. [3.2.4, 14.4.51-54]

- 14.4.70 Archaeological interests could be accommodated by the imposition of an appropriate planning condition. There is limited ecological value, which may be improved by the proposal. The proposal would therefore accord with policy T7g. [3.2.4, 14.4.56-57]
- 14.4.71 There would be very limited effect on the amenities of local residents. The proposal does seek to minimise the impact on residential amenity and, to that extent, would comply with policy T7h and with policy C1. [3.2.4, 14.4.60]
- 14.4.72 From the above, I conclude that the proposal would conflict in part with policy T7 and related policies in terms of loss of BMV agricultural land, encroaching in the countryside and affecting the character of the landscape. There would be some limited harm to the amenities of local residents and the settings of listed buildings. These matters will be dealt with in the comparison exercise in section 14.8. I conclude that the proposal would conflict with the development plan. This conclusion does not turn on the policies of the RSS, I would have come to the same conclusion with or without them.
- 14.4.73 Most matters have been dealt with in considering policy T7, but there are some other policy matters to deal with. The proposal would seek to attain "very good" standards as set out in the Building Research Establishment Environmental Assessment Method (BREEAM) and to reduce risk to the environment by dealing effectively with matters such as waste and flood risk. It would produce a viable travel plan. Thus the proposal would comply with policies EQ1, TRA1 and T1. [14.4.58]

Planning conditions

- 14.4.74 In discussing the Ripon Services MSA proposal, I refer to the need for planning conditions. In section 15 of the report, I give my views on the conditions suggested by the parties. Annex 3B contains the conditions that I consider should be attached to any planning permission for the Ripon Services scheme.

14.5 The Baldersby Gate MSA proposal

- 14.5.1 I have already concluded on the general need for an MSA in the section of A1 between Wetherby and Barton (section 14.1). In this section, I will consider the site specific merits of the Baldersby Gate proposal.
- 14.5.2 The Secretary of State set out the matters on which he particularly wished to be informed in the call-in letter, and I indicated other matters that should be addressed. The net effect is that the considerations are similar to those dealt with above in section 14.3 in relation to the Kirby Hill proposal, and I will deal with matters in the same order. The need for an MSA was discussed in section 14.1 above. The other factors identified with regard to PPG13 will be subsumed in the different aspects of the proposal identified in the section headings that follow. [14.3.2]
- 14.5.3 The application is in outline form, with all matters reserved except for means of access. I will take into account the amended illustrative site layout (drg. No.T3287-0043). The proposal is for a junction MSA with the full range of mandatory facilities required by C01/08 together with a lodge with 80 beds. The access arrangements from the Baldersby junction roundabout were altered slightly during the Inquiry to accommodate revised traffic information put forward by the HA.

Environmental Assessment

- 14.5.4 REL produced an ES under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to accompany its planning application. Design work was required and new plans submitted to adjust the design of the Baldersby junction roundabout and the Ripon Services roundabout necessitated by HA's amendment in predicted traffic flows north of Dishforth, but these would be minimal in their environmental consequences. REL produced a Further Information report to its ES which includes assessment of traffic and transport, and drainage and flood risk with regard to treatment of foul drainage by way of on site WWTW. [5.4.2, 5.13.6]

Environmental Assessment and Earthworks

- 14.5.5 Document REL116 shows the continuous crest of a mound on all four sides of the site, which the notes indicate as being 1.6m above ground level. On much of the site, this is shown as being retained on the inside by an undefined structure. The document also introduces stepped car parking, together with more retaining structures. The document is intended to show a cut and fill balance on the site. REL124 purports to support this information in answer to objections in JT115. [5.9.3, 4.12.12-13]
- 14.5.6 The cut/fill balance is challenged by JT; the company says that its own evidence on the lack of balance is unchallenged. That may be the case, but there is no detail to substantiate the assertion that the cut and fill would be so imbalanced that would result in 6,000 lorry movements to move excess material from the site; so I give little weight to its overall figures. However, what can be taken from the exchanges between the two parties is that the cut at the site would be of the order of 75,000 m³. [4.12.6-11, 4.12.12-4]
- 14.5.7 REL suggests that its late documents do no more than expand on what the intentions in the original ES were. I acknowledge that paragraph 3.3.4 says

that levels will be adjusted within the site as required to ensure that the maximum development height is not exceeded; and that excavated material will be used on ground modelling within landscaped areas notably those around the edges of the site. [5.9.4]

- 14.5.8 However, I do not consider this to be apparent from the ES. I would expect 'ground modelling' to be depicted by contour lines and I would turn to the landscape masterplan within the ES to see it. That plan does identify indicative mounding – all shown internal to the peripheral road. Outside that road, there are no contours, just two faint outlines depicting different grassland areas. Screen bunding at 1.6m high around the perimeter of the site as indicated in REL116 would entail contours. The indicative cross section AA from north to south across the site appears to confirm my understanding, because there is no indication at all of a mounding with an external slope, and no indication of stepping in the car parks. [4.12.3]
- 14.5.9 I consider that the information in REL116 and REL 124 does not relate to the scheme as assessed in the ES or the Further Information Report, and should be given very little weight.
- 14.5.10 Regarding a cut and fill balance; the indicative ES cross sections show the original ground level cutting across the cab of a lorry and across the amenity building at about quarter to a third of its height; that would represent a cut, disregarding building foundations, of about 2-2.5m. Clearly there would be a substantial amount of earthworks at the site. Neither the ES nor the ES Further Information Report shows whether or not there would be a balance between cut and fill or whether there would be an excess of cut that would need to be taken from the site. [11.6.15]
- 14.5.11 This is important because: (i) if there is to be a mound at 1.6m high around the site and the cut and fill is to be in balance; that mound has not been assessed in the ES; if there is not a mound around the site, as the landscape masterplan suggests, there would not be such a balance and there is no assessment of the numbers of lorries taking muck off the site, or the effect of them. Either way, the environmental assessment is defective with regard to its assessment of earthworks. In the event that the SSCLG favours the REL scheme, he could use his powers to remedy any deficiencies in the environmental information

Environmental Assessment and Drainage

- 14.5.12 YW maintains its objection to the original off-site foul drainage solution, and JT objects that there is a lack of assessment of that solution. To me, that seems now to be beside the point as YW considers the off-site solution not to be feasible, and the EA concludes with reasonable certainty that an acceptable foul drainage solution can be achieved and adequately controlled under the pollution control framework. [4.12.15-20, 5.4.3, 5.4.17]
- 14.5.13 The press notice is objected to by JT because the description does not include any reference to the WWTW. However, I consider that the on-site WWTW is covered in the planning application because the description includes the portmanteau words "associated infrastructure". [4.12.22, 5.3.16]
- 14.5.14 JT refers to matters of law in objecting to what the company sees as a lack of assessment of the impacts of the on-site WWTW. I am not a lawyer but my opinion is as follows: the proposed on-site WWTW would occupy the area close to the forecourt facilities that formerly would have been occupied

by a police post and parking area. Most of the construction would be underground, and I consider that that which would remain above ground would have no more visual impact than would the police post which would have been some 15m long x 10m wide and up to 5.5m high. Whilst it has not been formerly assessed, its position and the fact that it would supersede the police post would make no material visual difference. [4.12.23-27]

- 14.5.15 In conclusion on the environmental assessment, I consider that the environmental assessment is defective with regard to its assessment of earthworks. Otherwise, I consider that the environmental information meets the necessary requirements and I have taken the environmental information into account.

Development Plan

- 14.5.16 The development plan is identical to that for Kirby Hill MSA and Ripon Services MSA; it is outlined in paragraphs 14.3.10 to 12 above. [14.3.10-12]

Mandatory MSA features, parking provision and site layout

- 14.5.17 The Baldersby Gate proposal would meet the specified minimum range of mandatory features required in C01/08 paras68-72, as well as the minimum levels of parking and toilet provision. The illustrative scheme showing how the internal layout might be arranged satisfies me that an acceptable layout could be achieved at the detailed submission stage. In addition, the proposal for a lodge complies with the terms of C01/08 policy. [9.4.1, 9.5.1]
- 14.5.18 The proposal could not accommodate the design load for abnormal vehicles as required by C01/08, but it could accommodate a significant proportion of the abnormal loads that are likely to use this part of the SRN. HA indicates that this does not render the scheme unacceptable, but informs its order of preference. [9.4.2]

Highways and Traffic

Relationship with the Motorway boundary

- 14.5.19 Access to this proposal would be taken from the recently constructed west dumbbell island at Baldersby junction on A1(M)/A61, and so it would be a junction MSA.

Traffic flows and turn in rates

- 14.5.20 A1(M) traffic flows north of Dishforth were forecast from HA's A1D2B traffic model. Traffic generation at the site was forecast using turn-in rates of 15% for A1 northbound, 10% A1 southbound and 3.5% for A61, based on the previous Inquiry. HA accepted the figures, and I have no reason to disagree with them. [5.9.7, 9.1.3]

Access arrangements

- 14.5.21 The HA has reached a position whereby it is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN; that position is recorded in a SOCG. It is a matter of record in the SOCG that the HA is content with the access drawing included in the application plans (drg No. 22280-6F); this would appear to answer MOT's suggestion that the access details may be the subject of a departure application. [9.3.1-2, 9.5.1, 11.8.24]

14.5.22 As with the Ripon Services proposal, Baldersby Gate would require a diversion of the PROW into the MSA land. Discussions with non-motorised user groups have still to be satisfactorily concluded. This is a shortcoming of the proposal, but I consider it to be a matter of detail that could be resolved in an appropriate timescale in accordance with the condition mentioned in the previous paragraph. [11.8.23, 13.4.6]

Departures

14.5.23 As with the Kirby Hill and Ripon Services proposals, if MOT is right that departures and relaxations from standards are required, the normal approach is that departures should be applied for and granted before planning permission is given. The comments above show that if there is the need to seek HA's approval of departures there is every likelihood that any necessary approval would be forthcoming. [9.5.1, 11.8.6, 14.3.22, 14.4.18]

Accidents

14.5.24 As in the discussion on Kirby Hill, the historic accident record has little relevance on operation of the motorway as it now exists. Regarding any accident risk to traffic using the Baldersby junction slip roads and roundabouts, these are designed to a high standard and approved by the HA, there is no reason to suppose that the revised highway layout would lead to any undue accident hazards. [14.1.46-53, 14.3.23]

Construction impacts

14.5.25 The construction traffic would gain access to the A61, and construction would take place against the background noise of motorway and the A61 traffic. The temporary effects would be no worse than at any other sizeable construction project and I do not consider that there would be any undue highway safety problems.

Countryside

14.5.26 The application site stands in open countryside, occupying a large field that is currently in agricultural use. The area within the red line is 13.36ha, and as such the proposal would represent a significant encroachment into the countryside. [5.1.1, 8.1.37]

Agricultural land

14.5.27 The area of the Baldersby Gate site is 13.36ha and is identified in MAGIC as Grade 2 BMV agricultural land. In the ES this has been re-surveyed for the application as 47% Grade 2 and 53% Grade 3a. This is still BMV agricultural land which should be safeguarded or only developed sequentially. [5.1.1, 11.5.4]

14.5.28 PPS7 and PPS4 indicate that whilst the countryside is recognised as an important natural resource that requires protection, it also helps contribute to national and regional prosperity. PPS7 indicates that the presence of BMV agricultural land should be taken into account alongside other sustainability considerations such as the quality and character of the landscape, its amenity value and accessibility to infrastructure. Thus, although the loss of this BMV land may not be an overriding consideration, it is nevertheless a consideration to be weighed in the balance. [5.5.4, 5.12.1, 13.3.10, 13.4.5, 14.3.28-29]

Landscape and visual impact

Landscape character

- 14.5.29 The site is not covered by any formal landscape quality designation at national, regional or local level. HBC uses HDLCA for development control purposes to protect and enhance the District's landscape character. The SPG shows REL's site as being within Area 81 'Dishforth and Surrounding Farmland'. [4.1.3, 4.14.12]
- 14.5.30 In outlining the sensitivities and pressures on the area, HDLCA indicates that it is a uniform and open agricultural landscape where large-scale development cannot easily be accommodated without further detriment to the landscape character. The proposal is just such a large-scale development standing on a large agricultural field. [5.1.1, 14.3.2, 4.14.3]
- 14.5.31 The first strand of the landscape strategy is stated to be to use landscaping to reinforce the already very close physical and functional relationship of the site to the A1(M). However, the site stands below an embankment carrying the A61, the edge of a roundabout and part of an element of the new local road network which itself stands west of the A1(M) slip road. It stands almost square to that embankment, jutting out into open fields. I do not consider it to have a close physical relationship with the A1(M). The second strand is to reduce the visibility of the proposal and the junction, and to reflect the landscape character of the surroundings. [4.1.2, 5.1.2, 5.8.10]
- 14.5.32 There are few close sensitive visual receptors, which is relevant to the assessment of the impact on the character of the area.
- 14.5.33 In views from the west and northwest, the embankment would stand behind the development, nevertheless the upper parts of the buildings would be clearly seen at least initially. From the south and north (Underhill Lane) the proposal would appear to stand out square in the fields, and away from the highway embankment. The landscape mitigation would include the introduction of trees around the periphery of the site intended to appear to be in the form of copses. I consider that that would be more appropriate to the landscape character of the area than would be solid screen planting.
- 14.5.34 That being said, I consider that the effect would be of a landscaped box which contained development, which would take a considerable period of time to soften. If 1.6m high mounds were to be introduced, the length of time for the mitigation to take effect is likely to be shortened. However, I am not convinced that what would appear to be straight ridges some 350-400m long would appear to be natural in the landscape, no matter that the gradient might be as low as 10%; I consider that it would emphasise the box. [4.12.5, 8.1.34-35]
- 14.5.35 I do not believe that the proposal would ever be beneficial in landscape terms as REL suggests notwithstanding that in the long term there would be some screening of the embankment and junction. I conclude that the proposal would cause moderate harm to the landscape character. The harder elements may soften over the years as vegetation matures, but the box-like appearance would remain; I consider that harm would lessen to moderate to slight. [5.9.6, 6.10.3, 8.1.34-36]

Visual impact

- 14.5.36 I refer to harmful visual effects in the previous section. There are likely to be few pedestrians in the area but, although motorists are usually less sensitive to such service areas, the A61 is a tourist route to Ripon and Fountains Abbey which would add weight to any harmful impact. That being said, I do not consider that the impact would be more than slight because most visitors would arrive by way of the A1(M); they would pass the MSA site by way of the elevated dumbbell roundabouts at the top of the A1(M) slip roads. There is a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well large volumes of motorway traffic. The service area would be below and to the right, and rapidly left behind by those driving to Ripon and its neighbouring attractions. [11.6.15, 13.3.6, 13.4.7]
- 14.5.37 Views from the motorway would generally be screened by the elevated junction and the topography, but in any case vehicle occupants would anticipate seeing motorway facilities on such a road. Such views are not as important as views from local roads. The land form and trees screen the site in views from the new local road to the north; the MSA would only be seen at close range, in the presence of the dominant highway infrastructure.
- 14.5.38 There are views of the site from the A61 between Plump Hill, some 3km to the south west, and Shambles Lane. At such distances, the MSA would be a small element in the landscape and its presence would be tempered by the nearer buildings of Melmerby Industrial Estate and the fact that the views are intermittent due to the landform. Having passed Hutton Grange Cottages, a dip in the road means that the site is in view for only about 600m from the rise to the west dumbbell roundabout. The protrusion into the landscape is clear as the road climbs but the highway infrastructure is the dominant feature rather than the longer views. [8.1.37]
- 14.5.39 There are few close sensitive visual receptors to the Baldersby Gate site. Views of the site from the nearest properties at Hutton Grange Cottages and Hutton Grange (some 500-700m from the site) are currently screened by the landform and local vegetation. Occupiers of the former may see the tops of the buildings from first floor windows, and the latter may see the site from top floor windows. The visual adverse effect would lessen over the years as planting matures.
- 14.5.40 A low local ridge line screens the site from a number of potential viewpoints such as Melmerby Green Lane. However, there may be views from Kendal View from first floor rear windows and Melmerby Green End, but at the distance of over 1km, the MSA would not form a major element in the view and would be tempered by the effect of the junction.
- 14.5.41 The dumbbell roundabouts at Baldersby junction and the connecting motorway bridge are lit and elevated over the surrounding area, making a considerable impact at night. I have no doubt that the lighting internal to the site would be well designed. From viewpoints to the west, the lighting would be backgrounded by the junction lighting and there would be no apparent nightglow. However, given the separation of up to almost 400m from the junction lights, I consider that there would be the appearance of some night glow from Hutton Grange Cottages and Hutton Grange. The harm would be very slight.

Heritage

- 14.5.42 Norton Conyers Garden is listed II*. The owners are concerned about increased noise from the vicinity of the motorway in particular. I have stood outside the garden, which is over 3km from the Baldersby junction, and I do not consider that the introduction of an MSA at the junction would make any material difference either visually or aurally at the garden; and I have seen no evidence to suggest otherwise. No listed buildings would be affected by the proposal. [13.3.9-10, 5.8.10]

Archaeology

- 14.5.43 I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. In reaching this conclusion, I have had regard to the indication by the Friends of Thornborough Henge that the Ure-Swale Catchment is of international significance. [5.14.8, 13.3.7, 13.4.8]

Ecology

- 14.5.44 There will be a slight beneficial impact for local ecology with the introduction of additional habitats. [5.14.8]

Site drainage

Flooding

- 14.5.45 The development has a low risk of flooding and there should be no significant residual effects during construction or operation. [5.4.18]

Surface Water

- 14.5.46 The operational facility will include a sustainable drainage strategy. Surface water runoff from hard areas will be piped to a balancing pond. There are proven infiltration rates. [5.4.18]

Foul drainage

- 14.5.47 The scheme originally intended to drain foul drainage to Ripon WWTP; that solution was deemed by YW to be unfeasible. The EA concludes with reasonable certainty that an acceptable on-site foul drainage solution can be achieved and adequately controlled under the pollution control framework. That course of action has been signed off by the EA. HBC has subsequently withdrawn that reason for refusal. I have no doubt that there is a reasonable prospect that a scheme could be achieved subject to a suitable planning condition. [5.4.3, 5.14.7, 8.1.32]

Employment

- 14.5.48 REL indicates that it is difficult to be precise about the number of jobs that will be directly associated with the proposed MSA; it is expected that 100 people might be employed over a 24 hour period. Some third parties believe that the employment would be at the cost of jobs at Leeming Bar. I have seen no evidence to corroborate this view, and HBC do not object to the proposal in those terms. It seems likely that recruitment would take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [5.4.2, 13.3.8, 13.4.5]

Residential amenity

14.5.49 I have considered the visual impact on residential properties above in the context of landscape and the night-time effect, and judge that the proposal would cause little visual harm to residents. The ES deals with residential amenity and matters such as air quality, noise, litter, vermin and parking. It concludes that all impacts during the construction and operational phases of the development would be negligible and there would be no material residential impacts (CD6.12 Ch7). I have found no reason to dispute this analysis. [5.5.5, 14.5.39 & 41]

Deliverability

14.5.50 REL has the funds and will own and operate the filling station and let out the other facilities if planning permission were granted. The Environmental Assessment is defective with regard to the impacts arising from earthworks on the site, but this could be put right in a reasonable timescale using the SSCLG's powers. [5.13.2, 14.5.11]

Sustainability

14.5.51 The proposal would provide the full range of mandatory facilities required by C01/08 together with a lodge with 80 beds. The inclusion of a lodge complies with the terms of C01/08 policy which permits overnight accommodation to serve road users on the way to their destination, thus there would be no extraneous facilities. HBC suggest that the proposal would fail to minimise the loss of BMV agricultural land, but I consider that would only be the case if there was no need for an MSA on this stretch of the A1, and that there was no better solution that did not utilise BMV agricultural land. The proposal would be the smallest of the proposals in the Harrogate district and would result in the loss of least BMV agricultural land. [8.1.37, 14.5.3]

Summary of the Baldersby Gate MSA conclusions

The proposal

14.5.52 The application is in outline form, with all matters reserved except for means of access. It is supported by an illustrative site layout.

Environmental Assessment

14.5.53 The application was supported by an ES and a Further Information Report to the ES. I consider that the Environmental Assessment is defective with regard to its assessment of the impacts arising from earthworks at the site. Otherwise, I consider that the environmental information meets the necessary requirements and I have taken the environmental information into account. [14.5.4-11 & 15]

Mandatory MSA features, parking provision and site layout

14.5.54 The proposal would meet the specified minimum range of mandatory features required in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. The lodge proposal complies with C01/08 policy and there would not be any provision of extraneous services. I am satisfied that an acceptable site layout could be achieved at the detailed submission stage. The proposal could not accommodate the swept path of the abnormal long load detailed in C01/08, but could accommodate a

significant proportion of the abnormal loads which are likely to use this part of the SRN. [14.5.17-18]

Highways and Traffic

- 14.5.55 The HA and local highway authority's objections to the proposal have been overcome. Some access details have been challenged by MOT, but they would not materially change what is being applied for and would be covered by the proposed conditions. If departures are applied for, it is very likely that any necessary approval would be forthcoming. Discussions with non-motorised user groups have still to be satisfactorily concluded. This is a shortcoming of the proposal, but I consider it to be a matter of detail that could be resolved in an appropriate timescale. [14.5.21-23]
- 14.5.56 There is no reason to suppose that the revised highway layout would lead to any undue accident hazards. Nor would the construction of the MSA lead to any undue highway safety problems. [14.5.24-25]

Countryside and agricultural land

- 14.5.57 The area of 13.36ha would represent a significant encroachment into the countryside, and the whole site would represent a loss of BMV agricultural land. The loss of BMV land is not overriding, but it is a consideration to be weighed in the balance. Motel Leeming could provide an equivalent MSA without the loss of BMV land in that regard, it cannot be said that Baldersby Gate would minimise the loss of such land. [14.5.26-28]

Landscape and visual impact

- 14.5.58 The site has no formal landscape quality designation, but it has been assessed in the district's landscape character appraisal. It is in a uniform and open agricultural landscape that would not easily mitigate the harmful effects of the large-scale MSA. The landscape mitigation would retain and enhance planting around the site and introduce some native species woodland, avoiding large scale woodland blocks that would be inappropriate to the area's characteristics and would impact upon views. However, the site would appear as a landscaped box that contained development, an effect that may be enhanced if a continuous 1.6m high mound were introduced around the edge. From most long views only the tops of the buildings may be visible. I conclude that the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight. [14.5.29-35]
- 14.5.59 Any views of the MSA from the A1(M) would be of lesser importance, but there would be clear views of the MSA from the A61, which is a tourist route. The visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well as large volumes of motorway traffic. There are few close sensitive visual receptors to the site, the nearest being at Hutton Grange Cottages and Hutton Grange. I consider that the proposal would cause slight visual harm to those receptors, which would lessen as vegetation matures.
- 14.5.60 There would be a slight detrimental visual effect from nightglow. [14.5.41]

Heritage

- 14.5.61 There would be no material visual, audible or other harm to the list II* Norton Conyers Garden or to any listed building. I consider that the

archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. [14.5.42-43]

Ecology

- 14.5.62 There will be a slight beneficial impact for local ecology with the introduction of additional habitats. [14.5.44]

Site drainage

- 14.5.63 The development has a low risk of flooding and there should be no significant residual effects during construction or operation. Surface water will be disposed of on site and the operational facility will include a sustainable drainage strategy.
- 14.5.64 Foul water will be disposed of by way of an on-site WWTW. I have no doubt that there is a reasonable prospect that a scheme could be achieved subject to a suitable planning condition. [14.5.45-46]

Employment

- 14.5.65 Recruitment is likely to take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [14.5.48]

Residential amenity

- 14.5.66 I consider that there would be little visual harm to residents, and that there would be no material impact with regard to other matters of residential amenity. [14.5.49]

Deliverability

- 14.5.67 There would appear to be little to adversely affect the deliverability of this scheme. [14.5.51]

Sustainability

- 14.5.68 The proposal would be the smallest of the proposals in the Harrogate district and would result in the loss of least BMV agricultural land. [14.5.51]

Compliance with development plan and other considerations

- 14.5.69 REL considers policy T7 to be out of date or indeterminate. However, I consider it to be clear and up-to-date. As with the Kirby Hill scheme: Local Plan policy T7 says that planning permission will not be granted for more than one MSA within the Harrogate District. Wetherby MSA opened in 2008 and satisfied that need. It clearly follows that the three proposals in Harrogate District would conflict with the first part of policy T7. Given the conclusion that there is a clear and compelling need and safety case for an infill MSA between Wetherby and Barton, satisfying that need is a matter of national policy and is a material planning consideration that may outweigh the conflict with the first part of policy T7. The second part of policy T7 provides a suitable matrix for assessing the schemes under consideration. [3.2.4, 5.4.19, 6.10.2, 14.3.5]
- 14.5.70 The Baldersby Gate proposal would provide the minimum range of mandatory features and a motel without providing extraneous services and facilities, thereby satisfying T7a&b. [3.2.4, 5.4.19, 14.5.54]
- 14.5.71 The access details have been challenged, but the HA and NY (the local highway authority) are satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the highway network.

There is no reason to suppose that the accesses would be other than safe and convenient and would not interfere with the free and safe flow of traffic on the motorway and on the local highway network. The proposal would comply with policy T7c. [3.2.4, 6.10.2, 14.5.55-56]

- 14.5.72 The loss of BMV would be the least of the Harrogate district proposals. However, Motel Leeming would provide an equivalent facility without the loss of BMV land; in that regard, Baldersby Gate cannot be said to minimise such loss. The proposal would not comply with policy T7d. [3.2.4, 6.10.2, 14.5.57]
- 14.5.73 There would be no harm to the settings of listed buildings, so the proposal would comply with policy T7e. [3.2.4, 14.5.61]
- 14.5.74 The proposal would represent a significant encroachment into the countryside. There would be some landscape mitigation, but the proposal would cause moderate harm to the landscape character. There would be views from the surrounding local network and limited views from a few residential properties that would cause little visual harm. There would be harm, so the scheme would not safeguard the existing landscape character of the surrounding area. The proposal would thus conflict with policies T7f, C2, HD20, SG3, SG4, EQ2 and ENV10. [3.2.4, 6.10.2, 14.5.58]
- 14.5.75 Archaeological interests could be accommodated by the imposition of an appropriate planning condition. There is limited ecological value, which may be improved by the proposal. The proposal would therefore accord with policy T7g. [3.2.4, 14.5.61-62]
- 14.5.76 There would be a very limited effect on the amenities of local residents. The proposal does seek to minimise the impact on residential amenity and, to that extent, would comply with policy T7h and with policy C1. [3.2.4, 14.5.66]
- 14.5.77 From the above, I conclude that the proposal would conflict in part with policy T7 and related policies in terms of minimising the loss of BMV land, encroaching in the countryside and adversely affecting the character of the landscape. There would be some limited harm to the amenities of local residents and the settings of listed buildings. These matters will be dealt with in the comparison exercise in section 14.8. I conclude that the proposal would conflict with the development plan. This conclusion does not turn on the policies of the RSS; I would have come to the same conclusion with or without them.
- 14.5.78 Most matters have been dealt with in considering policy T7, but there are some other policy matters to deal with. The proposal would seek to attain "very good" standards as set out in the Building Research Establishment Environmental Assessment Method (BREEAM) and to reduce risk to the environment by dealing effectively with matters such as waste and flood risk. It would produce a viable travel plan. Thus the proposal would comply with policies EQ1, TRA1 and T1. [14.5.63-64]

Planning conditions

- 14.5.79 In discussing the Baldersby Gate MSA proposal, I refer to the need for planning conditions. In section 15 of the report, I give my views on the conditions suggested by the parties. Annex 3C contains the conditions that I consider should be attached to any planning permission for this scheme.

14.6 The Motel Leeming MSA proposal

- 14.6.1 I have already concluded on the general need for an MSA in the section of A1 between Wetherby and Barton (section 14.1). In this section, I will consider the site specific merits of the Motel Leeming proposal.
- 14.6.2 The Secretary of State set out the matters on which he particularly wished to be informed in the call-in letter. Other matters were itemised in the minutes to the second PIM. The net effect is that the considerations are similar to those dealt with above in section 14.3 in relation to the Kirby Hill proposal, and I will deal with matters in the same order. The need for an MSA was discussed in section 14.1 above. The other factors identified with regard to PPG13 will be subsumed in the different aspects of the proposal identified in the section headings that follow. [6.5.1, 14.3.2]
- 14.6.3 The application is in outline form, with all matters reserved except for means of access. I will take into account the masterplan layout plan (drg. No. 79567/35 RevD) and the landscape masterplan layout plan (drg. No. 79567/00517 RevD). The proposal is for an MSA that would not have direct junction access or access direct from the A1(M), with the full range of mandatory facilities required by C01/08 together with the retention of the existing 39 bedroom lodge. The on-site parking arrangements were altered slightly during the Inquiry to accommodate revised traffic information put forward by the HA. [6.4.1, 6.5.45]

Environmental Assessment

- 14.6.4 The proposal has been screened in accordance with the EIA Regs by HDC and the Planning Inspectorate, both of whom confirmed that an EIA would not be required. I have no reason to disagree with that conclusion. [6.2.1]

Development Plan

- 14.6.5 The Statutory Development Plan for the Area comprises: the Yorkshire and Humber Plan Regional Spatial Strategy (RSS) (CD2.3); the LDF Core Strategy Document (April 2007) (CD9.1); the LDF Development Control Policies Document (February 2008) (CD9.2); and the Allocations DPD (December 2010) (CD9.12). [6.3.1]
- 14.6.6 Policies in the RSS relate to matters such as improving efficient and convenient long distance travel on the SRN, efficient use of all modes of travel, and improving the management and capacity of the A1. General policies include matters such as safeguarding and enhancing landscapes, biodiversity, and the historic environment. [3.2.12-14, 6.39]
- 14.6.7 Core Strategy supports sustainable development and requires strict control over new development in the countryside; it seeks efficient use of development. LDF development policies seek to protect residential amenity, to promote sustainable forms of transport and indicates that permission will only be granted outside Development Limits in exceptional circumstances. The Allocations DPD makes no allocation for an MSA at the site.

Mandatory MSA features, parking provision and site layout

- 14.6.8 The Motel Leeming proposal would meet the specified minimum range of mandatory features required in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. The illustrative scheme showing how

the internal layout might be designed satisfies me that an acceptable layout could be achieved at the detailed submission stage. In addition, the retention of the 39 bedroom lodge would comply with the terms of C01/08 policy. [3.6.27, 6.6.45, 9.4.1, 9.5.1]

- 14.6.9 The proposal could not accommodate the design load for abnormal vehicles as required by C01/08, largely because of restrictions on the local access roads, but it could accommodate a significant proportion of the abnormal loads which are likely to use this part of the SRN. HA indicates that this does not render the scheme unacceptable, but informs its order of preference. [3.6.23, 6.6.37, 9.4.2]

Highways and Traffic

Relationship with the Motorway boundary

- 14.6.10 Motel Leeming stands almost alongside the A1(M). However, in order to use its facilities, a driver must leave the motorway, drive alongside it for nearly a mile (1.3km), use the services – and then return on the same route. When I drove the route, I noted a sense of frustration in travelling alongside the motorway in the opposite direction to that of the direction of the overall journey, and a palpable feeling of watching time being wasted. Despite LES' assertion that Motel Leeming is a junction site, and that C01/08 refers only to on-line and junction sites, it is in a remote location for users of the kind that C01/08 seeks to encourage; it is not a junction site. I have no doubt at all that its attractiveness to a motorist would be significantly below that of an on-line or a junction site. [3.6.6 & 31, 4.10.1, 6.6.35, 40, 42 & 48]

Traffic flows and turn in rates

- 14.6.11 Traffic flows on the network near this site were forecast using HA's A1D2B traffic model and NY's BALB model. Traffic generation at the site was forecast using turn-in rates of 5% for A1 near side and 3.5% A1 far side for the a.m. period, and 8% near side and 5% far side for p.m. HA accepted the proportions, and I have no reason to disagree with them. [6.5.4, 9.1.3]

Access arrangements

- 14.6.12 The HA has reached a position whereby it is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN; that position is recorded in a SOCG. [9.3.1-2]
- 14.6.13 There are two PROWs on or near the site, a footpath across the southern part of the site and a bridle path along the eastern boundary of the site adjacent to the A1. For security, these would be separated from the proposed MSA area by a secure fence. [6.6.44, 6.12.2]

Departures

- 14.6.14 No potential departures have been identified for this site.

Accidents

- 14.6.15 There is no reason to suppose that the proposal would lead to any undue accident risk; one of the proposed conditions requires the submission of an independent Stage 2 Road Safety Audit.

Construction impacts

- 14.6.16 Construction traffic would gain access to the A684 and the new local access road. Construction would take place against the background noise of

motorway and the A61 traffic. The temporary effects would be no worse than at any other sizeable construction project and I do not consider that there would be any undue highway safety problems.

Countryside

- 14.6.17 The area surrounding the Motel Leeming is principally flat open countryside. The proposal constitutes the re-development of the existing site, so there would be no further encroachment into the open countryside. [6.1.3, 6.6.39, 6.9.2]

Agricultural land

- 14.6.18 As the proposal would be constructed within the existing TRSA site, there would be no loss of agricultural land. [6.6.39]

Landscape and visual impact

Landscape character

- 14.6.19 The site is not covered by any formal landscape quality designation at national, regional or local level. It falls within the 'Vale of Mowbray' Natural England's Character Area 24 which typically has fields of medium scale enclosed by low hedgerows with scattered, small areas of woodland. [6.1.4, 6.6.24]
- 14.6.20 The site abuts open landscape to the south and west. There is significant vegetation surrounding the site with an appreciable amount of tree cover. A 270m long belt of mature coniferous trees lies on a north west to south east line across the site. The remodelling of the site would require the loss of about 40m of the central woodland belt, and parking areas would increase to the southeast and south west of the Service area building. However, pre-planting has taken place around the periphery that will in time compensate for this loss. [6.1.1, 6.6.25, 11.6.19-20]
- 14.6.21 The mitigation strategy is intended to enhance the landscape of the site and re-create landscape links of local ecological and amenity value. I consider that the illustrative landscape master plan goes some way to show that the site could be enhanced. As far as the effect on the landscape character is concerned, I consider that there will be slight adverse in the short term and with maturity would be neutral to slight beneficial. [6.6.24]

Visual impact

- 14.6.22 I consider that 4 residential properties to the west of the A684 would be subject to minor adverse visual effects in the short term. Peace Haven is very close to the site, separated from it by the A184. It is opposite to the petrol filling station which would be increased in size, but would be designed to detract away from its use as a fuel station. In the longer term the effect would be softened by the peripheral planting and other vegetation within the site. [11.6.22]
- 14.6.23 The impact at the two properties at 1 and 2 Bedale Road would be minor adverse initially due to the creation of the gap in the central woodland belt and the HGV parking facility. The peripheral planting would eventually negate that effect. Micklebrack House in Back Lane would also be the subject of a minor adverse visual impact initially. [6.6.25, 11.6.22]
- 14.6.24 From my observations from the permissive path leading to Floodbridge Farm, I consider that there would be no material visual impact because of

the screening effect of the trees in the landscape and the visual detracting of the moving vehicles on the A1(M). However, there would be a minor adverse impact on users of the PROW to the south east of the site which would be limited to close range views. [11.6.22]

- 14.6.25 Views across the lorry park would be available to road users on the A684, however it is noteworthy that that area already has planning permission for an HGV park. Any slight adverse visual effect would be ameliorated in time by the peripheral pre-planting. A similar observation applies to the intermittent views of the site that would be available to users of the Wensleydale Railway. [11.6.22]
- 14.6.26 Lighting would be controlled by condition. LES points out that the permitted extension for a parking area for use by HGVs and coaches includes the provision for lighting which would not be significantly altered by the Motel Leeming proposal. I have no doubt that the lighting scheme would be well designed, but it would nonetheless increase the amount of lighting that is currently on the site. I consider that there would be a slight adverse visual effect from the lighting. [6.6.17, 26]

Heritage

- 14.6.27 I am not aware of any potential impact on listed buildings with this proposal. A third party said that Motel Leeming would have least effect on the impact of the historic landscape [13.3.11]

Archaeology

- 14.6.28 I am not aware of any potential impact on archaeology with this proposal. A third party wrote that Motel Leeming was least likely to have impact on the setting of heritage assets [13.4.8]

Ecology

- 14.6.29 The proposal would create additional habitats and water-bodies that would contribute to the visual character of the site and increase its ecological value in the longer term. [6.6.24-6]

Site drainage

Flooding

- 14.6.30 The site is within Flood Zone 1 Low Flood Risk. Both EA and YW have written to the Inquiry on the matters that concern them. I have seen no evidence to suggest that flooding might be a problem at this site. [6.6.49]

Surface Water

- 14.6.31 This has been the subject of negotiation between LES, EA and YW. It would appear that now neither EA nor NY objects to the proposal by LES to discharge surface water drainage into the existing on-site attenuation system which discharges into Bedale Beck. [6.6.49]

Foul drainage

- 14.6.32 Following negotiation and several exchanges of information, neither EA nor YW has any further objection to the foul drainage proposals, which would drain into the mains system. That is subject to the imposition of an agreed Grampian planning condition. [6.6.49, 13.5.1-2]

Employment

14.6.33 There are 114 staff currently employed on the site (51 employed by Carl Les and 63 by McDonalds); this would increase to 153. LES indicates that the company already has a local employment base, and I find nothing to indicate that recruitment would give rise to any particular difficulty. [6.5.1, 6.6.13-14 & 27, 11.10.2, 13.2.7]

Residential amenity

14.6.34 I have discussed the impact on local residents above in the context of landscape and the night time effect, and judge that the proposal would cause little visual harm to residents. As the site is already operational as a TRSA and already has planning permissions for expansion, I do not consider that the alterations required to create an MSA would have any material effect on residential amenity. [6.6.9-10, 6.11.5]

The local economy

14.6.35 LES indicates that the Motel Leeming project would retain direct jobs and create more. It would also enhance business with local traders; thus it would help sustain the rural economy. I have seen no reason to believe otherwise. [6.4.13, 6.6.21, 6.7.7, 6.14.2, 13.2.7]

Deliverability

14.6.36 The privately owned site is already operational as a TRSA and has been in business since 1961. It already has planning permissions for expansion. I have seen no evidence that would indicate that it could not be delivered quickly. [6.6.9-10, 6.12.5, 14.6.34]

Sustainability

14.6.37 Motel Leeming appears to be in a sustainable location for an MSA, being an existing TRSA on previously developed land and with an established local employment base and network of local suppliers. The Framework Travel Plan sets out incentives for employees not to travel to work by private car. [6.6.12, 6.7.4]

Summary of the Motel Leeming MSA conclusions

The proposal

14.6.38 The application is in outline form, with all matters reserved except for means of access. It is supported by a masterplan layout plan and a landscape masterplan layout plan.

Environmental Assessment

14.6.39 The proposal is not subject to EIA. [14.6.4]

Mandatory MSA features, parking provision and site layout

14.6.40 The proposal would meet the specified minimum range of mandatory features in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. The retention of the 39 bedroom lodge would comply with the terms of C01/08 policy. The proposal could not accommodate the design load for abnormal vehicles as required by C01/08, largely because of restrictions on the local access roads, but could accommodate a significant proportion of the abnormal loads which are likely to use this part of the SRN. [14.6.8-8]

Highways and Traffic

- 14.6.41 Despite LES' assertion that Motel Leeming is a junction site, and that C01/08 refers only to on-line and junction sites, it is in a remote location for users of the sort envisaged in C01/08; it is not a junction site. [14.6.10]
- 14.6.42 There is no reason to suppose that the proposal would lead to any undue accident risk; one of the proposed conditions requires the submission of an independent Stage 2 Road Safety Audit. [14.6.15]

Countryside and agricultural land

- 14.6.43 The proposal would not encroach into the countryside and, as it would occupy the existing TRSA site, there would be no loss of agricultural land. [14.6.17-18]

Landscape and visual impact

- 14.6.44 The site is not covered by any formal landscape quality designation at national, regional or local level. The remodelling of the site would cause the loss of some of the central woodland belt, however, in time, pre-planting around the periphery would compensate for this loss. As far as the effect on the landscape character is concerned, I consider that there would be a slight adverse effect in the short term which, with maturity, would become neutral to slight beneficial. [14.6.19-21]
- 14.6.45 Four residential properties to the west of the A684 would be subject to minor adverse visual effects in the short term, and there would be a slight adverse visual effect on users of the A684 and the Wensleydale Railway. In the longer term these effects would be softened by the peripheral pre-planting and other vegetation. [14.6.22-25]
- 14.6.46 There would be a slight adverse visual effect from the lighting. [14.6.26]

Heritage

- 14.6.47 I am not aware of any potential impact on listed buildings or archaeology with this proposal. [14.6.27-28]

Ecology

- 14.6.48 The proposal would increase the site's ecological value in the longer term. [14.6.29]

Site drainage

- 14.6.49 There is no evidence to suggest that flooding might be a problem at this site. Surface water would drain into the existing on-site attenuation system which discharges into Bedale Beck. Foul water would drain into the mains system. [14.6.30-32]

Employment

- 14.6.50 There are 114 staff currently employed on the site; this would increase to 153. LES indicates that the company already has a local employment base, and I find nothing to indicate that recruitment would give rise to any particular difficulty [6.5.1, 6.6.13-14 & 27, 11.10.2]

Residential amenity

- 14.6.51 I have discussed the impact on local residents above in the context of landscape and the night time effect. And judge that the proposal would cause little visual harm to residents. As the site is already operational as a

TRSA and already has planning permissions for expansion, I do not consider that the alterations required to create an MSA would have any material effect on residential amenity. [6.6.9-10, 6.11.5]

The local economy

14.6.52 The proposal would help sustain the rural economy [14.6.35]

Deliverability

14.6.53 There is no evidence that would indicate that this proposal could not be delivered quickly. [14.6.36]

Sustainability

14.6.54 Motel Leeming would deliver a sustainable development. [14.6.37]

Compliance with development plan and other considerations

14.6.55 The proposal would extend an existing business, making efficient use of previously used land adjacent to an existing highway infrastructure, and is capable of being supported by other infrastructures such as water and sewage disposal. The location is tied to the existing business, but it is close to Leeming Bar, and there would be a travel plan in place that would encourage modal shift to non-car travel to work. The proposal has an integrated landscape scheme that would protect the quality and character of the landscape and the local ecology. Motel Leeming is also in a sustainable location for an MSA given that it already operates as a TRSA. It follows that the proposal would comply with policies CP1, CP2, DP3, DP6, DP33, T1, ENV8, ENV10 and YH7. [6.3.2, 6.3.6, 6.3.8-9, 14.6.44-50]

14.6.56 In referring to policies CP4 and DP9, MOT insists that by using the word 'exceptional' the policies intend that developments should be subject to a higher test than 'very special circumstances'; that the test is a higher one than if the proposal were in Green Belt. This is clearly an untenable position. It is clear from the policies and from the supporting text (for example CD9.2 para3.8.6) that the word 'exceptional' is used in a plain language meaning of something that would be unusual or not typical. That understanding is readily seen because wording in the documents is inconsistent in that the term most used is 'exceptional case', and the policies actually give examples of what it might take to demonstrate an exceptional case. Indeed, policy CP4 requires the satisfaction of only one of six criteria to show such an exceptional case. [6.3.3, 11.3.5]

14.6.57 In Motel Leeming's case, the proposal as an expansion of an existing business needs to be in its current location, the countryside, it would provide jobs, support local business and would support the local economy. As it also complies with policies CP1 and CP2, the proposal would comply with policies CP4 and DP9. In supporting the rural economy in Hambleton, the proposal would also comply with policies CP12 and CP15. [6.3.2-5, 6.14.2, 14.6.50]

14.6.58 There are few sensitive receptors nearby and the proposal would not have any material effect on residential amenity, so it would comply with policy DP1. The site is not susceptible to flooding, and the proposal takes account of environmental protection and nature conservation. It would comply with policies CP18 and CP21. There is no reason to suppose that the final design would do other than comply with the relevant design policies. [6.3.5, 14.6.51-52]

14.6.59 Policy DP25 requires the satisfaction of five factors before employment development will be supported outside Development Limits. The proposal satisfies four of the five, but it is not small scale, not least because an MSA cannot be small in scale. That being said, an exceptional case has been made, and I consider that, on balance, the proposal would comply with the development plan. This conclusion does not turn on the policies of the RSS, I would have come to the same conclusion with or without them. [6.3.7]

Planning conditions

14.6.60 In discussing the Leeming Bar MSA proposal, I refer to the need for planning conditions. In section 15 of the report, I give my views on the conditions suggested by the parties. Annex 3D contains the conditions that I consider should be attached to any planning permission for this scheme.

14.7 The Coneygarth Truckstop proposal

- 14.7.1 I have already concluded that need has been demonstrated for a truckstop in the area. XLB assessed other sites for satisfying that need and concluded that Coneygarth was the most appropriate location. I declared myself satisfied by the thoroughness and range of the search and concluded that the choice of Coneygarth for a truckstop was an appropriate selection that would satisfy the need, even though it is in the countryside. [14.2.8, 14.2.21]
- 14.7.2 The Secretary of State set out the matters in which he particularly wished to be informed in the call-in letter. I identified other matters at the 3rd PIM. The list is similar to those identified for the MSA proposals so, for consistency, I will deal with matters in the same order. The need for a truckstop in this location was considered in section 14.2 above. The other factors identified with regard to PPG13 will be subsumed in the different aspects of the proposal identified in the section headings that follow.
- 14.7.3 The application is a full application. The proposal is for the relocation of the applicant's existing Londonderry truckstop, it would include HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop. It would also include overnight and rest-stop parking and driver welfare facilities. The scheme would also require the local widening of Leases Road, including a footpath, and other works on the highway according to whether or not the BALB scheme goes ahead. These matters would be covered by s106 obligations and planning conditions. [7.4.3]

Environmental Assessment

- 14.7.4 The application was screened when it was submitted to HDC and the Planning Inspectorate screened the proposal in accordance with the EIA Regs on 15 September 2010. Both indicated that an EIA is not required. I have no reason to disagree with that conclusion. Nevertheless, an Environmental Statement was submitted with the planning application, and further environmental information was provided; I have taken this environmental information into account. [7.1.4]

Development Plan

- 14.7.5 The development plan is the same as that for Motel Leeming. It comprises: the Yorkshire and Humber Plan Regional Spatial Strategy (RSS) (CD2.3); the LDF Core Strategy Document (April 2007) (CD9.1); the LDF Development Control Policies Document (February 2008) (CD9.2); and the Allocations DPD (December 2010) (CD9.12). [6.3.1]
- 14.7.6 Policies in the RSS relate to matters such as improving efficient and convenient long distance travel on the SRN, efficient use of all modes of travel, and improving the management and capacity of the A1. General policies include matters such as safeguarding and enhancing landscapes, biodiversity, and the historic environment. [3.2.12-14, 6.39]
- 14.7.7 The Core Strategy supports sustainable development and requires strict control over new development in the countryside; it seeks efficient use of development. LDF development policies seek to protect residential amenity, to promote sustainable forms of transport and indicates that permission will only be granted outside Development Limits in exceptional circumstances. The Allocations DPD makes no allocation for an MSA at the site.

Truckstop features, parking provision and site layout

- 14.7.8 The Coneygarth proposal would not be signed from the SRN, so C01/08 is of limited relevance in the determination of XLB's planning application. In particular, the proposal would not meet the C01/08 mandatory MSA requirements. The provisions at Coneygarth would comply with the features and levels of provision required by appendix 1 of the 22 June 2011 Minister's Statement. [7.7.3, 9.2.26-27]
- 14.7.9 REL is concerned that Coneygarth should not become an MSA over time. I consider it unlikely; that could not be done by stealth, and planning applications would be required. Further, if one of the Baldersby Gate junction MSA proposals were to be granted planning permission, Coneygarth would only be 10 miles away – any proposal to turn Coneygarth into an MSA would fall foul of the provision in C01/08 that the absolute minimum acceptable distance between two MSAs is 12 miles (but see paragraph 14.1.86 above). [2.2.4, 5.14.10, 7.8.2, 14.1.86]
- 14.7.10 There is no requirement to provide abnormal loads bays at truckstops, but provision would be made in the Coneygarth scheme. [7.10.4, 11.9.1]
- 14.7.11 MOT suggests that the Coneygarth proposal has serious layout defects, in particular because the fuel forecourt would be close to the access. The refuelling facilities are close to the entrance to reflect truck drivers' preference to fill up with fuel first so that they can then park, have a wash and then eat. I consider that the layout would be efficient and would make best use of the available land. I accept it, not least because the Exelby family firm has some 50 years of experience in this specialist field. [7.11.1-2, 11.9.6]
- 14.7.12 **I conclude that the proposed layout and provisions on the site would be appropriate to the proposal's intended function.**

Highways and Traffic

- 14.7.13 Traffic flows on the network near this site were forecast using HA's A1D2B traffic model and NY's BALB model. The HA has reached a position whereby it is satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN. [9.3.1-3]
- 14.7.14 The connection between the site access and the dumbbell link would be widened for traffic, and would include a footway. The BALB highway scheme has neither planning permission nor programme entry for funding; the schemes could interact in different ways according to their programming. Different scenarios have been considered and HA, NY and XLB have produced a SOCG indicating how those scenarios should be dealt with. A s106 agreement is in place in relation to the widening scheme and the possibility of an amendment to the eastern dumbbell roundabout, depending as to what stage the BALB scheme is at. [7.1.1, 7.10.2, 11, 11.12, 14.7.3]
- 14.7.15 To the extent that HGV drivers are subject to the high proportion of fatigue accidents on the A1 and could take advantage of the facilities, the proposal would assist in improving safety on the A1. There is no reason to suppose that the improved Leases Road or revised highway layout would lead to any undue accident hazards. [14.2.5]

14.7.16 The temporary effects of construction would be no worse than at any other sizeable construction project and I do not consider that there would be any undue highway safety problems.

14.7.17 **I conclude that the proposal would safely integrate into the highway network.**

Countryside and agricultural land

14.7.18 The application site is largely associated with previous disturbance by mineral workings and is not regarded as significant in terms of national land use policy. It comprises Grade 5 agricultural land; the proposal would not affect BMV agricultural land. The 4.95ha site stands in open countryside, occupying a field that is currently in agricultural use. Nevertheless the proposal would represent a significant encroachment into the countryside. [7.1.1, 7.5.20, 7.12.4]

14.7.19 **I conclude that the proposal would not affect BMV agricultural land, but would represent a significant encroachment into the countryside.**

Landscape and visual impact

Landscape character

14.7.20 The site is not covered by any formal landscape quality designation at national, regional or local level. It falls within the 'Vale of Mowbray' Natural England's Character Area 24 which typically has fields of medium scale enclosed by low hedgerows with scattered, small areas of woodland. [7.1.3, 6.6.24]

14.7.21 Although the site is in the Vale of Mowbray character area, it would not appear to be typical in that there has been some degradation of the countryside by the significant highway infrastructure to the south and west of the site, and the introduction of the business park to the south. The business park is only partly developed, so its built form would be increased over time. The A1 itself provides a very strong frame to the site as it rises above the general ground level to take the higher position at the grade separation served by the dumbbell roundabouts. [7.1.3]

14.7.22 The proposal's structures would be near the centre of the site at a maximum height of about 7.5m. The landscaping strategy includes mounding on the east and south boundaries up to a height of 2 metres and reducing the finished ground level in the higher west part of the site by up to 3 metres from its current level.

14.7.23 From longer views of the site (Station Road Scruton, Ham Hall Lane, A684 to the east and the road between Kirkbridge and Langthorne) it can be seen that there are numerous trees in the landscape including woodland blocks. There would be a significant amount of perimeter planting on the proposal, but I consider that the site itself would sit comfortably in the landscape as it develops. The development in its initial form would have a significant effect in the landscape from the immediate vicinity, but I consider that the combination of elements that I describe would result in a medium to minor adverse effect on the landscape character, which would moderate as the planting develops. [6.13.2, 7.5.15, 17-18]

14.7.24 **I conclude that the proposal would result in a medium to minor adverse effect on the landscape character, which would moderate to**

neutral as the planting develops. In that sense the proposal would protect the character of the countryside.

Visual impact

- 14.7.25 It appears to me that living room windows at Ashville, Lowlands, Leases Farm, Pembroke caravan club, Thoroughway House and Aiskew Grange would be screened by vegetation; the visual impact would be negligible. There is less cover at Argyle House and Roughley Corner Farm, where I judge the visual impact would be medium. There would be a major impact on Fairfield House itself, but I give this little weight as the owner would be the beneficiary of the development. [7.5.15]
- 14.7.26 The intervening landform, hedges, trees and copses in the landscape limit the number of points on Station Road Scruton, Ham Hall Lane, A684 to the east and the road between Kirkbridge and Langthorne from where the site can be made out – generally identified by the movement of A1(M) traffic behind the site. In those views the site is just a small component of a much wider view. The adverse visual effect would be negligible. [7.5.18, 13.2.5]
- 14.7.27 The proposal would be seen from the slightly elevated A1(M) when traffic is alongside, and from a short length of the motorway just to the south of the dumbbell roundabouts. The elevation would increase the sensitivity of the motorist, but it would be at a position where manoeuvring is taking place. The magnitude of change would be slight to medium, but the impact would be slight. There would be little impact on users of the slip road and dumbbell link which are mainly at a lower level than the site.
- 14.7.28 In the early years, the development would have a large impact on the users of Leases Lane. Most of the traffic would be visiting the site, so I assess the visual impact to be medium to slight adverse; this would lessen to slight as the landscaping matures. The effect on pedestrians and cyclists on Leases Road would be high in the first year, diminishing quickly to medium as the lower levels of planting mature on the 2m mound and diminishing further to slight to medium as the landscaping matures. Regarding planting, there is no convincing evidence to support MOT's pessimistic view on growth rates, I take XLB's more conventional view. The wide access would not be screened at all. The visual impact on Coneygarth Way would be slight adverse because of the low sensitivity of the business park and because new sites would be developed to obstruct/screen any views. Low Street is considerably lower than Leases Road, with dense hedges. I consider that the effect on drivers would be slight, on people not in cars it would be medium to slight, mostly because of the effect of the traffic on Leases Road generated by the proposal. [6.13.2, 7.5.15, 17 & 19, 13.2.3, 5-6]
- 14.7.29 **I conclude that the proposal would cause a medium adverse visual impact on the residents of Argyle House and Roughley Corner Farm. Motorists would experience a slight adverse visual impact on the A1(M) when alongside the development, on Leases Road motorists would experience a medium to slight adverse visual impact lessening to slight as landscaping develops. Pedestrians and cyclists on Leases Road would experience a high adverse impact in the first year, diminishing quickly to medium as the lower levels of planting mature on the 2m mound and diminishing further to slight to medium as the landscaping matures.**

Heritage

- 14.7.30 No listed building would be affected by the proposal. I consider that the archaeological interests in the site could be accommodated through the imposition of an appropriate planning condition. [7.5.22]

Ecology

- 14.7.31 The proposal has little ecological value and the proposed planting within the perimeter is likely to enhance the level of biodiversity and range of habitats. [7.12.4]

Site drainage

- 14.7.32 The development site is Flood Zone 1 with a low probability of flooding and the development can be classed as appropriate under PPS25. The susceptibility to groundwater flooding is classed as negligible. [7.5.21]
- 14.7.33 The surface water drainage system would employ Sustainable Drainage Systems including rainwater harvesting, porous tarmac and falls on hard surfaces to stormwater channels and gutter to accommodate flash flooding. [7.5.21]
- 14.7.34 Foul drainage would drain to a private WWTW. Whilst further detail may be necessary at the Environmental Permit stage, the EA is reasonably certain that the proposed discharges can be dealt with under the pollution control framework. Residents are concerned about the possible effects of both surface water and foul drainage in the area, pointing to current problems particularly with septic tanks and surcharging sewers. However, the evidence is that the site could deal with its own drainage, and the EA are content that that is the case. I consider that the proposal would not materially harm the drainage in the wider area, or the living conditions of residents. [7.5.21, 13.2.4, 13.3.15]
- 14.7.35 **I conclude that the proposal could manage all forms of drainage with on site provision.**

Residential amenity

Noise

- 14.7.36 The lorry park would incorporate a 2.5m high acoustic screen/security fence inside the landscaping. The noise assessment indicates that during typical day and night-time operation, noise from the truckstop would be of marginal significance in terms of the impact on residential amenity at the most sensitive properties Argyle House and Thoroughway House. The assessment was carried out in late 2010 when restrictions were in place on the A1, so I consider that the effects would be reduced due to the increased background noise level from the upgraded A1. [13.2.1 & 15, 7.5.14]
- 14.7.37 The nearest boundary of the Caravan Park would be somewhat further from the traffic island at the head of the dumbbell link than Argyle House would be from the entrance to the lorrypark. It would also have a higher background noise because of the traffic on Leases Lane gaining access to the motorway. In addition, if BALB goes ahead it would be a near neighbour to that traffic. In the absence of any other technical evidence, I do not consider that noise from traffic generated by the lorrypark would be of any more than marginal significance to occupants of the Caravan Park. [6.13.2, 13.2.2, 7.5.14]

Light

- 14.7.38 The site would be lit at night; the proposal would comply with best practicable means to prevent or counteract the effects of artificial light on the surrounding area by way of luminaires designed with appropriate optics to prevent glare and the upward cast of light. Nevertheless, I consider that there would be some sky glow from reflected light – however this would be in the context of the lighting effect from the Leases Road junction and dumbbell link road and the industrial business/industrial park to the south of the site. In addition, a planning condition would ensure the efficacy of the lighting scheme. I consider that the proposed lighting scheme would cause no material harm to the living conditions of residents. [7.5.13, 13.2.2, 13.3.15 & 44]
- 14.7.39 The access junction has been designed to take account of residents' comments about the potential effect of lorry lights. Dimmed headlights light the road some 60m ahead; they are aimed downwards and are designed to reduce glare to oncoming drivers. I considered the possibility of lights sweeping across residential properties in turning left from the Leases Road roundabout. The dumbbell link road is below the level of the roundabout, and I judge that the lights are likely to be screened by the newly planted hedge at the roundabout. Even if that does not happen before the hedge thickens, I believe that the lights would sweep above the roofs of Argyle House and Roughly Bank Farm, and well above Low Street. I consider that there would be no material effect on the living conditions of residents from lorry headlights. [7.5.13, 13.2.2, 13.3.15 & 44].
- 14.7.40 I was told that the area would be a litter trap, but there is no evidence to suggest that a lorry park here would be susceptible to generating litter. There is the fear that there would be increased crime as a result of the proposal from theft, burglary, illegal immigrants being dropped off and prostitution. This appeared to be a generalised fear; I saw no evidence that the presence of a lorry park would have such effects, and I give the matter little weight. There was also a fear that lorries could overturn on the new Leases Road roundabout and spill fuel or chemicals that would flow down into Leeming Bar. Again, I consider this to be a generalised fear that I give little weight to; it must be assumed that the HA has designed this roundabout to be safe, and with the same care that it has taken with the rest of the A1(M) design. [13.2.3, 13.3.15-16 & 44]

Overall impact

- 14.7.41 There was support for the proposal in that the Coneygarth location would affect fewer properties adversely than does the current business at Londonderry. Whilst this may be the case, I have not discounted any effect of the residents around the Coneygarth site because of it. I have considered the visual impact on residential properties above in the context of landscape and judge that the proposal would cause a medium adverse visual impact on the residents of Argyle House and Roughley Corner Farm. [7.5.16, 13.3.13]
- 14.7.42 **I conclude that the proposal would cause no material harm to the living conditions of residents apart from slight impact from noise at Argyle House and Thoroughway House, and a medium adverse visual impact on the residents of Argyle House and Roughley Corner Farm.**

Employment and the local economy

- 14.7.43 If permission is not granted and the Londonderry site continues to service HGVs, drivers would use 12.5 miles of local access road from the A1(M). time would be lost in so doing, and there would be at least a perception of inconvenience. XLB estimates that some 40-60% of current business would be lost as a result. I have no reason to dispute that assessment, and that would represent a loss to the local economy. [7.10.3]
- 14.7.44 The current business based at Londonderry employs 7 full time and one part time staff, the proposed numbers would be 26 full time and 8 part time staff; the proposal would thus retain direct jobs and create more. The investment in the development in itself would make an important contribution to the local economy. Some third parties supported the proposal on the positive effect on the economy, it was suggested that if the business did not move to Coneygarth, the Londonderry business would wither and die. Other third parties suggest that there would be an adverse effect on local business, in particular at the Pembroke Caravan Park where the occupants of thin walled caravans would be particularly susceptible to noise. I conclude above that noise from traffic generated by the lorrypark would not be of any more than marginal significance to occupants of the Caravan Park. I see no reason why the proposal would do other than support the local economy. [7.4.2, 7.12.3, 13.2.2, 6-7 & 26, 14.7.37]
- 14.7.45 **I conclude that the proposal would support the local economy.**

Deliverability

- 14.7.46 **There would appear to be nothing to stop speedy delivery of this proposal if it were granted planning permission.**

Sustainability

- 14.7.47 PPS7 *Sustainable Development in Rural Areas* paragraph 28 indicates that the presence of BMV agricultural land should be taken into account alongside other sustainability considerations (e.g. biodiversity; the quality and character of the landscape; its amenity value or heritage interest; accessibility to infrastructure, workforce and markets; maintaining viable communities; and the protection of natural resources) when determining planning applications.
- 14.7.48 For efficiency and efficacy, lorryparks must be associated with the SRN, in this case the A1(M) which runs through open countryside. Nevertheless, the PPS7 sustainability considerations form the basis of the analysis carried out above, in addition to matters such as residential amenity. The relatively low level of staff associated with the proposal does not require the development of a travel plan. Nevertheless, the proposal would be close to existing settlements, which offers benefits in terms of facilitating access by choice of transport mode. The proposal would not affect BMV land. In addition, the proposal would employ Sustainable Drainage systems, and it could achieve a BREEAM 'very good' rating and over the lifetime of the development it would achieve carbon savings of around 18%. [7.4.4]
- 14.7.49 **I conclude that the proposal would be sustainable.**

Localism

- 14.7.50 Although it attracted opposition, the proposal did attract some local support. In addition, it was supported by its local planning authority. [7.4.1, 14.7.44]

Other matters

- 14.7.51 If permission is not granted and the Londonderry site continues, there would be a consequence in addition to the economic consequence outline above. Large numbers of lorries would traverse 12.5 miles of local access road daily; this matter has not been assessed, but I consider that this would visually widen the A1(M) corridor and would have adverse environmental and visual effects. [7.10.3, 14.7.43]

Need

- 14.7.52 I deal with the need for a lorry truckstop in my section 14.2 above, where I conclude that **a combination of factors is sufficient demonstration of a need for a truckstop. The choice of Coneygarth for a truckstop site is an appropriate selection that would satisfy that need.** [14.2.21]
- 14.7.53 My reasoning in that section also led me to conclude that **there is sufficient evidence of need to justify granting planning permission for Coneygarth truckstop and one MSA.** [14.2.22]

Compliance with development plan and other considerations

- 14.7.54 The proposal would make efficient use of land adjacent to an existing highway infrastructure, and is capable of being supported by other infrastructures such as water and sewage disposal. It does not require a travel plan, but would offer benefits in terms of facilitating access by choice of travel mode from its location close to Leeming Bar. The proposal has an integrated landscape scheme that would protect the quality and character of the landscape and the local ecology. Coneygarth is also in a sustainable location for a lorrypark given its close association with the SRN. It follows that the proposal would comply with policies CP1, CP2, DP3, DP6, DP33, T1, ENV8, ENV10 and YH7. [14.7.11, 17, 24, 31, 35]
- 14.7.55 I discuss the use of the word 'exceptional' in referring to policies CP4 and DP9, and conclude that it means something that would be unusual or not typical. Applying that understanding to this case, the proposal is unusual in that it needs close association to the A1(M) to serve the lorry industry, and the only appropriate site is in the countryside. It would provide jobs, support local business and support the rural economy. As it also complies with policies CP1 and CP2, the proposal would comply with policies CP4 and DP9. In supporting the rural economy in Hambleton, the proposal would also comply with policies CP12 and CP15. [14.7.1]
- 14.7.56 There are few sensitive receptors in the area, but there would be some adverse effects on the amenity of three properties. There would be a slight impact from noise at Argyle House and Thoroughway House, and a medium adverse visual impact on the residents of Argyle House and Roughley Corner. I consider that the proposal's design has minimised adverse effects and the impacts that there are would not be unacceptable. In this regard the scheme would comply with DP1. The site is not susceptible to flooding, and the proposal takes account of environmental protection and nature conservation. It would comply with policies CP18 and CP21. [14.7.31-32, 42]
- 14.7.57 Policy DP25 requires the satisfaction of five factors before employment development will be supported outside the development limits. The

proposal would satisfy points iii.-v. However, it would not be small scale and would not comprise conversion of rural buildings. So it fails points i. and ii. That being said, lorry parks are necessarily large scale, and it would be very unlikely that many buildings could be converted for use in a lorry park. An exceptional case has been made for this proposal. Notwithstanding that the proposal would not fully comply with policy 25, and even if it were found not to comply with policy DP1 on residential amenity, I conclude that the proposal would be in general conformity with the development plan. This conclusion does not turn on the policies of the RSS, I would have come to the same conclusion with or without them.

14.7.58 I conclude that the proposal would be in general conformity with the development plan.

14.7.59 Finally, a transport assessment of the Coneygarth scheme was submitted with the application in accordance with PPG13 and the developer has consulted and worked with the HA to minimise the effect of the proposal on the SRN and its users. I consider that the proposal conforms with DfT Circular 02/2007 Planning and the Strategic Road Network (CD01/15).
[7.6.1, 7.7.1]

Overall conclusion

14.7.60 I conclude that the proposal conforms with the development plan and national policy. I find no material considerations that the proposal should be determined otherwise than in accordance with the development plan. **I consider that the Coneygarth truckstop scheme should be approved.**

Planning conditions

14.7.61 In discussing the Coneygarth truckstop proposal, I refer to the need for planning conditions. In section 15 of the report, I give my views on the conditions suggested by the parties. Annex 3E contains the conditions that I consider should be attached to any planning permission for this scheme.

14.8 Comparison of alternative MSA sites

Schemes under consideration

- 14.8.1 This comparison deals with the three MSA proposals at Kirby Hill, Ripon Services, Baldersby Gate, all in the Harrogate District, and that at Motel Leeming in the Hambleton District. The Coneygarth truckstop application would not provide an MSA, and has been dealt with separately in section 14.7.

Preliminary

- 14.8.2 MOT carried out its own comparative exercise. It deduced that each proposal is deficient in different ways by comparison to its own sites at Wetherby and Scotch Corner. I find no justification for the analysis undertaken or the arbitrary judgments that are made. It has scant relevance to the comparative exercise at hand. I give the analysis minimum weight. [11.6.1-3]

Environmental Assessment

- 14.8.3 The three Harrogate District proposals were supported by an Environmental Statement with further environmental information, and each included mitigation measures. Motel Leeming did not require an EIA, but mitigation measures were included in the proposals. All of the applications were made in outline form; I am satisfied that the recommended conditions would sufficiently tie in the development to the illustrative schemes that were considered in the environmental information and at the Inquiry and, in the case of Motel Leeming, in written representation form. [14.3.4-9, 14.4.4-8, 14.5.4, 14.6.4]

Mandatory MSA features, parking provision and site layout

- 14.8.4 All four sites would meet the specified minimum range of mandatory features required in C01/08 paras 68-72, as well as the minimum levels of parking and toilet provision. The illustrative internal layout schemes indicate that each could achieve an acceptable layout at the detailed submission stage. Motel Leeming would retain its 39 bedroom motel lodge, and both of the Ripon Services and Baldersby Gate Services proposals include an 80 bedroom lodge. No lodge is proposed at Kirby Hill. Lodges are optional features according to C01/08 and I give little weight to their inclusion or omission. [3.6.30, 14.3.13, 14.4.10, 14.5.17, 14.6.8]
- 14.8.5 The Kirby Hill proposal is the only one that would be able to accommodate the full range of abnormal loads described by C01/08 as a minimum requirement. It would also accommodate high loads. Of significance here is that the new roundabouts and road network serving the A1(M) could not accommodate all abnormal loads to provide them with an approach to the other MSA proposals. Nevertheless, the sites could accommodate a significant proportion of abnormal loads to the extent that the HA indicates that this deficiency does not render the proposals unacceptable. [14.3.13, 14.4.10, 14.5.17, 14.6.8]
- 14.8.6 **I conclude that Kirby Hill is the only proposal that would be able to accommodate the full range of abnormal loads required by C01/08, but none of the others should be ruled out because they would be slightly deficient in this capability.**

Highways and Traffic

Traffic flows, turn in rates and relationship with the Motorway boundary

- 14.8.7 The forecast base traffic flows north of Dishforth were established using HA's A1D2B traffic model and NY's BALB model. Flows south of Dishforth were calculated from automatic counter data. These data were provided to the parties who used them to derive trip generation for traffic impact purposes. [9.1.3]
- 14.8.8 The indication was that two-way traffic flow south of Dishforth junction would be some 76,000 vehicles AADT in 2012, and 90,000 in 2022; north of Dishforth the figures would be about 70,000 in 2012 and 81,000 in 2022. HA applied its D2B model growth rates to forecasts to the north of Dishforth junction, these being lower than the national rate applied to the south. JT asserted that applying different growth rates on the same route is not logical – applying the D2B growth rate to both would reduce the flow south of Dishforth from 90,460 to 83,642 vehicles AADT. REL made a similar point, but applied the higher growth rate to both – producing 2022 figures of 90,640 south of Dishforth (Kirby Hill) and 84,260 to the north (Baldersby junction). [4.11.10, 5.6.17, 9.14]
- 14.8.9 I understand why HA approached its forecast in the way that it did, but I consider that the application of different growth rates on the same route is less meaningful in practical terms than the application of a single rate. That would mean that the flow north of Dishforth in 2022 would be some 4-7% higher than the flow south of Dishforth compared to HA's forecast of 11% - currently it is some 8.5%. This is of significance because HIA claims an advantage from the amount of traffic passing its site.
- 14.8.10 The additional traffic would almost certainly use the A168/A19 corridor, which is not a motorway; they would not be using the full length of motorway under consideration. An MSA's purpose is to service motorway travellers; it follows that choice of location should be based on the needs of motorway travellers. The benefits to the A168/A19 travellers would be a bonus, but should carry limited weight in the context of this MSA Inquiry. nothing in C01/08 indicates that the provision of MSAs is dependent on the volume of traffic passing any particular site. I consider that the dispute between the parties on the traffic forecast relates merely to the size of a 'bonus' that should be given limited weight in any case. [14.3.71]
- 14.8.11 Turn-in rates and sensitivity tests are used to predict levels of traffic flow to a facility and so inform the design of the accesses to the MSAs. However, the parties also use them to try to demonstrate the superiority of one type of facility over another. HIA insists that on-line sites have higher turn-in rates but I am clear that there is no firm evidence to substantiate that. Most particularly C01/08 does not mention turn in rates; none of the Core Documents on sleep related accidents refers to on or off-line MSAs, and HA/NY agree that there is no definitive guidance on turn-in rates and that there is a broad range of observed rates at existing MSAs. [5.7.9, 9.1.3]
- 14.8.12 Potential users of Motel Leeming would be faced with a 2.6km round journey to gain access to the facility, half of which would be travelling in the opposite direction to the direction of the overall journey. It would not be a junction site; its relatively remote location would render it significantly less attractive than either an on-line or junction site. [14.6.10]

- 14.8.13 **I conclude that more traffic would pass Kirby Hill than the other proposed MSAs, but that this factor should be given limited weight because that additional traffic would not be using the full length of motorway under consideration. There is no firm evidence to show that on-line sites would have higher turn in rates than off-line sites. Motel Leeming would be at a significant disadvantage as it is more remote from the A1(M) than an on-line or a junction site.**

Other matters on highways and traffic

- 14.8.14 There is no reason to suppose that the construction or operation of any of the proposals would lead to any undue accident hazards. Discussions with non-motorised user groups have still to be satisfactorily concluded in the case of Ripon Services and Baldersby Gate Services. This is a shortcoming of those two proposals, but I consider it to be a matter of detail that could be resolved in an appropriate timescale. [14.3.77, 14.4.49-50, 14.5.55-56, 14.6.62]
- 14.8.15 Regarding access, the HA is satisfied with the technical acceptability of the four MSA proposals in terms of the safe and efficient operation of the SRN. In the case of the Kirby Hill proposal, inclusion of rear staff accesses would make the proposal more sustainable and would reduce unnecessary journeys on the SRN without materially harmfully affecting the living conditions of local people. [14.3.6, 14.3.17, 14.4.14, 14.5.21, 14.6.12]

Countryside and agricultural land

- 14.8.16 Each of the Kirby Hill, Ripon Services and Baldersby Gate sites represents a significant encroachment into the countryside. The Motel Leeming proposal would constitute redevelopment of the existing site and so would not encroach further into the countryside. [14.3.26, 14.4.21, 14.5.26, 14.6.7] **Motel Leeming would have minimal effect on the countryside. Of the others, Baldersby Gate would have the least landtake and Kirby Hill the most.**
- 14.8.17 The loss of BMV agricultural land at Kirby Hill would be some 18ha from a site area of 19.31ha. At Ripon Services and Baldersby Gate the losses would be 18.80ha and 13.36ha respectively; the whole site in each case. The additional landtake to provide the same facilities as REL would suggest that the Ripon Services site has not minimised the loss of BMV agricultural land. As the Motel Leeming proposal would be constructed within the existing TRSA site, there would be no loss of agricultural land. [14.3.27, 14.4.22, 45 & 63, 14.5.27, 14.6.18] **No BMV agricultural land would be lost at Motel Leeming. Of the others, least would be lost at Baldersby Gate, and Ripon Services would not minimise the loss.**

Landscape and visual impact

- 14.8.18 None of the sites has a formal landscape quality designation. The countryside in relation to the Harrogate District sites is a uniform large-scale agricultural landscape that would not easily mitigate the harmful effects of the large scale MSA. The countryside near Motel Leeming typically has fields of medium scale enclosed by low hedgerows with scattered small areas of woodland. The area around the site has an appreciable amount of tree cover. [14.3.79, 14.4.52, 14.5.58, 14.6.19 & 44]
- 14.8.19 The Kirby Hill proposal would be seen from closer viewpoints, mostly in the context of introduced large scale woodland planting and a 450m long mound

up to 9m high that would mostly surround the development. Both would be alien features in the countryside here that would significantly harm the character of the surrounding open landscape. There would be clear views from the Ripon Road and its roundabout over the A1(M) which lie on a tourist route; the visual effect of the MSA on the tourist route would be moderate to slight adverse. The MSA and mound would cause slight visual harm to views from a number of residential properties in Church Lane and moderate to slight visual harm to residents near Skelton Windmill particularly in the early years and in winter. [14.3.79-81]

- 14.8.20 The landscape mitigation proposed for Ripon Services would avoid inappropriate large scale woodland blocks. From most long views only the tops of the buildings may be visible. The proposal would cause moderate to slight harm to the landscape character, which would soften over the years to slight. [14.4.52]
- 14.8.21 The landscape mitigation for Baldersby Gate would avoid large scale woodland blocks that would be inappropriate to the area's characteristics and would impact upon views. However, the site would appear as a landscaped box that contained development, an effect that would be enhanced by the introduction of a continuous 1.6m high mound around the edge of the site. From most long views only the tops of the buildings may be visible. I conclude that the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight. [14.5.58]
- 14.8.22 Although there would be clear views of either of the Ripon Services or the Baldersby Gate proposals from the A61, which is a tourist route, the visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well as large volumes of motorway traffic. There are few close sensitive visual receptors to either site, the nearest being Hutton Grange and Hutton Grange Cottage. I consider that the proposal would cause slight visual harm to those receptors, which would lessen as vegetation matures. [14.4.53, 14.5.59]
- 14.8.23 The initial loss of some of the central woodland belt at Motel Leeming would be compensated by the pre-planting around the periphery of the site. The effect on the landscape character would be slight adverse in the short term which, with maturity, would become neutral to slight beneficial. Four residential properties would be subject to slight adverse visual effects in the short term, and there would be a slight adverse visual effect on users of the A684 and the Wensleydale Railway. In the longer term these effects would be softened by the peripheral pre-planting and other vegetation. [14.6.44-45]
- 14.8.24 At night-time, there would be a slight adverse visual effect from lighting in each case apart from at Ripon Services, where the extension of the A61 lighting to cover the distance to the access roundabout would cause moderate to slight visual harm. [14.3.80, 14.4.53, 14.5.60, 14.6.46]
- 14.8.25 **I conclude that the least harm to the landscape character and visual impact would arise from the Motel Leeming proposal, followed by Ripon Services and then Baldersby Gate. The most harm would arise from the Kirby Hill proposal.**

Heritage

- 14.8.26 The Kirby Hill proposal would cause limited harm to the settings of the Grade I listed All Saints' Church in Kirby Hill and to the Grade II listed Skelton Windmill. The other proposals would not harmfully affect any listed building or its setting. The archaeological interests in the three Harrogate District greenfield sites could be accommodated through the imposition of an appropriate planning condition. There would appear to be no heritage concerns with the Motel Leeming site. [14.3.82-83, 14.4.55-56, 14.5.61, 14.6.47] **The Kirby Hill site would be the only proposal with any adverse heritage effect.**

Ecology

- 14.8.27 In each case, the proposal is likely to improve the ecology of its site. [14.3.84, 14.4.57, 14.5.62, 14.6.48]

Site drainage

Flooding

- 14.8.28 All of the proposals would be no more than at low risk from flooding, and no significant residual effects are foreseen during construction and operation. [14.3.85, 14.4.58, 14.5.63, 14.6.49]

Surface Water

- 14.8.29 Surface water would be disposed of on-site in all cases. [14.3.85, 14.4.58, 14.5.63, 14.6.49]

Foul drainage

- 14.8.30 Ripon Services and Baldersby Gate would deal with foul drainage through on site WWTWs. Motel Leeming would utilise the mains system. I recommend rejecting the on site solution mooted by the Kirby Hill promoter because it is inadequately assessed and has virtually no prospect of being achieved. Notwithstanding JT's assertion that it would be unlawful, I consider that a Grampian condition would be sufficient to secure an off-site solution connecting to Boroughbridge WWTW. [14.3.85, 14.4.58, 14.5.64, 14.6.49]
I conclude that, subject to the imposition of a Grampian condition at Kirby Hill being legal, adequate foul sewage facilities could be provided in each case.

Employment and the economy

- 14.8.31 In terms of employment, the three Harrogate proposals clearly show 'ball park' figures in their application forms (200 jobs for Kirby Hill and Ripon Services, and REL says that it is difficult to be precise but suggest 100 employees in a 24 hour period). LES employs 114 people currently and forecasts 153 for the MSA – at the centre of the 100-200 range of the others. They cannot be differentiated on the figures presented. [14.3.58, 14.4.40, 14.5.48, 14.6.33]
- 14.8.32 Some parties believe that employment created at the three Harrogate proposals would be at the cost of jobs at Leeming Bar in the case of the Baldersby junction sites; in the case of Kirby Hill the losses would be at Boroughbridge, Leeming Bar and Motel Leeming. I have seen no evidence to corroborate these views. It seems likely that recruitment would take place from a wide area, but I find nothing to indicate that recruitment would give rise to any particular difficulty. [14.3.58, 14.4.40, 14.5.48, 14.6.33]

- 14.8.33 LES suggests that if another site was granted consent as an MSA, Motel Leeming could close with the loss of 114 jobs; which would impact adversely upon the local economy. MOT says that it has made no decision on funding or proceeding with Barton and speculates on MSA spacing without Barton, clearly intimating that the granting of planning permission for one of the MSAs before this Inquiry could or would prejudice the provision of that facility. [6.7.8, 11.4.37]
- 14.8.34 The Government does not provide MSAs; C01/08 objectives are achieved by identifying a need and by that need being satisfied through privately operated MSAs. On the assumption that need has been demonstrated in the current case, it must be assumed that Barton would be constructed notwithstanding the MOT's declared position. Motel Leeming is in a slightly different situation. It is a bypassed facility that would not be permitted to be signed off the A1(M) as it stands. Its owner seeks to promote its credentials as an MSA by satisfying the identified need. It must be assumed that the business is in a weakened state by the loss of direct access to the A1, and that is a material factor. However it should be given little weight because it has limited relevance with regard to satisfying the identified need. [11.12.2-3, 14.1.76]
- 14.8.35 The Ministerial Statement of 2 March 2011 indicates that the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs, without compromising the key sustainable principles set out in national policy. As far as employment is concerned, in raw numbers it would seem clear from LES' forecast of jobs that the provision of an MSA would increase the number of jobs in the area. There are positive and negative factors with regard to the effect on the economy. However, it seems to me that an efficient and effective SRN is crucial to the economic prosperity of the country, and that MSAs where needed are a fundamental part of the SRN infrastructure. The local economy would be supported by the investment in a new MSA, the provision of jobs and the prospect of local businesses to supply the day to day needs of the MSA. [3.8.5, 4.17.2, 5.14.9, 6.14.2, 8.3.8]
- 14.8.36 **I conclude that all of the proposals would promote economic growth and jobs.** The sustainability of that provision will be dealt with later.

Crime

- 14.8.37 Given that members of the public may only gain access to the MSA by way of the A1(M) and the fact that the staff access, if provided, would be securely controlled, I see no material opportunity for users of Kirby Hill MSA to engage in criminal activity beyond the MSA. If crime is attracted to MSA sites, the others are connected to the LRN which would link to local communities. [14.3.59] **Kirby Hill would be the preferred site on protecting the locale from the effects of crime at MSAs; I see little preference between the other sites on this point.**

Residential amenity

- 14.8.38 I consider visual and night time effects above and conclude that some harm would arise from the proposals. At Motel Leeming there would be slight adverse visual effect to four properties which would soften with maturity of the landscaping. At Ripon Services and Baldersby Gate, two properties would experience a similar effect. At Kirby Hill, a number of residential properties would experience slight visual harm and a number near Skelton

Windmill would experience moderate to slight visual harm particularly in early years. [14.8.19, 14.8.22-23]

14.8.39 At night-time there would be no material difference between the sites with regard to some slight harm from nightglow, but there would be some harm arising out of the Ripon Services proposal from the necessary extension of the A61 lighting. On other residential amenity considerations, I conclude that none of the proposals would have any material adverse effect. [14.3.88, 14.4.60, 14.5.49, 14.6.51, 14.8.24]

14.8.40 **I conclude that Kirby Hill would have the greatest adverse effect on residential amenity. There is little to choose between the other sites, but Motel Leeming would be marginally the worse because of a slightly greater number of affected properties that would be closer to the site.**

Effect on Dishforth airfield

14.8.41 This matter only affects the Kirby Hill proposal, and I conclude that it would have no material effect on the operation of Dishforth Airfield. [14.3.89]

Deliverability

14.8.42 YW indicates that there is no reason why, providing the funding and necessary infrastructure is in place, foul water cannot be disposed of by way of the public sewer network connecting to Boroughbridge WWTW. What is not clear is how long provision of those off-site works would take. There is the possibility that such provision could delay the implementation of an MSA at Kirby Hill. [14.3.67]

14.8.43 The Kirby Hill application/appeal site boundary does not seem to include all the land necessary to enable the access proposals to be achieved on the southbound MSA. It appears that the 'missing land' would be NYCC or Crown land for which an application for planning permission is required before development can take place. If permission were to be granted to the HIA scheme, any necessary further permission for work on such land is likely to incur a delay. [14.3.68-69]

14.8.44 Discussions with non-motorised user groups have still to be satisfactorily concluded in the case of Ripon Services and Baldersby Gate Services. I consider this shortcoming to be a matter of detail that could be resolved in an appropriate timescale. [14.8.14]

14.8.45 JT's proposed access roundabout would be on "Potter land", which is the subject of a CPO for the A1D2B. The Potter family may or may not be entitled to the return of that land. REL has an option on the land, the terms of which require the owners to pursue the re-acquisition of the land from HA – which may require legal proceedings. Once vested in the owners, under the terms of the option they are only able to dispose of the land after the expiry of 12 years. It also seems that the determination of the issue will not commence until after the results of this inquiry. The Potter family has not objected to the JT scheme, so it may be that the land ownership matter could change quickly because, as JT puts it, it is really just a matter of money. Resolution of this subject would appear likely to require a significant length of time, and the effect on the deliverability of the scheme is difficult to predict. [14.4.43-44]

- 14.8.46 The Environmental Assessment for the Baldersby Gate scheme is defective with regard to the assessment of earthworks. To remedy this would take some time but should cause little effect on the deliverability of the scheme. Although HA is content with the design of all three Harrogate schemes, if MOT is right that departures and relaxations from standards are required for the three Harrogate schemes, there is every likelihood that any necessary approval would be forthcoming. No potential departures have been identified in regard to the Motel Leeming proposal [14.3.22, 14.4.18, 14.5.11, 14.5.23, 14.6.14]
- 14.8.47 It would appear that the Motel Leeming scheme would have no impediment to a speedy delivery if it were granted planning permission [14.6.36]
- 14.8.48 **I conclude that the Motel Leeming proposal would be the most speedily deliverable followed by the Baldersby Gate scheme. There are question marks about the other two schemes which may considerably adversely affect deliverability.**

Sustainability

- 14.8.49 PPS7 *Sustainable Development in Rural Areas* paragraph 28 indicates that the presence of BMV agricultural land should be taken into account alongside other sustainability considerations (e.g. biodiversity; the quality and character of the landscape; its amenity value or heritage interest; accessibility to infrastructure, workforce and markets; maintaining viable communities; and the protection of natural resources) when determining planning applications.
- 14.8.50 The requirement for an MSA necessarily focuses on car users that are not local people, and necessarily must be associated with the A1(M) which runs through open countryside. Nevertheless, the PPS7 sustainability considerations form the basis of the analysis carried out above, in addition to matters such as residential amenity and reducing car journeys to work by way of appropriate Travel Plans. In particular in this regard, to be sustainable, it is necessary for the Kirby Hill proposal to include rear staff accesses. [4.8.15]
- 14.8.51 There was significant local support for Motel Leeming on the basis that it is the only previously developed site, which would be preferred to developing a Greenfield site. Motel Leeming is the only previously used site, it would not involve the loss of any agricultural land and cause least harm to landscape character. Baldersby Gate would cause more harm to landscape character than Ripon Services, but would be less harmful to BMV agricultural land. Kirby Hill would lose a similar amount of BMV land to Ripon Services, but would cause more harm to landscape character and have a greater harmful visual impact; it would also be the only site that would result in harm to the setting of listed buildings. HIA claims that there would be least carbon emissions from its site factor, but I give minimal weight to that assertion; there was no evidence and no comparative carbon balance calculations for the sites were carried out. [13.33, 13.8-9]
- 14.8.52 **I conclude that Motel Leeming would be the most sustainable location, and Kirby Hill would be the least sustainable. There is little to choose between Ripon Services and Baldersby Gate in sustainability terms.**

Compliance with the development plan

- 14.8.53 The proposals lie in the areas of two separate local planning authorities, the parts of the development plan that are specific to the local areas differ. It is the case that I concluded in dealing with the proposals separately that **the Kirby Hill, Ripon Services and Baldersby Gate proposals conflict with the Harrogate District development plan, and the Motel Leeming proposal, on balance, complies with the Hambleton District development plan.** [14.3.103, 14.4.72, 14.4.77, 14.6.59]

Localism

- 14.8.54 KH points out that local people have consistently rejected HIA's proposals for the development of an MSA at Kirby Hill for 14 years and that acknowledgment of this local opinion should weigh against the Kirby Hill scheme. The Minister's Statement of 22 July 2011 mentions work to be done on localism, thus highlighting that significant local concern is a material consideration. Motel Leeming was the only MSA site supported by its local planning authority. **The Kirby Hill proposal attracted more local opposition than any other site; the Motel Leeming proposal attracted some local support.** [4.17.4, 6.14.4, 12.2.1-5, 12.17.3]

Need

- 14.8.55 I deal with the need for an MSA on the A1 in North Yorkshire in my Section 14.1 above, where **I conclude that there is a combination of factors that constitutes a clear and compelling need and safety case for an infill MSA between Wetherby and Barton MSAs.** [14.1.76]
- 14.8.56 I explain that **the most important consideration is to place the infill MSA close to the mid-point in the 40 miles gap between Wetherby and Barton** rather than close to the absolute minimum acceptable spacing of 12 miles from the previous MSA as C01/08 strives for regular breaks for drivers, and regular spacing. [14.1.86-87]
- 14.8.57 **I conclude that one of the Baldersby junction sites would best fulfil the need unless further consideration of the individual sites shows that an off-centre location at Motel Leeming or Kirby Hill is more suitable in either operational, safety or spatial planning terms or in its ability to meet a particular and significant need.** In addition, I consider that the round journey of 2.6km to make use of Motel Leeming would deter many motorists from taking a break when tired which would lessen its potential to satisfy the need for an MSA that would accord with the C01/08 need. [14.1.88]

Conclusion on the comparison of alternative MSA sites

- 14.8.58 There is a clear and compelling need for an infill MSA between Wetherby and Barton, and I judge that the most important consideration in fulfilling that need is to place the infill MSA near to the centre of the 40 mile gap. [14.8.55-56]
- 14.8.59 The Kirby Hill proposal would conflict with its development plan in terms of encroachment into the countryside, not minimising the loss of BMV land, causing visual harm and adversely affecting the character of the landscape. It would also cause limited harm to the setting of two listed buildings. With regard to the character of the landscape, significant harm would be caused by the inclusion of a large mound and substantial woodland planting. There

would be visual harm to receptors at more residential properties than at the other sites. The scheme also attracted more local opposition than the other sites. There are question marks about the speedy deliverability of the site because of uncertainty about the timing of off-site sewerage works and the possibility of additional planning permissions being required. Of particular importance is that the site is considerably off-centre and close to the absolute minimum acceptable spacing of 12 miles advocated by C01/08. [14.1.86, 14.3.98-100, 14.8.40 & 42-43, 14.8.54 & 56-57]

- 14.8.60 The Ripon Services proposal would conflict with its development plan in terms of encroachment into the countryside, not minimising the loss of BMV land, causing visual harm and adversely affecting the character of the landscape. With regard to the landscape character, there would be slight to moderate harm, and a relatively high landtake. There is a question mark about the speedy delivery of the site because the land upon which the access roundabout would be constructed appears to be the subject of a restrictive covenant, which may require legal proceedings to overcome; resolution of these matters could take a significant length of time. [14.4.66 & 68, 14.8.45]
- 14.8.61 The Baldersby Gate proposal would conflict with its development plan in terms of encroachment into the countryside, not minimising the loss of BMV land, causing visual harm and adversely affecting the character of the landscape. With regard to the landscape character, there would be moderate harm, but with considerably less landtake than at Ripon Services. The Environmental Assessment for the scheme is defective with regard to the assessment of earthworks. To remedy this would take some time but should cause little effect on the deliverability of the scheme. [14.5.72 & 74, 14.8.46]
- 14.8.62 The Motel Leeming proposal would, on balance, comply with its development plan. It would be the most sustainable of the schemes, and it has attracted some local support. However, of particular importance is that the site is considerably off-centre and close to the absolute minimum acceptable spacing of 12 miles advocated by C01/08; and the round journey of 2.6km to make use of the Motel Leeming would deter many motorists from taking a break when tired which would lessen its potential to satisfy the need for an MSA that would accord with the C01/08 need. [6.3.7, 14.1.86, 14.8.44, 54 & 54-57]
- 14.8.63 The further consideration of the individual sites has not shown that an off-centre location at Motel Leeming or Kirby Hill is more suitable in either operational, safety or spatial planning terms or in its ability to meet a particular and significant need. Motel Leeming's sustainability and deliverability advantages and compliance with its development plan is outweighed by its off-centre, relatively remote from the motorway location; it would fall short of meeting the identified need. As well as being considerably off-centre, the Kirby Hill proposal would incur greater harm than either of the Baldersby junction proposals. Even without the question marks on delivery it would be the last choice of the Harrogate District sites. [14.8.58]
- 14.8.64 There is little to choose between the other two proposals. Neither proposal would be totally in accord with its development plan, but I consider that material considerations indicate that the proposals should be determined otherwise. On balance, particularly given the question marks over

deliverability, **I consider that the Baldersby Gate scheme should be approved.**

Overall conclusion

14.8.65 **I conclude that both the Coneygarth truckstop scheme and the Baldersby Gate MSA scheme should be approved.**

15. Conditions and planning obligations

15.1 Planning conditions for the MSA proposals

(see documents HBC203-208, HBC210, LES200, XLB200 & HA200-203)

- 15.1.1 There were several iterations in the conditions before they were discussed in open session. I made written comments on the first drafts that were presented to me and encouraged the parties to keep talking. Some preliminary versions and comments are in the "200" series of documents, but the main documents discussed at the conditions session are listed above.
- 15.1.2 The proposals are in outline form, so it is necessary to attach the usual reserved matter conditions. It is also necessary to impose conditions to tie the main features of the development into the accepted environmental information in each case. These conditions would include defining the height and floor area of buildings, and parking provision.
- 15.1.3 A programme of archaeological work should be put in place before development starts. To prevent any MSA becoming a destination in its own right, conditions should control the maximum retail and games/leisure floor space (limited at 500m² and 100m² respectively), and size of meeting room (maximum number of persons to be trained should be 15 at any one time).
- 15.1.4 For safety, any access and all the paved areas should be complete before any MSA is opened to the public. In the interests of highway safety and the general amenity of the area, a construction method statement should be in place before development starts. In the interests of visual amenity of the area, conditions would be required relating to the detailed groundworks, landscaping and site lighting schemes, and a requirement that external materials should be approved.
- 15.1.5 To control the potential for flooding, surface water collection and attenuation through a sustainable drainage scheme and its subsequent discharge must be controlled. A condition is necessary for the control of foul drainage through a separate system. To prevent environmental pollution, conditions should provide for the inclusion of suitable oil interceptors and the containment of spillage around fuel facilities.
- 15.1.6 To provide highway works to ensure a safe means of access and to comply with C01/08 and the Highway Act 1980, Grampian conditions should be imposed requiring a signing agreement and a section 278 agreement to be put in place. Conditions should require that such agreements are signed before work on any MSA starts, and control the potential adverse effects of construction, such as preventing mud from being carried onto roads and construction and plant noise. Surface water discharges during construction must not contain undue solids in suspension or otherwise pollute nearby watercourses.
- 15.1.7 Conditions should be imposed requiring the introduction of a travel plan, a landscape plan and a habitat management plan to be in position. To safeguard the environment and mitigate climate change developments should achieve at least BREEAM 'very good' standard, and minimise use of water. Schemes should generate 10% of the predicted energy requirement with renewable energy, and provide recharging facilities for electric vehicles.

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- A condition would also require the remediation of unexpected contaminated land.
- 15.1.8 I have taken account of the remarks and opinions expressed during the conditions session in producing my recommended conditions, bearing in mind the advice and the tests in Circular 11/95 The Use of Conditions in Planning Conditions. I am satisfied that the sets of conditions that I recommend would conform to the Circular.
- 15.1.9 There were areas of significant disagreement that I will now outline. Regarding JT's draft condition 3 (HBC203), REL re-iterated its argument from the Inquiry that JT's scheme has not been properly assessed, so the plans should be those in the ES, not those now put forward for approval. I dealt with this matter in Section 14 of the report and concluded that the environmental information meets the necessary requirements; the plans put forward are acceptable. [5.12.4, 14.4.5-8]
- 15.1.10 In relation to JT's draft condition 5 (HBC203), REL re-stated its argument that what it described as an increase in JT's developable area from 5% to 20% makes a material difference to the EA. I concluded in Section 14 that it would not make a material difference, and the amended plans should stand. HBC is happy with the condition as drafted. I was told that I would be advised of the height of the petrol filling station canopy, but I am not aware that I was given that information – it is left blank in JT's recommended condition 5; if the SSCLG intends to favour Ripon Services, it is a piece of information that must be sought. [5.11.5, 14.4.5]
- 15.1.11 Regarding REL's draft condition 16 (HBC204), REL considered that the travel plan should be submitted and approved before occupation, rather than before development starts; that a company cannot occupy its development would be incentive enough. NY stated that there are some requirements that require early consideration and that could be overlooked; HA expressed sympathy with that position. I consider that there are aspects to travel plans that could require contractual arrangements in particular, and that they should be agreed before development starts. I have some support for that view in that the Government considers that travel plans should be submitted alongside planning applications (PPG13 para88).
- 15.1.12 Concerning JT & REL's draft condition 28 (HBC203, HBC204), the two developers pointed out that they had done a significant amount of work on hydro-geology already, the quantitative risk assessment requirement by the condition should be submitted in tandem with the submission of drainage reserved matters or before the commencement of the scheme. EA said that the logic is that the work to date is preliminary and appropriate for now; the knowledge would be needed to inform subsequent design. There is little doubt that the information required for the assessment would inform design. I consider that it is necessary for HBC to have a sound basis against which to judge the reserved matters, and that the Quantitative hydro-geological risk assessment would provide that basis. I conclude that the condition should stand as drafted.
- 15.1.13 The three MSA developers at the Inquiry objected to JT's draft condition 47 (being REL's condition 45 and HIA's condition 44) (HBC203, HBC204, HBC205). This requires restoration of the site when the MSA development ceases to operate. They said that if the use did cease, the restoration of highway features had nothing to do with the planning permission. It was

said to be onerous and unreasonable, because there is no reason why the development company should lose its asset; the draft condition would prevent any future application for a planning permission. It was also said to be unreasonable because any permission granted here would not be a temporary permission; restoration in Circular 11/95 paragraphs 108-113 is dealt with in the context of temporary permissions. I consider that it is reasonable and necessary on environmental and highway safety grounds to forbid the use of the site for any other purpose if the MSA use were to cease. However, that is not to say that some other reasonable use could not be found in future circumstances; it would be unreasonable to require restoration of the site.

Matters specific to the Kirby Hill scheme

- 15.1.14 I recommend that the Kirby Hill scheme should include rear access, consequently, the relevant drawings have been referred to in the recommended conditions 3 and 4 in Annex3A.
- 15.1.15 Regarding HIA draft condition 26 (HBC205, HIA 205) I have concluded above that foul water should be disposed of by way of the public sewer network connecting to Boroughbridge WWTW. Recommended condition 30 includes this solution. [14.3.85]
- 15.1.16 HIA draft conditions 36 and 37 (HBC205) relate to bird management and local consultation. On the former, Defence Estates did not express any view that a bird hazard management plan would be appropriate. On the latter, apart from some slight visual harm, I found that the proposal would have no material adverse effect on the living conditions of residents. I do not consider that either condition would be necessary. [14.3.65, 88]
- 15.1.17 HIA has negotiated the drainage conditions with EA and HBC separately to JT and REL. I consider that both forms have the same effect, and have retained them.

Matters specific to the Motel Leeming scheme

- 15.1.18 The conditions for this scheme differ slightly, reflecting (i) the fact that the proposal relates to the expansion of an existing business which would continue whilst the construction takes place, and (ii) the different local authorities favour different forms of words in conditions that are no less valid than any other forms of words. I have re-structured the draft reserved matters conditions to coincide with those in the other three MSA cases. I have recommended that a landscape and habitat management plan be introduced to protect the visual and ecological amenities of the area (annex 3D condition 8).
- 15.1.19 Draft conditions 21 and 22 refer to management during the construction of the scheme. I consider that a condition requiring a Construction Management Statement, as has been recommended in the other three MSA cases, would achieve the aims of this condition more efficaciously. I have included such a condition at Annex 3D condition 27.
- 15.1.20 Draft condition 24 refers to facilities not being open for use by users of the A1(M). There is no way that such users could be differentiated from other users, so I have removed such reference. The site includes manager's accommodation which would be retained, a condition would be required to

ensure that this does not become general residential accommodation within the un-neighbourly environment of an MSA.

15.1.21 Referring to my description above of what conditions should be required for an MSA (paragraphs 15.1.2-7), I consider that there are some matters that are not covered by the draft conditions (LES200) for the Leeming Bar proposal. I have not pursued these matters. I have added conditions following from the last of my recommended conditions resulting from the draft conditions so that they are readily identifiable. They start from condition 35.

15.1.22 The conditions relate to: sustainable design, renewable energy, recharging facilities for electric cars, and noise during construction. The form of the conditions follows that of my recommended conditions for the other three MSA proposals.

15.2 Planning conditions for the truckstop proposal

15.2.1 The lorrypark application is a full application and attracts the usual time condition. A programme of archaeological work should be put in place before development starts. For safety, any access and all the paved areas should be complete before the lorrypark is open for use. In the interests of highway safety and the general amenity of the area, a construction method statement should be in place before development starts. In the interests of visual amenity of the area, conditions would be required relating to the detailed groundworks, landscaping and site lighting schemes, and a requirement that external materials should be approved.

15.2.2 To control the potential for flooding, surface water collection and attenuation through a sustainable drainage scheme and its subsequent discharge must be controlled. A condition is necessary for the control of foul drainage through a separate system. To prevent environmental pollution, conditions should require the adoption of a scheme for the safe storage of fuel.

15.2.3 The s106 agreement at XLB204 deals with programming scenarios for tying the proposal in with BALB, but I consider that a Grampian condition relating to putting in place a section 278 agreement would still be required to ensure a safe means of access and to comply with C01/08 and the Highway Act 1980 – I add this at recommended condition 25. Such agreement should be signed before work on the truckstop starts. Conditions should also address the potential adverse effects of construction, such as preventing mud from being carried onto roads and construction and plant noise. Surface water discharges during construction must not contain undue solids in suspension or otherwise pollute nearby watercourses.

15.2.4 Draft conditions 27 and 28 refer to management during the construction of the scheme. I consider that a condition requiring a Construction Management Statement would achieve the aims of this condition more efficaciously. I have included such a condition at Annex 3E condition 24.

15.2.5 Referring to my description above of what conditions should be required for an MSA (paragraphs 15.1.2-7), I consider that there are some matters that are not covered by the draft conditions (LES200) for the lorrypark proposal. I have not pursued these matters. I have added conditions at the end of the recommended conditions resulting from the draft conditions so that they are readily identifiable. These relate to sustainable design, renewable energy, and noise during construction – and start from condition 26.

15.3 Planning obligations

- 15.3.1 REL originally circulated a s106 document (REL202), but chose not to take it through to completion. The obligation was not necessary and would not affect my conclusions and recommendations.
- 15.3.2 JT has submitted a completed s106 unilateral undertaking (JT203) which would require the company to encourage leaseholders to recruit and train people from the locale, not to occupy the development until the police force facilities floor space is available, and source materials from local and environmentally responsible sources. These matters are likely to bring about beneficial results, but they have not influenced my conclusions and recommendations. I consider that the obligation is not necessary.
- 15.3.3 XLB has submitted three completed s106 planning obligations. The first (XLB204) is an agreement between XLB, the Leeming owner, HDC and NY relating to the integration of the Coneygarth truckstop scheme, local road widening and the BALB scheme. Resolution of these off-site matters is crucial to the scheme, and they could not be achieved by the imposition of planning conditions. I would not recommend that the scheme be approved without this agreement.
- 15.3.4 The second (XLB205) is a unilateral undertaking covenanting not to apply to HA for signing to the Coneygarth facility for a period of five years from the date of planning permission. JT considers that there should not be such a time limit on the undertaking. The lorrypark application is for an unsigned scheme and has been determined on that basis. HA rightly points out that it has control on granting any signing application. I consider that there is no need for the undertaking. If the SSCLG considers otherwise, then five years would be sufficient.
- 15.3.5 The third (XLB206) is an agreement between Londonderry Garage Limited, XLB, the Leeming owner and HDC. It undertakes to cease trading at the Londonderry site as a truckstop, a petrol filling station with ancilliary shop and the sale and handling of motor fuels for commercial vehicles and the general motorist; the equipment to carry out such business would be removed. The site would continue as a commercial vehicle garage, with sale and hire of commercial vehicles. The cessation of use of this site as a lorrypark is crucial to the Coneygarth scheme, and could not be achieved by the imposition of planning conditions. I would not recommend that the scheme be approved without this agreement.

16. Recommendations

Application by Heather Ive Associates

16.1 I recommend that the appeal be dismissed.

Application by Jaytee (Rainton) LLP

16.2 I recommend that the application be refused.

Application by Refined Estates Limited

16.3 I recommend that the application be approved and planning permission be granted, subject to the conditions in Annex 3C.

Application by Carl Les

16.4 I recommend that the application be refused

Application by Exelby Services Limited

16.5 I recommend that the application be approved and planning permission be granted, subject to the conditions in Annex 3E.

ANNEXES

Annex 1	Abbreviations used in the report
Annex 2	Legal submission by Moto Hospitality Limited regarding the Heather Ive Partners' Kirby Hill proposal
Annex 3A	Recommended conditions for Kirby Hill MSA
Annex 3B	Recommended conditions for Ripon Services MSA
Annex 3C	Recommended conditions for Baldersby Gate MSA
Annex 3D	Recommended conditions for Motel Leeming MSA
Annex 3E	Recommended conditions for Coneygarth Truckstop
Annex 4	Appearances
Annex 5	Final programme
Annex 6	Core documents
Annex 7	Proofs of Evidence and Inquiry documents

Annex 1

ABBREVIATIONS USED IN THE REPORT

1998IR	Inspector's Report of 1998 (CD12.3)
2004IR	Inspector's Report of 2004 (CD12.1)
2004 Act	Planning and Compulsory Purchase Act 2004
A1D2B	The scheme to upgrade the A1(T) between Dishforth and Barton
AADT	Annual Average Daily Traffic
AOD	Above Ordnance Datum
BALB	Bedale Aiskew Leeming Bypass
BMV	Best and Most Versatile agricultural land
BREEAM	Building Research Establishment Environmental Assessment Method
C01/08	DfT Circular 01/2008 Policy on Service Areas and other Roadside Facilities on Motorways and All-Purpose Trunk Roads in England (CD1.14)
C02/07	DfT Circular 02/2007 Planning and the Strategic Road Network (CD1.15)
CD	Core Document
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
D2B	Dishforth to Barton
EA	Environment Agency
EIA	Environmental Impact Assessment
EIA Regs	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended)
ES	Environmental Statement
ESU	Environmental Statement Update 2008 by HIA (CD3.5)
FSoS	the former First Secretary of State
GPDO	Town and Country Planning (General Permitted Development) Order 1995
HA	Highways Agency
HBC	Harrogate Borough Council
HDC	Hambleton District Council
HDLCA	Harrogate District Landscape Character Assessment
HGV	Heavy Goods Vehicle
HIA	Heather Ive Associates
IP	Interested Person making personal representation to the Inquiry
JT	Jaytee (Rainton) LLP
KH RAMS	Kirby Hill Residents Against Motorway Services
LES	Mr Carl Les
LDF	Local Development Framework

LPA	Local Planning Authority
LRN	Local Road Network
L2B	Leeming to Barton
MAGIC	Multi-Agency Geographic Information for the Countryside
MOT	Moto Hospitality Limited
MRA	Motorway Rest Area
MSA	Motorway Service Area
NY, NYCC	North Yorkshire County Council
PD	Permitted Development
PIM	Pre Inquiry Meeting
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
PPS1S	Supplement to PPS1
PROW	Public Right of Way
REL	Refined Estates Limited
RSA	Road Safety Audit
RSS	Regional Spatial Strategy
s106	a planning obligation made under section 106 of the Town and Country Planning Act 1990 (as amended)
SoC	Statement of Case
SOCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
SRN	Strategic Road Network
SSCLG	Secretary of State for Communities and Local Government
SST	Secretary of State for Transport
STA	Supplementary Transport Assessment
TA	Transport Assessment
TAA	Transport Assessment Addendum
TRSA	Trunk Road Service Area
vpd	vehicles per day
WR	Written representation on the proposals
WWTW	Waste Water Treatment Works
YW	Yorkshire Water
XLB	Exelby Services Limited

Annex 2**LEGAL SUBMISSION BY MOT REGARDING HIA'S KIRBY HILL PROPOSAL**

[Inspector's note, verbal additions transcribed in square brackets below]

Kirby Hill

The full permission is sought for access.

1. Access is not reserved but the access to and from the A1(M) southbound is incomplete (the application peters out in an underpass). Consequently, the application currently before the Secretary of State is for a landlocked southbound facility. The Secretary of State is not able to grant planning permission upon the application before him.
2. On 4th September 2010 Moto wrote to HIA's solicitors to ascertain what drawings and other information formed part of the application/appeal. On 24th September 2010 HIA's landscape consultants replied [MOT115, Appendix 1] that the application plans were:

- Location Plan 1500-P-140 Rev B December 2008
- Site Layout and Access Proposals Plan 26 Rev B October 2008

The red-line application site boundary is also shown on Fig 2.3 of the Design and Access Statement dated October 2008. It includes NYCC's A168 and a new A168 overbridge but does not include any access to the A168 from the MSA access. The application does not include any land between the new A168 overbridge and the A1(M).

3. The revised red line 'application site' on HIA Regulation 19 Revised Design and Access Statement p.36 Movement & Access Plan of September 2010 did not ("inter alia") include the northern or southern wing-walls of the underpass or the hard margins between the carriage way and the walls or the land between the A168 and the motorway.
4. The unpublished voluntary Reg 19 submission of September 2010 [CD3.26] App. A – Supplementary TA p.16 of 21, para. 4.5 stated:
 "...All the land for the construction works and phasing arrangements is within either the application site, the highway boundary or is crown land."
5. The published voluntary Regulation 19 submission of December 2010 indicates that the application/appeal is now to be pursued on the basis of substantially different drawings and supporting information. This was confirmed by an e-mail message from HIA's planning consultants to the programme officer dated 13th January 2011. The message attached a schedule of drawings upon which HIA invited the Secretary of State to determine the appeal. [MOT115, Appendix 2].
6. HIA now propose to substitute all of the originally submitted application/appeal drawings with new drawings and to provide other completely new drawings. The substitute drawings include details of the proposed access arrangements.
7. These access details differ from those submitted at the outset. Partial additional information about the principal site access is now provided, in the

-
- form of a single elevation of the bridge that is proposed to carry the A168 over the southbound site access/egress slip roads, extended laterally to include some of the necessary works.
8. Despite the substantial changes that have been made to the development proposals, the new access details are incomplete (because complete details of features such as the A168 bridge are not provided) and the information now confirms (contrary to the September Voluntary Reg.19 document quoted above) that it is not the case that "... All the land for the construction works and phasing arrangements is within either the application site, the highway boundary or is Crown land". The application/appeal site boundary does not include all of the land necessary to enable the access proposals to be achieved.
 9. A plan is provided within the additional environmental information document showing that the proposed southbound access/egress arrangements would occupy land only some of which is within the application/appeal site boundary and within the control of the appellant (Drawing No. 208006/78B). The remainder of the land is either within the motorway boundary (and therefore Crown land) or within some other ownership, possibly that of the Local Highway Authority. Some of the land required for the access and within the ownership of the Local Highway Authority has been included within the appeal site boundary. Some of it (or of others) has not. It should be noted that the plan of land ownership provided with the additional environmental information submission does not appear to accurately show the boundaries of the Crown's ownership as registered with the Land Registry [MOT115, Appendix 3]. Nor is the title to the land attributed to NYCC registered in its name.
 10. In information submitted to the public inquiry (but not forming part of the additional environmental information documentation) HIA highways consultants have suggested how the sections of the necessary access that lie outside the appeal site would be constructed:
 - a) The original TA states at para. 3.2 [CD3.13]

"The sliproads between the application site and the motorway would be constructed pursuant to permitted development rights contained within the Town and Country (General Permitted Development) Order 1995 Schedule 2 Part 13 together with the relevant agreements with the Highway Authority and Secretary of State."
 - b) under Section 278 agreements with the respective highway authorities for the motorway and for the A168 and that the necessary planning permission for the works is granted by the permitted development powers that each enjoys [HIA108].
 11. An oral suggestion was also made at the Inquiry that the position was the same as in 2003-2004 Inquiry. That is of course completely wrong because, unlike then, this time access is not reserved and since then (and directly arising from MSA Inquiries on the M25 and M42) a requirement for an application for planning permission for development on Crown land has replaced the old Circular 18/84 deemed permission informal procedures.
 12. All access works from a motorway now require an application for and the grant of planning permission.

- i) It may be that works within a motorway (including motorway and junction hardshoulders and possibly verge up to the boundary fence originally permitted) have permission under and granted simultaneously with their original line orders. That would be insufficient to assist HIA but would probably assist the Baldersby sites;
- ii) On land owned by the Highways Agency but beyond the original motorway permissions, the grant of a fresh planning permission would be required.
- iii) On land not in the ownership of the HA a fresh grant of planning permission would also be required. This 'missing' land is a large swathe.

13. The Town and Country Planning (General Permitted Development) Order 1995 Schedule 2 Part 13 (extract attached to MOT300 AnnexII) does not grant planning permission for either (i) or (ii) above.

Part 13 B only permits:

"The carrying out by the Secretary of State of works in exercise of the functions of the Secretary of State under the Highways Act 1980, or works in connection with, or incidental to, the exercise of those functions."

13.1 Firstly, "by" does not mean "by **or on behalf of**" the Secretary of State: R (oao Cherwell DC) v First Sec. of State [2005] P&CR Pt 4 p.390 para. 56 at p.414 and extract from judgement of Forbes J in Hillingdon referred to there. There is no evidence/resolution/authorisation before the Inquiry that the relevant Secretary of State intends to do the work himself. (extracts attached to MOT300 AnnexII)

13.2 Secondly, there is no obvious statutory power available to the relevant Secretary of State to use should he be so minded, beyond the general provision of s.62 of the Highways Act 1980 "for improvement of the highway". Mr Askew has not identified any works of improvement of the newly built highway that are needed or proposed to be undertaken by the Highways Agency.

13.3 Thirdly, the parallel provision of the GPDO applicable to the local highway authority is in the same terms: [if pale yellow land is as I think NYCC land, that is the point – see MOT115 – the on-line version is much clearer. The registered title of HA does not have the bulge shown in the Regulation 19 plan. No-one has registered title to the land to the east; certainly not HIA and the title is shown further to the east. Where owners must ask for planning permission is not before the Inquiry. That is legal submission]

Part 13 A only permits:

The carrying out by a highway authority –

(b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway."

13.4 NYCC has not identified any works which they intend to carry out for the maintenance or improvement of the A168. It would be impossible for them to do so as the access roads in question would not be constructed **by** NYCC and could not be required for the maintenance or improvement of the A168

as there is no physical connection proposed between the A168 and the access slip roads. [It goes underneath.]

14. b) Section 278 of the [Highways Act] 1990 does not grant planning permission.

Section 278 relates purely to agreements and is not itself the source of any power to grant planning permission. The DoT Feb 2007 Guidance on s. 278 agreements requires the developer to identify the grant of planning permission upon which they rely before any such agreement can be entered into (attached to MOT300 AnnexII see paras 1,11(b),19,29,31,33 last bullet (f)). In any event, no draft s.278 agreement has been prepared. [That is, there has to be a planning permission before getting to s278]

15. HIA has not demonstrated that the sections of the proposed access lying outside the application/appeal site can be secured. The Design & Access Statement is silent, contrary to s.42 of the 1990 Act. Consequently, the HIA application/appeal as a single twin-sided, on-line MSA must be considered incomplete and the development must be considered land-locked and undeliverable.

Annex 3A**Recommended Conditions for Kirby Hill MSA**

(see documents HBC205, HBC208.1 and HBC210 and Report section 15)

Reserved Matters

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers 1500-P-03, 208006-63, 208006-64 and Drg 208006-66-C but only in respect of those matters not reserved for later approval.
5. Any application for the approval of reserved matters shall be in accordance with the principles embodied within the illustrative Master Plan drawing 1500-P-103-C dated December 2010.
6. The proposed development shall be constructed within the parameters identified on the Parameters Plan (1500-P-03 dated December 2010). The maximum height and internal floorspace of the proposed buildings shall not exceed the following: -

	Height of building (m)	Internal floor space (northbound site) (m ²)	Internal floor space (southbound site) (m ²)
Amenity building	9	2,500	2,500
Petrol filling station	4.5	350	350
HGV canopy	7		
Forecourt canopy	5.5		
HGV amenity building	4.5	150	150

Materials

7. No development shall take place until samples of the external materials to be used in construction of the proposed amenity building, lodge and fuelling facility and any other buildings or structures on the site have been submitted to, and agreed in writing by, the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Internal layout

8. No development shall commence until detailed drawings have been submitted to, and approved in writing by, the local planning authority for the layout of the internal access roads, parking and servicing areas, turning and manoeuvring areas, footways, pedestrian areas and cycling provision. The development shall be carried out in accordance with the approved details.

No part of the development shall be open for public use until the areas to be used in connection with that part are available for use. Once constructed, these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Landscape and biodiversity management

9. The details of the landscaping to be submitted under condition 1 above shall include full details of excavations; ground modelling (including existing and proposed contours); retaining walls and structures; means of enclosure; all hard landscaping; minor artefacts and structures; the extent of the existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection and soft landscaping, including the written specifications, planting plans and cultivation proposals. Thereafter the development shall be carried out in accordance with the approved details.
10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out not later than the first planting and seeding seasons following occupation of the buildings or completion of the development whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
11. Prior to commencement of development a landscape and habitat management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to, and approved in writing by, the local planning authority. The landscape and habitat management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Access, Parking, Signing and Opening

12. No development shall commence until the full design and construction details of the means of access to the motorway as shown on Drgs 208006-63 and 64, together with a programme of implementation, have been submitted to, and approved in writing by, the local planning authority. The details shall include: -
1. The method by which the proposed development interfaces with the existing highway alignment, carriageway markings and lane destinations.
 2. The proposed carriageway widening, together with any modifications to existing or proposed structures, with supporting analysis.
 3. The traffic signing, highway lighting and alterations and modifications to motorway communications and traffic data collection equipment.
 4. The provision of written confirmation of full compliance with current Departmental Standards (DMRB) and Policies.
 5. The provision of an independent Stage 2 Road Safety Audit (taking account of the Stage 1 Road Safety Audit recommendations) carried out in

accordance with current Departmental Standards (DMRB) and Advice Notes.

The development hereby approved shall not be brought into use until the details are implemented in accordance with the programme implementation.

13. No development shall commence until a detailed scheme for the provision of access for pedestrians and staff car parking off the A168/B6265 has been submitted to and approved in writing by the local planning authority. These details should include the access arrangements to each of the northbound and southbound sites, together with the related improvements to the local highway. The details should also include an independent road safety audit in accordance with HD19/03. The development shall not be brought into use until the relevant highway works have been constructed in accordance with the approved details.

Wheel washing

14. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.

Construction method statement

15. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. *the parking of vehicles of site operatives and visitors*
 - ii. *loading and unloading of plant and materials*
 - iii. *storage of plant and materials used in constructing the development*
 - iv. *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
 - v. *wheel washing facilities*
 - vi. *measures to control the emission of dust and dirt during construction*
 - vii. *a scheme for recycling/disposing of waste resulting from demolition and construction works*
 - viii. *advisory HGV routeing*
 - ix. *a Ground Works Method Statement including provisions for the control of top soil and subsoil stripping, temporary storage of overburden, authorisation of and removal of soil from the site and acceptable weather conditions for working.*

Travel plan

16. No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall include details for the appointment of a Travel Plan Coordinator, the provision of a staff shuttle bus and proposed monitoring and shall be in general accordance with details set out in the submitted Transport Plan of Nov 2010 (as amended).

The approved Travel Plan shall then be implemented in full and all actions undertaken within the timescales contained within the approved document.

Vehicle parking

17. No development shall take place until there has been submitted to and approved in writing by the local planning authority details and the programme for the provision of vehicle parking. Such provision shall make provision for the following levels of parking:
- i) on the southbound site:
 - a) 220 cars (including 11 spaces for disabled people)
 - b) 50 HGVs
 - c) 12 coaches
 - d) 6 touring caravans (including 2 spaces for disabled people)
 - e) 10 motorcycle spaces
 - f) 1 abnormal load bay
 - ii) on the northbound site:
 - a) 220 cars (including 11 spaces for disabled people)
 - b) 51 HGVs
 - c) 12 coaches
 - d) 6 touring caravans (including 2 spaces for disabled people)
 - e) 10 motorcycle spaces
 - f) 1 abnormal load bay

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The vehicle parking shall be retained and maintained as such throughout the lifetime of the development.

Signing agreement

18. The development shall not be open for use unless a signing agreement is in place in accordance with Department for Transport Circular 01/2008 or successor guidance and the signs are positioned to give effect to that agreement.

Access from motorway

19. The development shall not be brought into use until the access slip roads from the motorway have been provided in accordance with the approved details and are open for use by traffic to and from the motorway.

Completion of roads and paths

20. No part of the development permitted shall be opened for first use by the public until the access roads, turning and manoeuvring areas, servicing areas, parking areas, footways and pedestrian areas to be used in connection with that part have been constructed and surfaced in accordance with the approved details.
21. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

-
22. No development shall commence until full details of the proposed toilet provision at the site have been submitted to, and approved in writing by, the local planning authority. The toilet provision shall be determined from the approved parking provision and calculated in accordance with Annex C of DfT Circular 01/2008.

Site security

23. No part of the development hereby permitted shall be opened for first use until a secure boundary fence has been erected in accordance with a scheme submitted to, and approved in writing by, the Local Planning Authority.
24. In the event that the implemented MSA development hereby approved ceases to operate, the site shall not be used for any other purpose.

Retail, Meeting Room and Games/Leisure Space Limits

25. The amenity building shall contain no more than 500m² of retail floor space as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987.
26. No more than one room within the MSA shall be made available for public use for the purposes of holding conferences or undertaking training. The room set aside for this purposes shall have a capacity for no more than 15 persons to train at any one time.
27. No more than 100 m² of games/leisure floorspace shall be made available to the public within the MSA.

Drainage

28. No development shall take place until a detailed scheme for the disposal of foul sewage from the site has been submitted to, and approved in writing by, the local planning authority. The scheme to be submitted shall incorporate pumping to the public sewer at Boroughbridge Waste Water Treatment Works for off-site treatment and disposal. No building shall be occupied until the approved foul drainage scheme has been completed in accordance with the approved details.
29. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The details shall also include an assessment of the hydrological and hydro-geological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is brought into use.

30. Prior to discharge from the site all surface water drainage from vehicle parking and hardstanding areas shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the area being drained. Roof water shall not pass through the interceptors. Details of the interceptors shall be provided as part of the surface water drainage scheme to be approved by the local planning authority.

No development shall commence until details of the surfacing and containment arrangements for all areas used for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents have been submitted to and approved in writing by the local planning authority. Thereafter the installation shall be carried out in accordance with the approved details which shall be retained throughout the life of the development.

Archaeology

31. No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

External lighting

32. A scheme for lighting within the site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and lighting within the site shall be operational prior to the development being opened for first use by the public. Thereafter the lighting scheme shall be retained and maintained as approved, unless any variation has been subsequently approved in writing by the local planning authority.

Sustainable design

33. No development shall take place until the applicant has provided for the written approval of the local planning authority a Design Stage Certificate provided by an accredited BREEAM assessor that achieves BREEAM 'very good' or higher. Development shall be carried out in accordance with the approved details. A certified BREEAM Post Construction Certificate shall be provided to the local planning authority in writing, confirming that BREEAM 'very good' has been met, prior to the first occupation of the development.

Renewable energy

34. No development shall take place until a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and /or low carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.
35. A scheme and timetable for the provision of recharging facilities for electric vehicles shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the approved

scheme shall be implemented in accordance with the scheme details and timetable approved.

Water minimisation

36. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements: -

- A rain-water harvesting system;
- A grey-water harvesting system;
- The use of aerator taps throughout the development;
- The use of low-flush toilets;
- The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Noise

37. Construction work activities shall be restricted to the hours of 08:00 – 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no working on Sundays and Bank Holidays.
38. In accordance with the environmental impact assessment provided, all plant and machinery shall be designed so as to comply with Harrogate Borough Council's Noise Design Criteria.
39. The noise from plant associated with the development shall be limited to rating levels of 42dBA LAeq, measured over 1 hour during the day-time period (07:00 – 23:00) and 34 dBA LAeq, measured over 5 minutes during the night time period (23:00 hours to 07:00) unless otherwise agreed in writing by the local planning authority.

Annex 3B**Recommended Conditions for Ripon Services MSA**

(see documents HBC203, HBC206.1 and HBC210 and Report section 15)

Reserved Matters

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers TSP/315/001Z2, TSP/315/005B, TSP/315/011, 222260/100/01E, 222260/602/A and Figure PWB 7 REV A but only in respect of those matters not reserved for later approval.

4. Any application for the approval of reserved matters shall be in accordance with the principles embodied within drawing TSP/315/001Z2.
5. The proposed development shall be constructed within the parameters identified in paragraph 2.11 of the Environmental Assessment and illustrated on drawing number TSP/315/001Z2. The maximum height of the development shall not exceed 8 metres above existing ground level. The maximum height and gross floorspace of the proposed buildings shall not exceed the following; -

	Height (m)	Gross Floor Area (m ²)
Amenity Building	4.5 – 8	2303
Petrol Filling Station (Sales)	5	275
Petrol Filling Station Canopy	5	
Hotel	7.5	2016

6. No development shall commence until detailed drawings have been submitted to, and approved in writing by, the local planning authority for the layout of the internal access roads, parking and servicing areas, turning and manoeuvring areas, footways, pedestrian areas and cycling provision. The development shall be carried out in accordance with the approved details.

No part of the development shall be open for public use until the areas to be used in connection with that part are available for use. Once constructed, these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

7. The details of the landscaping to be submitted under condition 1 above shall include full details of excavations; ground modelling (including existing and

proposed contours); retaining walls and structures; means of enclosure; all hard landscaping; minor artefacts and structures; the extent of the existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection and soft landscaping, including the written specifications, planting plans and cultivation proposals. Thereafter the development shall be carried out in accordance with the approved details.

Access, Parking, Signing and Opening

8. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until full details of proposals for access to the site for construction purposes and the traffic management regime associated with it have been submitted to and approved in writing by the local planning authority and constructed in accordance with the approved details.
9. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
 - (i) The full construction details, including lining and signing of the required local highway improvement works listed below, have been submitted to and approved in writing by the local planning authority.
 - (ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
 - (iii) A programme for the completion of the proposed works has been submitted

The required highway improvements shall include:

 - a) The site access roundabout on the A61.
 - b) The diversion of the A61.
 - c) The amendments to the A1(M)/A61 western dumbbell roundabout.
10. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the local planning authority under condition number 9:
 - a) The site access roundabout on the A61.
 - b) The diversion of the A61.
 - c) The amendments to the A1(M)/A61 western dumbbell roundabout.
11. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.
12. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. *the parking of vehicles of site operatives and visitors*

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- ii. *loading and unloading of plant and materials*
 - iii. *storage of plant and materials used in constructing the development*
 - iv. *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
 - v. *wheel washing facilities*
 - vi. *measures to control the emission of dust and dirt during construction*
 - vii. *a scheme for recycling/disposing of waste resulting from demolition and construction works*
 - viii. *advisory HGV routeing.*
13. No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall include details for the appointment of a Travel Plan Coordinator, the provision of a staff shuttle bus and proposed monitoring and shall be in general accordance with details set out in the submitted Transport Plan of Nov 2010 (as amended).
- The approved Travel Plan shall then be implemented in full and all actions undertaken within the timescales contained within the approved document.
14. No development shall take place until there has been submitted to, and approved in writing by, the local planning authority details and the programme for the provision of vehicle parking. Such provision shall make provision for the following levels of parking:
- a) 315 cars (including spaces for the vehicles of disabled people and for touring caravans)
 - b) 85 HGVs (inclusive of spaces for abnormal loads)
 - c) 18 coaches
 - d) 20 staff spaces
- The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The vehicle parking shall be retained and maintained as such throughout the lifetime of the development.
15. The development shall not be open for use unless a signing agreement is in place in accordance with Department for Transport Circular 01/2008 or successor guidance and the signs are positioned to give effect to that agreement.
16. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Materials

17. No development shall take place until samples of the external materials to be used in construction of the proposed amenity building, lodge and fuelling facility and any other buildings or structures on the site have been submitted to, and agreed in writing by, the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Completion of roads and paths

18. No part of the development permitted shall be opened for first use by the public until the access roads, turning and manoeuvring areas, servicing areas,

parking areas, footways and pedestrian areas to be used in connection with that part have been constructed and surfaced in accordance with the approved details.

Landscaping and Groundworks

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out not later than the first planting and seeding seasons following occupation of the buildings or completion of the development whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
20. No development works shall take place until a groundworks method statement and scheme of works has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The groundworks method statement shall include provisions for: top soil and sub soil stripping, temporary storage of soils and over burden, authorisation of any removal of soil material from the site, a description of appropriate weather conditions for working, and cleaning vehicles entering the public highway.
21. Prior to commencement of development a landscape and habitat management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to, and approved in writing by, the local planning authority. The landscape and habitat management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Retail, Meeting Room and Games/Leisure Space Limits

22. The amenity building shall contain no more than 500m² of retail floor space as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987.
23. No more than one room within the MSA shall be made available for public use for the purposes of holding conferences or undertaking training. The room set aside for this purposes shall have a capacity for no more than 15 persons to train at any one time.
24. No more than 100 m² of games/leisure floorspace shall be made available to the public within the MSA.
25. No development shall commence until full details of the proposed toilet provision at the site have been submitted to, and approved in writing by, the local planning authority. The toilet provision shall be determined from the approved parking provision and calculated in accordance with Annex C of DfT Circular 01/2008.

Drainage

26. No development shall take place until a detailed scheme for the disposal of foul sewage from the site has been submitted to, and approved in writing by, the local planning authority. No building shall be occupied until the approved foul drainage scheme has been completed in accordance with the approved details.

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27. Prior to the submission of any reserved matters application or any information linked with the discharge of conditions 25, 27, 28, 29, 30, 31, 32, or 33, a Quantitative Hydro-geological Risk Assessment shall be submitted to and agreed in writing by the local planning authority.
28. No development shall take place until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 2. The area of hardstanding shall drain into a system separate from the rest of the site;
 3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
 4. Clean roof water shall not pass through the interceptor(s);
 5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 6. Surface water drainage shall then pass into a dedicated detention facility which shall be fitted capable of being isolated (e.g. passing through a penstock). Water shall then discharge to Broom Moor Drain at a maximum rate equivalent to the Greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

29. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV and coach parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
 3. Clean roof water shall not pass through the interceptor(s);
 4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 5. Surface water shall then discharge, via a balancing facility and soakaway, to ground.
 6. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 7. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
 8. Clean roof water shall not pass through the interceptor(s);

9. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
10. Surface water shall then discharge, via a balancing facility and soakaway, to ground.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

30. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following measures: -
 1. All parking areas, other than those associated with the fuel filling station, fuel storage area, HGV parking area and coach parking area, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
 2. These areas will also be provided with filter trenches;
 3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;
 4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;
 5. Inspection manholes shall be provided on all surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
 6. All surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
 7. Green roof areas shall be incorporated into the proposed buildings;
 8. Full details of the size, design and location of balancing facilities;
 9. Full details of the size, design and location of any soakaways.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.
32. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the

agreed Plan and shall incorporate all relevant mitigation measures detailed within it.

33. No development shall take place until a scheme for the storage of fuel and fuel oil has been submitted to and agreed in writing by the local planning authority. The scheme must detail the exact size, location and design of any tanks and associated pipe works. Fuel shall wherever possible be stored above ground level. Any below ground storage must include a comprehensive leak-detection system. The development shall thereafter proceed only in strict accordance with the agreed scheme.
34. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements: -
- A rain-water harvesting system;
 - A grey-water harvesting system;
 - The use of aerator taps throughout the development;
 - The use of low-flush toilets;
 - The use of water-efficient showers (where relevant).
- The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Archaeology

35. No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

External lighting

36. A scheme for lighting within the site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and lighting within the site shall be operational prior to the development being opened for first use by the public. Thereafter the lighting scheme shall be retained and maintained as approved, unless any variation has been subsequently approved in writing by the local planning authority.

Sustainable design

37. No development shall take place until the applicant has provided for the written approval of the local planning authority a Design Stage Certificate provided by an accredited BREEAM assessor that achieves BREEAM 'very good' or higher. Development shall be carried out in accordance with the approved details. A certified BREEAM Post Construction Certificate shall be provided to the local planning authority in writing, confirming that BREEAM 'very good' has been met, prior to the first occupation of the development.

Renewable energy

38. No development shall take place until a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and /or low carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be

implemented before the development is first occupied and shall remain operational for the lifetime of the development.

39. A scheme and timetable for the provision of recharging facilities for electric vehicles shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the approved scheme shall be implemented in accordance with the scheme details and timetable approved.

Contaminated land

40. Should any unexpected significant contamination be encountered during development, the local planning authority shall be notified immediately. A remediation Strategy Report shall be submitted to, and approved in writing by, the local planning authority. The approved remediation measures shall be implemented in accordance with the timescales in the approved Remediation Strategy Report.

Noise

41. Construction work activities shall be restricted to the hours of 08:00 – 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no working on Sundays and Bank Holidays.
42. In accordance with the environmental impact assessment provided, all plant and machinery shall be designed so as to comply with Harrogate Borough Council's Noise Design Criteria.
43. The noise from plant associated with the development shall be limited to rating levels of 42dBA LAeq, measured over 1 hour during the day-time period (07:00 – 23:00) and 34 dBA LAeq, measured over 5 minutes during the night time period (23:00 hours to 07:00) unless otherwise agreed in writing by the local planning authority.

Site security

44. No part of the development hereby permitted shall be opened for first use until a secure boundary fence has been erected in accordance with a scheme submitted to, and approved in writing by, the Local Planning Authority.
45. In the event that the implemented MSA development hereby approved ceases to operate, the site shall not be used for any other purpose.

Annex 3C**Recommended Conditions for Baldersby Gate MSA**

(see documents HBC204, HBC207.1 and HBC210 and Report section 15)

Reserved Matters

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers T3287-0030 (location plan) and 22280-6 RevF (access proposals)

4. Any application for the approval of reserved matters shall be in accordance with the principles embodied within drawing T3287-0043 and the assessment plan (Figure 3.1) included in chapter 3 of the Environmental Assessment accompanying the planning application.
5. The proposed development shall be constructed within the parameters identified in paragraph 3.1 of the Environmental Assessment accompanying the planning application. The maximum height of the proposed buildings shall not exceed 51m AOD and the maximum height and gross floorspace of the proposed buildings shall not exceed the following; -

	Height (m)	Gross Floor Area (m ²)
Amenity Building	8.0	2760
Petrol Filling Station (Sales)	5.5	630
Petrol Filling Station Canopy	5.5	
Lodge	8.0	3738

6. No development shall commence until detailed drawings have been submitted to, and approved in writing by, the local planning authority for the layout of the internal access roads, parking and servicing areas, turning and manoeuvring areas, footways, pedestrian areas and cycling provision. The development shall be carried out in accordance with the approved details.

No part of the development shall be open for public use until the areas to be used in connection with that part are available for use. Once constructed, these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

-
7. The details of the landscaping to be submitted under condition 1 above shall include full details of excavations; ground modelling (including existing and proposed contours); retaining walls and structures; means of enclosure; all hard landscaping; minor artefacts and structures; the extent of the existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection and soft landscaping, including the written specifications, planting plans and cultivation proposals. Thereafter the development shall be carried out in accordance with the approved details.

Access, Parking, Signing and Opening

8. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until full details of proposals for access to the site for construction purposes and the traffic management regime associated with it have been submitted to and approved in writing by the local planning authority and constructed in accordance with the approved details.
9. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
- (i) The full construction details, including lining and signing of the required local highway improvement works listed below, have been submitted to and approved in writing by the local planning authority.
 - (ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
 - (iii) A programme for the completion of the proposed works has been submitted

The required highway improvements shall include:

- a) The site access roundabout on the A61.
 - b) The diversion of the A61.
 - c) The amendments to the A1(M)/A61 western dumbbell roundabout in accordance with drawing 22280/6/REVF.
10. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the local planning authority under condition number 9:
- a) The site access roundabout on the A61.
 - b) The diversion of the A61.
 - c) The amendments to the A1(M)/A61 western dumbbell roundabout.
11. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.
12. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority.

The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors*
- ii. loading and unloading of plant and materials*
- iii. storage of plant and materials used in constructing the development*
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- v. wheel washing facilities*
- vi. measures to control the emission of dust and dirt during construction*
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works*
- viii. advisory HGV routing.*

13. No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall include details for the appointment of a Travel Plan Coordinator, the provision of a staff shuttle bus and proposed monitoring and shall be in general accordance with details set out in the submitted Transport Plan of Nov 2010 (as amended), Inquiry reference: CD/6.35.

The approved Travel Plan shall then be implemented in full and all actions undertaken within the timescales contained within the approved document.

14. No development shall take place until there has been submitted to and approved in writing by the local planning authority details and the programme for the provision of vehicle parking. Such provision shall make provision for the following levels of parking:
- a) 385 cars ((including spaces for the vehicles of disabled people and for touring caravans))
 - b) 95 HGVs (inclusive of spaces for abnormal loads)
 - c) 20 coaches
 - d) 12 caravan parking spaces
 - e) 12 motorcycle spaces
 - f) 1 abnormal load space
 - g) 40 spaces for the proposed lodge.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The vehicle parking shall be retained and maintained as such throughout the lifetime of the development.

15. The development shall not be open for use unless a signing agreement is in place in accordance with Department for Transport Circular 01/2008 or successor guidance and the signs are positioned to give effect to that agreement.
16. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Materials

17. No development shall take place until samples of the external materials to be used in construction of the proposed amenity building, lodge and fuelling

facility and any other buildings or structures on the site have been submitted to, and agreed in writing by, the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Completion of roads and paths

18. No part of the development permitted shall be opened for first use by the public until the access roads, turning and manoeuvring areas, servicing areas, parking areas, footways and pedestrian areas to be used in connection with that part have been constructed and surfaced in accordance with the approved details.

Landscaping and Groundworks

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out not later than the first planting and seeding seasons following occupation of the buildings or completion of the development whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
20. No development works shall take place until a groundworks method statement and scheme of works has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The groundworks method statement shall include provisions for: top soil and sub soil stripping, temporary storage of soils and over burden, authorisation of any removal of soil material from the site, a description of appropriate weather conditions for working, and cleaning vehicles entering the public highway.
21. Prior to commencement of development a landscape and habitat management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to, and approved in writing by, the local planning authority. The landscape and habitat management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Retail, Meeting Room and Games/Leisure Space Limits

22. The amenity building shall contain no more than 500m² of retail floor space as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987.
23. No more than one room within the MSA shall be made available for public use for the purposes of holding conferences or undertaking training. The room set aside for this purposes shall have a capacity for no more than 15 persons to train at any one time.
24. No more than 100 m² of games/leisure floorspace shall be made available to the public within the MSA.
25. No development shall commence until full details of the proposed toilet provision at the site have been submitted to, and approved in writing by, the local planning authority. The toilet provision shall be determined from the approved parking provision and calculated in accordance with Annex C of DfT Circular 01/2008.

Drainage

26. No development shall take place until a detailed scheme for the disposal of foul sewage from the site has been submitted to, and approved in writing by, the local planning authority. No building shall be occupied until the approved foul drainage scheme has been completed in accordance with the approved details.
27. Prior to the submission of any reserved matters application or any information linked with the discharge of conditions 25,27,28,29 30, 31, 32, 33, or 34, a Quantitative Hydro-geological Risk Assessment shall be submitted to and agreed in writing by the local planning authority.
28. No development shall take place until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
 1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 2. The area of hardstanding shall drain into a system separate from the rest of the site;
 3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
 4. Clean roof water shall not pass through the interceptor(s);
 5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 6. Surface water drainage shall then pass into a dedicated detention facility which shall be fitted capable of being isolated (e.g. passing through a penstock). Water shall then discharge to ground, using a soakaway where necessary.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

29. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV and coach parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
 1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
 2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
 3. Clean roof water shall not pass through the interceptor(s);
 4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
 5. Surface water shall then discharge, via a balancing facility and soakaway, to ground.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage

system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

30. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following measures: -
 1. All parking areas, other than those associated with the fuel filling station, fuel storage area, HGV parking area and coach parking area, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
 2. These areas will also be provided with filter trenches;
 3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;
 4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;
 5. Inspection manholes shall be provided on all surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
 6. All surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
 7. Green roof areas shall be incorporated into the proposed buildings;
 8. Full details of the size, design and location of balancing facilities;
 9. Full details of the size, design and location of any soakaways.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.
31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.
32. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the agreed Plan and shall incorporate all relevant mitigation measures detailed within it.
33. No development shall take place until a scheme for the storage of fuel and fuel oil has been submitted to and agreed in writing by the local planning authority. The scheme must detail the exact size, location and design of any tanks and

associated pipe works. Fuel shall wherever possible be stored above ground level. Any below ground storage must include a comprehensive leak-detection system. The development shall thereafter proceed only in strict accordance with the agreed scheme.

34. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements: -

- A rain-water harvesting system;
- A grey-water harvesting system;
- The use of aerator taps throughout the development;
- The use of low-flush toilets;
- The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

35. No development shall take place until a scheme to provide a satisfactory outfall for surface water has been submitted to and approved in writing by the local planning authority. No piped discharge of surface water from the application site shall take place until the approved scheme has been provided in accordance with the approved details.

Archaeology

36. No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

External lighting

37. A scheme for lighting within the site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and lighting within the site shall be operational prior to the development being opened for first use by the public. Thereafter the lighting scheme shall be retained and maintained as approved, unless any variation has been subsequently approved in writing by the local planning authority.

Sustainable design

38. No development shall take place until the applicant has provided for the written approval of the local planning authority a Design Stage Certificate provided by an accredited BREEAM assessor that achieves BREEAM 'very good' or higher. Development shall be carried out in accordance with the approved details. A certified BREEAM Post Construction Certificate shall be provided to the local planning authority in writing, confirming that BREEAM 'very good' has been met, prior to the first occupation of the development.

Renewable energy

39. No development shall take place until a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and /or low carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be

implemented before the development is first occupied and shall remain operational for the lifetime of the development.

40. A scheme and timetable for the provision of recharging facilities for electric vehicles shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the approved scheme shall be implemented in accordance with the scheme details and timetable approved.

Contaminated land

41. Should any unexpected significant contamination be encountered during development, the local planning authority shall be notified immediately. A remediation Strategy Report shall be submitted to, and approved in writing by, the local planning authority. The approved remediation measures shall be implemented in accordance with the timescales in the approved Remediation Strategy Report.

Noise

42. Construction work activities shall be restricted to the hours of 08:00 – 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no working on Sundays and Bank Holidays.
43. In accordance with the environmental impact assessment provided, all plant and machinery shall be designed so as to comply with Harrogate Borough Council's Noise Design Criteria.
44. The noise from plant associated with the development shall be limited to rating levels of 42dBA LAeq, measured over 1 hour during the day-time period (07:00 – 23:00) and 34 dBA LAeq, measured over 5 minutes during the night time period (23:00 hours to 07:00) unless otherwise agreed in writing by the local planning authority.

Site security

45. No part of the development hereby permitted shall be opened for first use until a secure boundary fence has been erected in accordance with a scheme submitted to, and approved in writing by, the Local Planning Authority.
46. In the event that the implemented MSA development hereby approved ceases to operate, the site shall not be used for any other purpose.

Annex 3D**Recommended Conditions for Motel Leeming MSA**

(see document LES200 and Report section 15)

Reserved Matters

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers 79567/35 RevD (masterplan layout), LES006.7 Rev1 (location plan) and 79567/00517/RevD (landscape masterplan).
5. Any application for the approval of reserved matters shall be in accordance with the principles embodied within drawing 79567/00517/RevD.

Materials

6. No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the local planning authority shall be advised that the materials are on site and the materials shall be approved in writing by the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Landscaping

7. The development shall be carried out in accordance with the landscape masterplan as illustrated on plan 79567/00517D unless otherwise agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species, unless otherwise agreed in writing by the local planning authority.
8. Prior to commencement of development a landscape and habitat management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to, and approved in writing by, the local planning authority. The landscape and habitat management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Surface water drainage

9. No development shall be commenced until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage/tank farm areas

has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -

1. Surfaces to be used by vehicles and where fuel storage tanks are present shall be finished in impermeable hardstanding;
2. The area of hardstanding shall, wherever possible, drain into a system separate from the rest of the site;
3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
4. Clean roof water shall not pass through the interceptor(s);
5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
6. Surface water drainage shall then pass into the existing balancing pond which shall be fitted with a penstock.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

10. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV and coach parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -

1. Surfaces to be used by vehicles shall be positively drained;
2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
3. Clean roof water shall not pass through the interceptor(s);
4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
5. Surface water shall then discharge to the existing balancing pond.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

11. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -

1. All new parking and vehicle turning areas, other than those associated with the fuel filling station, fuel storage area, HGV and coach parking areas, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
2. These areas will also be provided with filter trenches;
3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;
4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;

5. Inspection manholes shall be provided on all new surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
6. All new surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
7. Consideration of the incorporation of green roof areas into the proposed buildings;
8. Full details of the size, design and location of the balancing pond;
9. Full details of the size, design and location of any soakaways, where relevant.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.

Construction Environment Management Plan

13. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the agreed Plan and shall incorporate all relevant mitigation measures detailed within it.

Storage of fuel and oil

14. No development shall take place until a scheme for the storage of fuel and fuel oil has been submitted to and agreed in writing by the local planning authority. The scheme must detail the exact size, location and design of any tanks and associated pipe works. Fuel shall wherever possible be stored above ground level. Any below ground storage must include a comprehensive leak-detection system. The development shall thereafter proceed only in strict accordance with the agreed scheme.

Water minimisation

15. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements: -
 - A rain-water harvesting system;
 - A grey-water harvesting system;
 - The use of aerator taps throughout the development;
 - The use of low-flush toilets;
 - The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Foul drainage

16. No development shall take place until a detailed scheme for the disposal of foul sewage from the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:
- Full details of balancing and off-site works;
 - Full details of how the existing on-site septic tank will be decommissioned and its foul flows incorporated into the mains system;
 - Confirmation that the foul drainage system will utilise the existing maximum pumping rate/velocity of 4.5 litres per second at the private pumping station;
 - Details to demonstrate that the effluent discharged to the public sewer will not be septic; robust measures to ensure that fats, oils and grease are properly disposed of and do not enter the public sewerage. The measures shall include the existing facilities within Motel Leeming Bar and those proposed.

The development shall thereafter proceed only in strict accordance with the agreed scheme. All associated infrastructure shall be retained and maintained throughout the lifetime of the development. No buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.

17. The site shall be developed with separate systems of drainage for foul and surface water on and off site unless otherwise agreed in writing by the local planning authority.

Approval of details for works in the highway

18. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or buildings or other works until:
- (i) The details of the required highway improvement works, including the agreed works to the link road outside the site, have been submitted to and approved in writing by the local planning authority.
 - (ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
 - (iii) A programme for the completion of the proposed works has been submitted to and approved in writing by the local planning authority.

Section 278 highway works

19. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Completion of works in the highway before occupation

20. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until the agreed works to the link road outside the site have been constructed in accordance with the details approved in writing by the local planning authority under condition number 18

and the works to the eastern dumbbell to the A1(M) New Leeming junction shown on plan 79567/37 have been completed.

Details of access, turning and parking

21. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or buildings or other works hereby permitted until full details of the following have been submitted to and approved in writing by the local planning authority:
- (i) vehicular, cycle, and pedestrian accesses
 - (ii) vehicular and cycle parking - such provision shall include for the following minimum number of vehicle parking spaces to be provided on the date of opening for use by users of the A1(M) motorway:
 - 236 Cars (including spaces for the vehicles of disabled people)
 - 87 HGVs
 - 17 Coaches
 - 7 Touring Caravans
 - 1 Abnormal Load
 - 20 Additional parking spaces for the Lodge.
 - (iii) vehicular turning arrangements
 - (iv) manoeuvring arrangements
 - (v) loading and unloading arrangements

Provision of approved signing, access, turning and parking areas

22. The development shall not be open for use unless a signing agreement is in place in accordance with the DfT Circular 01/2008 and the signs are positioned to give effect to that agreement. Use of the development shall not commence until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 22 have been constructed in accordance with the submitted drawing 79567/35D and are available for use unless otherwise approved in writing by the local planning authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Precautions to prevent mud on the highway

23. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.

Lighting

24. No external lighting equipment shall be used other than in accordance with details previously submitted to and approved in writing by the local planning authority.

On-site parking, storage and construction traffic during construction

25. Unless approved otherwise in writing by the local planning authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until

proposals have been submitted to and approved in writing by the local planning authority for the provision of:

- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Construction Method Statement

26. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors*
- ii. loading and unloading of plant and materials*
- iii. storage of plant and materials used in constructing the development*
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- v. wheel washing facilities*
- vi. measures to control the emission of dust and dirt during construction*
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works*
- viii. advisory HGV routeing.*

Travel Plan

27. No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall include details for the appointment of a Travel Plan Coordinator and proposed monitoring and shall be in general accordance with details set out in the submitted Transport Plan of Sep 2010, Inquiry reference: CD4.17.

The approved Travel Plan shall then be implemented in full and all actions undertaken within the timescales contained within the approved document.

Retail, Meeting Room and Games/Leisure Space Limits

28. The amenity building shall contain no more than 500 m² of retail floorspace as defined by Class A1 of the Town and Country Planning (Use Classes) Order 1987.
29. No more than a total of 100 m² of games / leisure floorspace shall be made available to the public.
30. No development shall commence until full details of the proposed toilet provision at the site has been submitted to and approved in writing by, the local planning authority. The toilet provision shall be determined from the approved parking provision and calculated in accordance with Annex C of DfT Circular 01/2008.
31. No part of the development hereby permitted shall be open for use until the following facilities and services currently offered by the existing trunk road

service area are completely taken out of use and remain out of use for the duration that the site operates as an MSA: -

- Conference facility,
- The sale of alcohol,
- The use of the existing car parking area as an overspill car park for the Wensleydale Railway.

Boundary treatment

32. Prior to first use of the motorway service area hereby approved, the boundary walls, fences and other means of enclosure shall have been constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior written consent of the local planning authority.

Manager's accommodation

33. The occupation of the manager's accommodation as shown on plan 79567/35D shall be limited to a person or persons solely or mainly employed at the Motorway Service Area at Leeming Bar.

Annex 3E**Recommended Conditions for Coneygarth Lorrypark**

(see document XLB200 and Report section 15)

Time condition

1. The development hereby permitted shall be begun within three years of the date of this permission.

Approved plans

2. The development hereby approved shall be in accordance with the following approved plans unless otherwise agreed in writing with the local planning authority.

Description	Reference No.	Date on plan
Existing Site Layout Phase 1	6162/S101/B	Aug 09
Existing Site Layout Phase 2	6162/S102/B	Aug 09
Existing Site Location Plan	6162/S103/B	Sep 09
Proposed Floor & Forecourts Layout	6162/D21/F	Oct 09
Proposed Elevations	6162/D22/E	Oct 09
Proposed Forecourt Shop Floor Layout & Elevations	6162/D23/D	Oct 09
Proposed Tank Farm Floor Layout & Elevations	6162/D24/C	Oct 09
Proposed Drivers Cafe Floor Layout & Elevations	6162/D25/B	Oct 09
Proposed Site Layout Phase 1	6162/D101/J	Jan 10
Proposed Site Layout Phase 2	6162/D102/H	Jan 10
Proposed Site Levels and Gradients	6162/D103/G	Jan 10
Proposed Drainage Layout	6162/D104/G	Jan 10
Proposed Landscaping Layout	2229/4	10 Dec 2010
Site Sections A to E	2229/5	10 Dec 2010
Site Sections F to J	2229/6	10 Dec 2010

Materials

3. No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the local planning authority shall be advised that the materials are on site and the materials shall be approved in writing by the local planning authority. Development shall thereafter only be carried out in accordance with the approved details.

Landscaping

4. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved in writing by the local planning authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. The approved scheme is to include mounding works and associated planting as shown on plans 6162/D101/J, 2229/5 and 2229/6. Any trees or plants which within a period of 5 years of

planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species unless the local planning authority gives written consent to any variation..

Foul drainage and trade effluent

5. No development shall take place until works have been carried out to provide adequate facilities for the drainage, disposal and treatment of all waste water, including trade effluents, in accordance with details to be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been implemented and are operational.
6. Prior to the submission of the information required by conditions 7, 8, 9, 10, 11 and 12, a Quantitative Hydrogeological Risk Assessment shall be submitted to and agreed in writing by the local planning authority.
7. No development shall be commenced until a scheme for the disposal of surface water drainage from the fuel filling station and fuel storage/tank farm areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -

1. Surfaces to be used by vehicles and where fuel storage tanks are present shall be finished in impermeable hardstanding;
2. The area of hardstanding shall drain into a system separate from the rest of the site;
3. All surface water drainage shall be passed through appropriately sized oil interceptor(s);
4. Clean roof water shall not pass through the interceptor(s);
5. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
6. Surface water drainage shall then pass into a dedicated balancing facility, which shall be fitted with a penstock. Water shall then discharge to ground via soakaway;

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

8. No development shall be commenced until a scheme for the disposal of surface water drainage from the HGV parking areas has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
1. Surfaces to be used by vehicles shall be finished in impermeable hardstanding;
2. Drainage from the area of hardstanding shall be passed through appropriately sized oil interceptor(s);
3. Clean roof water shall not pass through the interceptor(s);
4. Vehicle washdowns and detergents shall not be passed through the interceptor(s);
5. Surface water shall then discharge via soakaway, to ground.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage

system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

9. No development shall be commenced until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme must incorporate the following measures: -
 1. All parking and vehicle turning areas, other than those associated with the fuel filling station, fuel storage/tank farm area and HGV parking area, shall be finished in permeable pavement with a granular sub-base providing bio-remediation;
 2. These areas will also be provided with filter trenches;
 3. Surface water discharge across the whole site shall be regulated to the greenfield run-off rate (1.4l/s/ha) from a 1 in 1 year storm. The design will also ensure that storm water resulting from a 1 in 100 year event, although surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into nearby watercourses;
 4. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the operation of the development;
 5. Inspection manholes shall be provided on all surface water drainage runs across the site such that discharges from individual units can be inspected / sampled;
 6. All surface water drainage runs across the site shall be fitted with colour-coded manholes which clearly denote the relevant source, direction of flow and discharge point;
 7. Consideration of the incorporation of green roof areas into the proposed buildings;
 8. Full details of the size, design and location of the balancing facilities;
 9. Full details of the size, design and location of any soakaways, where relevant.

The development shall thereafter proceed only in strict accordance with the agreed scheme and a timetable to be embedded within it. The drainage system, including those measures detailed above, shall be retained and maintained as such throughout the lifetime of the development.

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the details of the written consent.
11. No development shall take place until a Construction Environment Management Plan has been submitted to and agreed in writing by the local planning authority. The Plan must describe the works to be undertaken, identify the potential pollution risks posed by each element of the development, and propose mitigation measures to address the identified risks. The development shall thereafter proceed only in strict accordance with the agreed Plan and shall incorporate all relevant mitigation measures detailed within it.
12. No development shall take place until a scheme for water minimisation has been submitted to and agreed in writing by the local planning authority. The scheme shall include the following elements: -

- A rain-water harvesting system;
- A grey-water harvesting system;
- The use of aerator taps throughout the development;
- The use of low-flush toilets;
- The use of water-efficient showers (where relevant).

The development shall thereafter proceed only in strict accordance with the agreed scheme, incorporating all water-saving measures and retaining and maintaining them as such throughout the lifetime of the development.

Boundary treatment

13. Prior to first use of the truckstop hereby approved, the boundary walls, fences and other means of enclosure shall have been constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior written consent of the local planning authority.

Archaeology

14. No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Temporary construction site access

15. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until full details of proposals for access to the site for construction purposes and the traffic management regime associated with it have been submitted to and approved in writing by the local planning authority and constructed in accordance with the approved details.

Once created, no vehicles shall access the site except via the approved temporary access. Any damage to the existing adopted highway occurring during use of the access until the completion of all the permanent works shall be repaired immediately.

16. Before the development is first brought into use the highway verge/footway shall be fully reinstated in accordance with a scheme submitted to and approved in writing by the local planning authority.

Approval of details for works in the highway

17. Unless otherwise approved in writing by the local planning authority, no development shall commence (other than ground investigations, ground works, site preparation works and preparatory works for the landscaped mounds) until the following details have been submitted to and approved in writing by the local planning authority:
 - (i) The full construction details, including lining and signing, of the required local highway improvement works, listed below.

The required highway improvements shall include:

 - a. The site access.
 - b. Modifications to the A1(M) New Leeming Junction Eastbound approach to the Eastern Dumbbell Roundabout

-
- c. The footway to Leases Road north of the roundabout to link to footway at the roundabout to the site entrance.
 - d. The footway to Leases Road south of the roundabout to link the existing footway to the south with the provision at the roundabout.
 - e. The widening of Leases Road carriageway to a minimum width of 7.3m between the roundabout and the site entrance.
- (ii) Details of the highway lighting
 - (iii) The provision of written confirmation of full compliance with current Departmental Standards (DMRB).
- The provision of an independent Stage 2 Road Safety Audit (taking account of the Stage 1 Road Safety Audit recommendations) carried out in accordance with current Departmental Standards (DMRB) and Advice
18. The details to be submitted in accordance with Condition 17 shall be substantially in accordance with the following drawings:
- i. The proposed site access as illustrated on drawing number 6162/D101/J
 - ii. Modifications to the A1(M) New Leeming Junction Eastbound approach to the Eastern Dumbbell Roundabout as illustrated on drawing number 60162014-P-004 Rev A, titles 'Proposed Mitigation to Accommodate BALB, Leeming MSA and Proposed Coneygarth Truckstop in 2022'
 - iii. Proposed widening to Leases Road as illustrated on drawing number 60162014-P-015
 - iv. The proposed footway to the north and south of the Leases Road roundabout as illustrated on drawing number 60162014-P-001 (Rev A)

Completion of works in the highway before occupation

19. Unless otherwise approved in writing by the local planning authority, the development shall not be brought into use until:
- 1. The following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition numbers 17 and 18
 - a. The site access
 - b. The footway to Leases Road north of the roundabout to link to footway at the roundabout to the site entrance
 - c. The footway to Leases Road south of the roundabout to link the existing footway to the south with the provision at the roundabout
 - d. The widening of Leases Road carriageway to a minimum width of 7.3m between the roundabout and the site entrance
 - 2. The provision of fuel pumps has been completed in accordance with Condition 21.
 - 3. The provision of parking of vehicles has been completed in accordance with Condition 20.
20. The vehicle parking to be provided within the development shall not exceed the following number of spaces: -
- i) 10 short stay LGV's

-
- ii) 108 HGV's within a secure perimeter
 - iii) abnormal load bay
21. The fuel pumps to be provided within the development shall not exceed the following numbers:
- i) 14 HGV high speed bunker diesel pumps
 - ii) 6 LGV combined petrol / diesel pumps

Details of access, turning and parking

22. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas to be used in connection with that part of the development, have been constructed in accordance with the submitted drawing (Reference 6162/D101/J) and are available for use unless otherwise approved in writing by the local planning authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Precautions to prevent mud on the highway

23. No development shall commence until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works.

Lighting

24. No external lighting equipment shall be used other than in accordance with details previously submitted to and approved in writing by the local planning authority.

Construction Method Statement

25. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. *the parking of vehicles of site operatives and visitors*
 - ii. *loading and unloading of plant and materials*
 - iii. *storage of plant and materials used in constructing the development*
 - iv. *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
 - v. *wheel washing facilities*
 - vi. *measures to control the emission of dust and dirt during construction*
 - vii. *a scheme for recycling/disposing of waste resulting from demolition and construction works*
 - viii. *advisory HGV routeing.*

Section 278 highway works

26. No development shall commence until an agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the relevant highway authorities.

Sustainable design

27. No development shall take place until the applicant has provided for the written approval of the local planning authority a Design Stage Certificate provided by an accredited BREEAM assessor that achieves BREEAM 'very good' or higher. Development shall be carried out in accordance with the approved details. A certified BREEAM Post Construction Certificate shall be provided to the local planning authority in writing, confirming that BREEAM 'very good' has been met, prior to the first occupation of the development.

Renewable energy

28. No development shall take place until a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and /or low carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.

Noise

29. Construction work activities shall be restricted to the hours of 08:00 – 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no working on Sundays and Bank Holidays.
30. The noise from plant associated with the development shall be limited to rating levels of 42dBA LAeq, measured over 1 hour during the day-time period (07:00 – 23:00) and 34 dBA LAeq, measured over 5 minutes during the night time period (23:00 hours to 07:00) unless otherwise agreed in writing by the local planning authority.

Annex 4**Appearances****FOR HARROGATE BOROUGH COUNCIL:**

Mr Robert Walton of Counsel	Instructed by Harrogate Borough Council
He called	
Ms Haslam BA(Hons) MA	Environment Agency
FGS MCIWM	
Mr D Allenby BA(Hons)	Chief Planner (Forward Planning), HBC
MRTPI	
Mr J Etchells MA BPhil	Director John Etchells Consulting, Ltd
MLI	

FOR NORTH YORKSHIRE COUNTY COUNCIL:

Mr Guy Williams of Counsel	Instructed by North Yorkshire County Council
He called	
Ms P Johnson BSc(Hons)	Team Leader Transport and Development, NYCC
CEng MICE	

FOR HEATHER IVE ASSOCIATES (APPELLANT):

Mr Charles Banner of Counsel	Instructed by Marrons
He called	
Mr P Rech BA BPhil LD	Director, FPCR
CMLI	
Mr B Plumb BSc(Hons)	Executive Director Waterman, Boreham Ltd
CEng MICE MCIHT	
Mr C Hough BSc FRICS	Principal, Sigma Planning Services

FOR REFINED ESTATES LIMITED (APPLICANT):

Mr Clive Newberry QC	Instructed by Manches LLP
He called	
Mr J Webb BEng(Hons)	Associate, Transportation Planning
MCIHT	(International) Ltd
Mr C Simkins BA(Hons)	Director, RPS
MRTPI	
Mr S Gregory RIBA	Director and Partner, Turnkey Design
DipArch DipArch Con	Partnership
Mr B Denney BA(Hons)	Director, Pegasus Environmental
DIPLA CMLI CENV MIEMA	

FOR JAYTEE (RAINTON) LLP (APPLICANT):

Mr John Litton QC	Instructed by Walton and Co.
He called	
Mr A Long BSc FRICS	Design and Operation advisor
Mr M Lane BA(Hons)	Associate Partner, Development Planning
MRTPI	Partnership LLP
Mr P Beswick BA(Hons)	Technical Director, Enzygo Ltd
DipLA	

Mr S Wilkins IEng MICE MCIHT	Associate, Steer Davies Gleave
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FOR EXELBY SERVICES LIMITED (APPLICANT):

Mr Andrew Williamson of Counsel	INSTRUCTED BY I D PLANNING
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He called	
Mr J Phillip BSc MCIHT	Principal Consultant, AECOM
Mr M Popplewell BSc MA MBA CMLI	Popplewell Associates
Mr Exelby	Owner
Mr J Williams BA(Hons) MA MRTPI	Director, I D Planning

FOR THE HIGHWAYS AGENCY:

Mr Ian Ponter of Counsel	Instructed by Highway Agency
He called	
Mr I Askew BSc CEng MICE	Head of Spatial Planning, HA
Mr P Cawthorne MSc BSc CEng MCIHT	JMP Consultants Ltd

FOR MOTO HOSPITALITY LIMITED:

Mr Robert Fookes of Counsel	Instructed by Savills
He called	
Mr P Dixon MA MRICS CMIHT MEI CEnv	Director, Savills
Mr P Finlayson BSc CEng MICE MCIHT MCIWEM	Managing Director, PFA Consulting
Ms S Reynolds BSc(Hons) DipLD MA CMLI	Director, Cunnane Stratton Reynolds

FOR KIRBY HILL RESIDENTS AGAINST MOTORWAY SERVICES:

Mr Gareth Owens	Resident
He called	
Dr A Ramsden	Resident
Mr B Pickering	Resident
Mr G Harris	Resident
Lt Col K Lawson	Resident
Mr M Rae	Resident

INTERESTED PERSONS:

Representations at evening public meeting at Boroughbridge	
Cllr G Craggs (IP1)	Chairman of Boroughbridge Town Council
Mr R Compton(IP2)	Newby Hall Estate
Mr L Gill (IP3)	

Mr E Welsby(IP4)	Chair of Governors at Kirby Hill Church of England Primary School
Mrs L Harris (IP5)	Resident
LT Col (ret'd) K Lawson on behalf of Mr A Ormshaw (IP6)	Resident
Mr J Watson (IP7)	NY County Councillor for Boroughbridge and its surrounding villages
Judge Simon Hawkesworth QC (IP8)	Resident
Dr R Nixon (IP9)	Resident
Mr K Cale (IP10)	Resident
Mr J Slator (IP11)	Resident
Mr G Smailes (IP12)	Chair of Kirby Hill and District Parish Council
Rt Rev C Handford (IP13)	Resident
Miss S Owens (IP14)	Resident
Mr J Ramsden (IP15)	Resident
Mr M Collins (IP16)	Chairman of Langthorpe Parish Council
Mr Rutherford (IP17)	Resident
Ms Praud (IP18)	Resident
Representations at evening public meeting at Leeming Bar	
Mrs Taylor (IP19)	Resident
Mr M Raper (IP20)	Resident
Mrs Readman (IP21)	Resident
Mr Craggs (IP22)	Resident
Mr Stead (IP23)	Resident
Mr R Sayer (IP24)	Resident
Ms J Utley (IP25)	On behalf of employees at Leeming Bar Services
Mr L Clarke (IP26)	On behalf of employees at Leeming Bar Services
Mrs M Tiplady (IP27)	Resident and representative of Leeming Bar Ward on Aiskew Bar Parish Council
Mr T Foster (IP28)	Resident
Mr P Braithwaite (IP29)	W Braithwaite and Sons
Mr C Blanchard (IP30)	John H Gill and Sons
Mr P Metcalf (IP31)	W Metcalf and Sons
Mr D Nutter (IP32)	Sayers Road Tankers Ltd
<i>(IP33 not allocated)</i>	
Mr R Jenkins (IP34)	Bedale Motor Factors Ltd
Mr Gatenby (IP35)	Vale of Mowbray Ltd
Ms C Dalton (IP36)	Londonderry Lodge Café
Mr Reed (IP37)	Resident
Mr Duff (IP38)	Resident
Mr Aitken (IP39)	Resident
Ms J Coupland (IP40)	Resident
Representations at Inquiry day sessions	
Mr C Brown (IP41)	District Councillor for Wathdale Ward
Mr A Skidmore (IP42)	HBC Cabinet Member
Mr J Archer (IP43)	Resident
Mrs Y Wainwright (IP44)	Resident
Canon K Punshon (IP45)	For the Chapter of Ripon Cathedral
Mr B Bateman (IP46)	County Councillor for Ripon

Mr P West MBE (IP47)	Chairman of Melmerby and Middleton Quernhow Parish Council
Mr J Milner (IP48)	Chairman of Hewick and Hutton Parish Council
Mr P Richardson (IP49)	County Councillor for the Masham and Fountains Division
Ms L Potter (IP50)	Chair of the Harrogate and District CPRE
Sir James Graham (IP51)	Friends of Wath, Melmerby, Nosterfield and East Tanfield
Lady Graham (IP52)	Friends of Wath, Melmerby, Nosterfield and East Tanfield
Dr S Moorhouse (IP53)	Friends of Wath, Melmerby, Nosterfield and East Tanfield
Mr Kettlewell (IP54)	Exelby, Leeming and Newton Parish Council
Ms D Dixon (IP55)	Aiskew and Leeming Bar Parish Council
Mr N Brown (IP56)	District Councillor for Newby Ward
Mr D Crisp (IP57)	Chairman Aiskew and Leeming Bar Council

Annex 5**Final Programme (Sitting 2 November 2010 - 4 February 2011)**

Need Issue		
Tues 2 Nov 2010	HA	Askew
Wed 3 Nov	HIA JT JT	Hough Lane Wilkins
Thurs 4 Nov	XLB MOT	Bird Dixon
Fri 5 Nov	REL	Simkins
Tues 23 Nov	HBC HBC	Allenby Dixon
The Cases		
Wed 24 Nov	HIA	Plumb
Thurs 25 Nov	HIA HIA	Rech Hough
Fri 26 Nov	HIA	Hough (cont)
Tues 30 Nov	REL REL	Gregory Denney
Wed 1 Dec	REL	Webb
Thurs 2 Dec	REL JT	Simkins Beswick
Fri 3 Dec	JT JT	Beswick (cont) Long
Tues 7 Dec	JT JT	Wilkins Lane
Wed 8 Dec	JT	Lane (cont)
Thurs 9 Dec	No sitting	
Fri 10 Dec	HA	Askew (in chief only – sick)
Tues 14 Dec	HA HIA NY	Cawthorne Plumb (recalled) Ms Johnson
Wed 15 Dec	NY MOT MOT	Ms Johnson (cont) Finlayson Reynolds
Thurs 16 Dec	MOT MOT	Reynolds Dixon
Fri 17 Dec	No sitting	
Wed 5 Jan 2011	XLB XLB XLB	Phillip Popplewell Exelby
Thurs 6 Jan	XLB Interested person	Williams Cllr D Crisp, Aiskew PC incorporating Aiskew &

		Leeming Bar
Fri 7 Jan	No sitting	
Mon 10 Jan	<p>EVENING PUBLIC MEETING HELD AT BOROUGHBRIDGE</p> <p>Councillor Geoff Craggs Richard Compton Mr Les Gill Mr Eric Welsby Mrs Louise Harris Lt Col (retd) Ken Lawson, on behalf of Mr Andy Ormshaw Councillor John Watson Judge Simon Hawkesworth QC Dr Ron Nixon Mr Kevin Cale Mr Colin Slator Mr Gerald Smailes Rt Rev Clive Handford Miss Sarah Owens Mr Jim Ramsden Mr Mike Collins Mr Rutherford Ms Praud</p>	
Tues 11 Jan	Interested person KH KH KH KH KH	Cllr N Brown, Newby Ward Dr Ramsden Pickering Harris Lt Col Lawson OBE Rae
Wed 12 Jan	HBC (EA)	Etchells
Thurs 13 Jan	No sitting	
Fri 14 Jan	No sitting	
Mon 17 Jan	<p>EVENING PUBLIC MEETING HELD AT LEEMING BAR</p> <p>Mrs Taylor Mr M Raper Mrs Readman Mr Welsby Mr Craggs Mr Stead Mr R Sayer Ms J Utley Mr Leslie Clarke Margaret Tiplady Mr T Foster Mr P Braithwaite, W Braithwaite and Sons Mr C Blanchard Mr P Metcalfe, W Metcalfe and Sons Ltd Mr D Nutter, Sayers Road Tankers Ltd Mr R Jenkins, Bedale Motor Factors Ltd Mr Gatenby of the Vale of Mowbray Ltd Company Ms C Dalton, Londonderry Lodge.</p>	

	Mr Reed Mr Duff Mr Aitken Ms Janet Coupland	
Tues 18 Jan	Interested persons	Cllr Chris Brown, Wathvale Ward Cllr Alan Skidmore, cabinet member for Finance & Resources Harrogate Borough Council Mr James Archer Ms Yvonne Wainwright Cannon Keith Punshon Cllr Bernard Bateman, North Yorkshire County Council Mr Peter West Mr John Milner Cllr Paul Richardson, Masham & Fountrain Division Linda Potter on behalf of the Harrogate & District CPRE Sir James Graham Lady Graham Dr Stephen Moorhouse
Wed 19 Jan	HBC	Allenby
Thurs 20 Jan	Conditions session	
Fri 21 Jan	No sitting	
Wed 2 Feb	Mr Kettlewell (Chairman Exelby, Leeming & Newton PC) Cllr Dorothy Dixon KH closing MOT closing	NY closing HA closing
Thurs 3 Feb	HBC closing XLB closing	JT closing
Fri 4 Feb	REL closing HIA closing	CLOSE INQUIRY

Annex 6**Core Documents**

SECTION ONE – Government documents: legislation and national guidance	
CD1.1	PPS1 – Delivering Sustainable Development
CD1.2	Supplement to Planning Policy Statement 1: Planning and Climate Change – Published in December 2007
CD1.3	PPS4 – Planning for Sustainable Economic Growth
CD1.4	PPS4 – Companion Guide
CD1.5	PPS5 – Planning for the Historic Environment
CD1.6	PPS5 – Companion Guide
CD1.7	PPS7 – Sustainable Development in Rural Areas
CD1.8	PPS9 – Biodiversity and Geological Conservation
CD1.9	PPG13 – Transport
CD1.10	Planning Policy Statement 22: Renewable Energy (PPS22)
CD1.11	Planning Policy Statement 23: Planning and Pollution Control (PPS23)
CD1.12	Planning Policy Statement 24: Planning and Noise (PPS24)
CD1.13	Planning Policy Statement 25: Development and Flood Risk (PPS25)
CD1.14	Circular 01/2008 Policy on Service Areas and other Roadside Facilities on Motorways and All-Purpose Trunk Roads in England
CD1.15	Circular 02/2007 Planning and the Strategic Road Network
CD1.16	DCLG/DfT Guidance on Transport Assessment,
CD1.17	TD22/06 Layout of Grade Separated Junctions
CD1.18	TD9/93 Highway Link Design
CD1.19	TD16/07 Geometric Design of Roundabouts
CD1.20	HD19/03 Road Safety Audits
CD1.21	BSI British Standards BS 8300:2009 – Design of Buildings and their Approaches to Meet the Needs of Disabled People
CD1.22	The Guidelines for Environmental Impact Assessment, Institute for Environmental Management and Assessment
CD1.23	Roadside facilities on the Strategic Road Network (Public consultation on policy proposals): 2010
CD1.24	Guidelines for landscape character assessment and Landscape Institute Circular 01/09
CD1.25	Strategy for Lorry Parking Provision in England (Dept. of Transport)
CD1.26	Managing Health & Safety in Construction (HSE)
CD1.27	Good Practice Guidelines: Delivering Travel Plans through the Planning Process – Department for Transport
CD1.28	Turning flows at Motorway Service Areas – Prepared for QS, Traffic Safety and Environment Division (TSE), Highways Agency
CD1.29	Effectiveness of UK Motorway Service Areas in Reducing Sleep Related and Other Collisions (Article)
CD1.30	Department of Transport Road Safety Report Number 21 – Driver Sleepiness
CD1.31	Department of Transport Road Safety Report Number 22 – Sleep Related Vehicle Accidents on Different Roads and Road Types in the UK
CD1.32	Department of Transport Road Safety Research Report Number 52 – Sleep-Related Crashes on Sections of Different Road Types in the UK (1995–2001)
CD1.33	Department for Transport Road Safe Research Report Number 57 - Effectiveness of Motorway Service Areas in Reducing Fatigue Related and Other Accidents

CD1.34	Design, Construction, Modification, Maintenance and Decommissioning of Filling Station (Edition 2)
CD1.35	Deleted
CD1.36	DMRB TA 90/05 'The Geometric Design of Pedestrian, Cycle and Equestrian Routes
CD1.37	Deleted
CD1.38	National Countryside Character Area 21 description
CD1.39	National Countryside Character Area 22 description
CD1.40	National Countryside Character Area 23 description
CD1.41	National Countryside Character Area 24 description
CD1.42	National Countryside Character Area 25 description
CD1.43	National Countryside Character Area 28 description
CD1.44	National Countryside Character Area 30 description
CD1.4	Landscape Character Assessment, Guidance for England and Scotland – The Countryside Agency and Scottish Natural Heritage,
CD1.46	Lorry Parking Baseline Report. Understanding the Current Situation
CD1.47	Wildlife and Countryside Act 1981 (as amended)
CD1.48	The Conservation of Habitats and Species Regulations 2010
CD1.49	IEEM (2006) Guidelines for Ecological Impact Assessment in the United Kingdom
CD1.50	DMRB TD 42/95, "Geometric Design of Major/Minor Priority Junctions"
CD1.51	DETR Circular 03/99: Planning Requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development.
CD1.52	PPG4 Environment Agency Pollution Prevention Guidelines
CD1.53	Roads Circular 1/94 – Motorway Service Areas
SECTION TWO – Regional documents	
CD2.1	North West Yorkshire Strategic Flood Risk Assessment
CD2.2	Leeds Landscape Assessment
CD2.3	The Yorkshire and Humber Plan: Regional Spatial Strategy to 2026
SECTION THREE – Pre-application, application and other documents: Kirby Hill – Heather Ive Associates	
CD3.1	Decision letter
CD3.2	Officers' report to committee
CD3.3	Planning application form and location plan
CD3.4	Design & Access Statement
CD3.5	Environmental Statement Update 2008 including Appendix 1 (letter and NTS)
CD3.6	Appendices 11 and 12 to ES Ecology and FRA
CD3.7	Appendix 2 to ES Illustrative Masterplan figure 2.1
CD3.8	Appendix 2 to ES Aerial perspective fig 2.2 and sections fig 2.3
CD3.9	Appendix 2 to ES Parameters plan figure 2.4
CD3.10	Appendix 2 to ES Location Plan figure 2.5
CD3.11	Appendix 9 to ES Topography figures 9.1 – 9.9
CD3.12	Statement of Community Involvement
CD3.13	Transport Assessment with Appendices
CD3.14	Minutes of Harrogate BC Planning Committee 174/08(3): Reasons for Deferral
CD3.15	Harrogate BC Planning Committee 189/08 Report on Applications Determined by Officers: decision date 30 March 2009
CD3.16	Third Party Correspondence (1): various
CD3.17	Third Party Correspondence (2): various

CD3.18	Third Party Correspondence (3): various
CD3.19	Third Party Correspondence (4): various
CD3.20	Third Party Correspondence (5): various
CD3.21	Third Party Correspondence (6): various
CD3.22	Statutory Consultees' Correspondence (1): various
CD3.23	Statutory Consultees' Correspondence (2): various
CD3.24	Statutory Consultees' Correspondence (3): various
CD3.25	Pre- Application – EIA Screening opinions, scoping responses etc
CD3.26	Regulation 19 Submission (Voluntary): 29 September 2010
CD3.26.1	Illustrative Master Plan amendments Rev B
CD3.27	Plans & Drawings
CD3.28	Environmental Statement 2002: December 2010
CD3.29	Regulation 19 Submission (Voluntary)
SECTION FOUR –Pre-application, application and other documents: Motel Leeming – Mr Carl Les	
CD4.1A	Officers' report to Members on MSA area – 09/01202/OUT
CD4.1B	Deleted – duplicate of 7.24
CD4.2A	Committee minutes of CD4.1 meeting: 17 September 2009
CD4.2B	Deleted – duplicate of 7.24
CD4.3	Application Form
CD4.4	Article 6 Notice
CD4.5	Site Location Plan LES006.7
CD4.6	Existing Site Plan SK 1004 rev A
CD4.7	Proposed Site Plan SK1003_C
CD4.8	Revised Site Layout 7956/32
CD4.9	Landscape Sketch Layout 79567/00501/A
CD4.10	Planning Statement and Appendices 1-6
CD4.11	Transport Statement
CD4.12	Transport Statement Appendices A – V
CD4.13	Design & Access Statement and Appendices
CD4.13.1	Design & Access Statement Addendum
CD4.14	Stage 1 Road Safety Audit
CD4.15	Revised Stage 1 Road Safety Audit
CD4.16	Framework Travel Plan
CD4.17	Revised Framework Travel Plan
CD4.18	Ecology Survey
CD4.19	Existing Site Topography
CD4.20	Flood Risk Assessment
CD4.21	Environmental Desk Study (Ref: D/I/79567/04)
CD4.22	Transport Assessment Addendum 1
CD4.23	Transport Assessment Addendum 2
CD4.24	Transport Assessment Addendum 3
CD4.25	Alternative Site Assessment
CD4.26	Landscape Visual Impact Assessment (LVIA)
CD4.27	Screening direction of Secretary of State: 11 September 2009
CD4.28	Ward Hadaway request for Screening from HDC
CD4.29A	Screening Opinion of HDC
CD4.29B	Screening Opinion of HDC
CD4.30	All consultation responses to planning application 09/01202/OUT
CD4.31	Letter from the EA to PINS
CD4.32	Updated Master Plan (79567/35C)

CD4.33	Tree Survey
CD4.34	Proposed Sections along HGV Route 79567/033
CD4.35	Proposed sections along abnormal vehicle route - 79567/034
CD4.36	Transport Addendum NO 4 – December 2010
CD4.36.1	Note on CD4.36 following NYCC comments
CD4.37	79567/00517/D – Proposed Landscape Masterplan
CD4.38	7956/37 – Proposed Improvement to A1(M) Leeming Interchange Eastern Roundabout
SECTION FIVE – Pre-application, application and other documents: Jaytee (Rainton) LLP – Ripon Services	
CD5.1	Planning Application Forms
CD5.2	Design and Access Statement – reference 1076309/R003pg;
CD5.3	Environmental Statement Volumes 1 and 2 & 3 – reference 1076309/R004pg
CD5.4	Non-Technical Summary – reference 1076309/ NTS001kon;
CD5.5	Preliminary Geo-Environmental Investigation reference 1133/1
CD5.6	Preliminary Night Time Assessment
CD5.7	Statement of Community Involvement
CD5.8	Sustainability Statement
CD5.9	Travel Plan
CD5.10	General Site Layout – drawing TSP/315/001
CD5.11	Food Court Plan – drawing TSP/315/002B
CD5.12	Food Court Elevations – drawing TSP/315/003
CD5.13	Food Court Elevations – drawing TSP/315/004A
CD5.14	Redline Drawing – drawing TSP/315/005B
CD5.15	Filling Station Elevations – drawing TSP/315/006
CD5.16	Filling Station Plan Layout – drawing TSP/315/007A
CD5.17	Hotel Plan Layout – drawing TSP/315/008;
CD5.18	Hotel Elevations – drawing TSP/315/009
CD5.19	Long Sections – drawing TSP/315/010A
CD5.19.1	Long Sections – drawing Number TSP-315/010B.
CD5.20	Location Plan – drawing TSP/315/011
CD5.21	Site Plan – drawing TSP/315/012;
CD5.22	Site Layout (with Potential Additional Parking) – drawing TSP/315/014
CD5.23	3D Views
CD5.24	Relevant correspondence with the LPA
CD5.24.1	Further Relevant correspondence with the LPA
CD5.25	Committee report
CD5.26	DPP letter to Harrogate BC in relation to consultation responses
CD5.27	General Site Layout – TSP-315/001 Rev P
CD5.28	Ripon Motorway Service Area Ecological Walkover Study – Reference 60147552
CD5.29	Draft heads of terms for a Section 106 Agreement
CD5.30	A letter from DPP in response to a letter of objection from CB Richard Ellis: 27July 2010
CD5.31	Revised Travel Plan
CD5.32	Revised Transport Assessment
CD5.33	Natural England Letter: 15 June 2010
CD5.34	Natural England Letter: 9 September 2010
CD5.35	Objection letter from Campaign to Protect Rural England (CPRE)
CD5.36	Habitat Management Plan

CD5.37	Letter from Welcome Break: 15 November 2010
CD5.38	Letter to Laura Renaudon NYCC: 16 November 2010
CD5.39	Letter to Simon Jones HA: 16 November 2010
SECTION SIX – Pre-application, application and other documents: Baldersby Gate Services – Refined Estates Limited	
CD6.1	Pre-Application Scoping Opinion
CD6.2	Scoping Response – Yorkshire Water
CD6.3	Scoping Response – North Yorkshire CC Business 7 Environmental Services
CD6.4	Scoping Response – Natural England
CD6.5	Planning Application Form, Letter and Site Location Plan (T3287-030)
CD6.6	Illustrative Site Layout (T3287-031)
CD6.7	Detailed Access Proposals (22280_6)
CD6.8	Design and Access Statement
CD6.9	Statement of Community Engagement
CD6.10	Planning Supporting Statement and Appendices
CD6.11	Environmental Statement Non Technical Summary
CD6.12	Environmental Statement Volume I
CD6.13	Environmental Statement Volume II – Technical Appendices
CD6.14	Phase 1 Environmental Risk Assessment
CD6.15	Statutory Consultee Correspondence – CPRE
CD6.16	Statutory Consultee Correspondence – HBC Land Drainage
CD6.17	Statutory Consultee Correspondence – HBC Environmental Health
CD6.18	Statutory Consultee Correspondence – Natural England
CD6.19	Statutory Consultee Correspondence – NYCC Archaeology
CD6.20	Statutory Consultee Correspondence – Environment Agency
CD6.21	Statutory Consultee Correspondence – NYCC Highways
CD6.22	Statutory Consultee Correspondence – NYCC Heritage
CD6.22.1	Statutory Consultee Correspondence – NYCC Heritage
CD6.23	Statutory Consultee Correspondence – Baldersby Parish Council
CD6.24	Statutory Consultee Correspondence – Ripon City Council
CD6.25	Statutory Consultee Correspondence – Highways Agency
CD6.26	Third Party Correspondence – Mr Archer
CD6.27	Third Party Correspondence – Mr Blackie
CD6.28	Third Party Correspondence – Ms Finnie
CD6.29	Third Party Correspondence – Ward Hadaway
CD6.30	Third Party Correspondence – Wilkinson
CD6.31	Third Party Correspondence – Gill
CD6.32	Third Party Correspondence – DPP
CD6.33	Third Party Correspondence – Helps
CD6.34	Committee Report, Appendices and Minutes
CD6.35	SOCG & Travel Plan – HA & NY & REL
CD6.36	Environmental Statement: Further Information Report: December 2010
SECTION SEVEN –Pre-application, application and other documents: Coneygarth – Exelby Services Limited	
CD7.1	Planning Application Forms
CD7.2	Notice No 1
CD7.3	Planning Statement
CD7.4	Design & Access Statement
CD7.5	Environmental Statement – Non Technical Summary

CD7.6	Traffic & Transport Assessment
CD7.6.1	Traffic & Transport Assessment Appendix A
CD7.6.2	Traffic & Transport Assessment Appendix B
CD7.6.3	Traffic & Transport Assessment Appendix C
CD7.6.4	Traffic & Transport Assessment Appendix D
CD7.6.5	Traffic & Transport Assessment Appendix E
CD7.6.6	Traffic & Transport Assessment Appendix F
CD7.6.7	Traffic & Transport Assessment Appendix G
CD7.6.8	Traffic & Transport Assessment Appendix H
CD7.6.9	Traffic & Transport Assessment Figures 1 & 2
CD7.6.10	Traffic & Transport Assessment Figures 3 – 15
CD7.6.11	Traffic & Transport Assessment Figure 16
CD7.7	Noise Impact Statement
CD7.8	Road Traffic Assessment
CD7.9	Archaeological Assessment
CD7.10	Ecology Report
CD7.11	GeoEnvironmental Appraisal
CD7.12	Ground Condition Assessment
CD7.13	Flood Risk Assessment
CD7.14	Sustainable Drainage Systems
CD7.15	Sustainability & Energy Performance Assessment
CD7.15.1	Appendix 1 Shop Carbon_1
CD7.15.2	Appendix 1 Shop Carbon_2
CD7.15.3	Appendix 1 Shop Carbon_3
CD7.15.4	Appendix 1 Cafe Carbon_1
CD7.15.5	Appendix 1 Cafe Carbon_2
CD7.15.6	Appendix 1 Cafe Carbon_3
CD7.15.7	Appendix 2 BREEAM
CD7.15.8	Appendix 3 Lighting
CD7.15.9	Appendix 3 Solar Panels
CD7.16	Photographs
CD7.17.1	S101A Existing Site Layout Phase 1
CD7.17.2	S102A Existing Site Layout Phase 2
CD7.17.3	S103A Existing Site Layout Plan
CD7.17.4	D21, Proposed Floor Forecourt Layout
CD7.17.5	D22, Proposed Elevations
CD7.17.6	D23, Proposed Forecourt Shop, Floor Layout & Elevations
CD7.17.7	D24, Proposed Tank Farm Layout & Elevations
CD7.17.8	D25, Proposed Café Floor layout & Elevations
CD7.17.9	D101A Proposed Site Layout Phase 1
CD7.17.10	D102A Proposed Site Layout Phase 2
CD7.17.11	D103A Proposed Site Levels & Gradients
CD7.17.12	D104A Proposed Drainage layouts
CD7.17.13	D105 Proposed Landscape Layout
CD7.18	Road Safety Audit
CD7.19	Letters of Support – Various
CD7.20.1	S101B Existing Site Layout Phase 1
CD7.20.2	S102B Existing Site Layout Phase 2
CD7.20.3	S103B Existing Site Layout Plan
CD7.20.4	D21B Proposed Floor Forecourt Layout
CD7.20.5	D22B Proposed Elevations

CD7.20.6	D23B Proposed Forecourt Shop, Floor Layout & Elevations
CD7.20.7	D24B Proposed Tank Farm Layout & Elevations
CD7.20.8	D25B Proposed Café Floor layout & Elevations
CD7.20.9	D101D Proposed Site Layout Phase 1
CD7.20.10	D103B Proposed Site levels and Gradients
CD7.20.11	D104B Proposed Drainage layouts
CD7.20.12	D105 A Proposed Landscape Layout
CD7.21	HA Tech Note on TA's for Yorkshire MSA's
CD7.22	Highways Agency Inquiry Note on Existing and Proposed Roadside Service Facilities on the A1 in North Yorkshire
CD7.23	Flow Chart: formulation of hybrid flows
CD7.24	Report to Committee
CD7.25	Letter from third party objecting the Exelby Application
CD7.26	Letter to PINS requesting Screening Direction
CD7.27	Screening Direction: 15 September 2010
CD7.28A	TAA Volume 1 of Appendices (AECOM)
CD7.28B	TAA Volume 2 of Appendices (AECOM)
CD7.28C	CD/7.28C – TAA Volume 2 of Appendices (AECOM)
CD7.29	Detailed Planting Plan
CD7.29A	Proposed Truckstop on Land at Coneygarth Supplementary TAA
CD7.29B	Proposed Truckstop on Land at Coneygarth Supplementary TAA – Appendices – Vol 1
CD7.29C	Proposed Truckstop on Land at Coneygarth Supplementary TAA – Appendices – Vol 2
SECTION EIGHT – Harrogate Borough Council documents	
CD8.1	Harrogate LDF Core Strategy Document adopted 11 February 2009
CD8.2	Saved policies of the Harrogate Local Plan adopted February 2001
CD8.2.1	Saved policy T7
CD8.3	Harrogate District Landscape Character Assessment 2004
CD8.4	Landscape Character Area 81, Dishforth and Surrounding Farmland – extract from CD8.3
CD8.5	HBC Development Control Committee Report to review the Council's position on MSA development in Harrogate District
SECTION NINE – Hambleton District Council documents	
CD9.1	Hambleton LDF Core Strategy DPD adopted April 2007
CD9.2	Hambleton LDF Development Policies DPD adopted 26 February 2008
CD9.3	Deleted
CD9.4	Deleted
CD9.5	Hambleton District Landscape Appraisal 1992
CD9.6	Hambleton Countryside Design Summary
CD9.7	Report on the Examination into Hambleton's Allocations DPD
CD9.8	Hambleton District Local Plan – Saved Policy L1 and supporting text
CD9.9	Hambleton LDF Allocations DPD – Submission Draft
CD9.10	Hambleton LDF Supplementary Planning Document (SPD) – Sustainable Development
CD9.11	Hambleton Economic Development Study 2005 (NLP Report)
CD9.12	Hambleton LDF Allocations DPD adopted 21 December 2010
CD9.13	Development Policies and Allocations Proposals Map – Annex 5 adopted 21 December 2010
SECTION TEN – North Yorkshire County Council documents	
CD10.1	North Yorkshire Local Transport Plan 3 (2011 - 2016): draft

CD10.2	LTP2 2006 – 2011 (adopted 2006)
CD10.3	LTP1 2001 – 2006 (adopted 2000)
CD10.4	Transport Issues & Development – A Guide, 2003
CD10.5	Public Rights of Way at Leeming, plan at October 2009
CD10.6	Letter from NYCC re. A684 Bedale Aiskew Leeming Bypass (BALB): September 2009
CD10.7	BALB consultation leaflet 2009
CD10.8	BALB consultation leaflet 1995
CD10.9	BALB Exhibition Boards
SECTION ELEVEN – Highways Agency documents	
CD11.1	Letter from HA to Hambleton DC and Harrogate BC: 28 February 2009
CD11.2	SRN Service Areas Review January 2010 – National Report
CD11.3	North East Region Services Report & appendices: January 2010
CD11.4	Yorkshire & Humber Region Services Report & appendices: January 2010
CD11.5.1	Draft Policy on Service Areas and other Roadside Facilities on Motorway and All Purpose Trunk Roads in England – Explanatory Notes
CD11.5.2	Roadside Facilities on Motorway – Consultation Document
CD11.5.3	Consultation on Service Areas and other Roadside Facilities on Motorway and All Purpose Trunk Roads in England – Summary of Responses
CD11.5.4	Roadside Facilities Policy Review – Partial Impact Assessment
CD11.6	DfT Transport Spending Review Press Notice
CD11.7	Traffic Flows & Accident Data – A1(M) Wetherby to Dishforth
CD11.8	HA's note on Existing and Proposed Roadside Services Facilities on the A1 North Yorkshire
CD11.9	HA Technical Notes in one bundle including HA IN 03 Revised
CD11.10	Note on Highways Agency Position on Traffic Flow
CD11.11	HAS Comments on XLB Truckstop Proposal
SECTION TWELVE – relevant planning history	
CD12.1	Inspector's Report to the First Secretary of State: 24 August 2004
CD12.2	DPM/FSoS decision letter: 4 August 2005
CD12.3	Decision letter and Inspector's Report of 1997 Inquiry
CD12.4	A1 Dishforth to Barton Secretary of State Decision Letter: 31 March 2008
CD12.5	A1 Dishforth to Barton Inspector's Report: 9 February 2007
SECTION THIRTEEN – Statements of Case	
CD13.1	Heather Ive – Rule 6 Statement October 2009
CD13.2	HBC – Rule 6 Statement October 2009
CD13.3	HDC – Rule 6 Statement July 2009
CD13.4	HDC – Rule 6 Statement October 2009
CD13.5	Deleted
CD13.6	NYCC – Rule 6 Statement 15 October 2009
CD13.7	Moto – Rule 6 Statement and Appendices I
CD13.8	Deleted
CD13.9	Statement of case from Harrogate Borough Council
CD13.10	Statement of case from Heather Ive
CD13.11	Statement of case from Jaytee (Rainton) LLP
CD13.12	Statement of case from Kirby Hill RAMS
CD13.13	Statement of case from Moto Hospitality Limited
CD13.14	Statement of case from North Yorkshire County Council
CD13.15	Statement of case from Refined Estates Limited
CD13.16	Statement of case from Mr Carl Les

CD13.17	Statement of case from Hambleton District Council
CD13.18	Statement of case from The Highways Agency
CD13.19	Statement of case from Exelby
SECTION FOURTEEN – Statements of Common Ground	
CD14.1	SOCG HBC – NYCC: October 2009
CD14.2	Deleted
CD14.3	SOCG HA – NY: October 2009
CD14.4	SOCG HIA – HBC: July 2009
CD14.4.1	Email from HBC agreeing SOC (14.4)
CD14.5.1	SOCG – HA & NY Local Highway Authority – A1(M) Wetherby to Leeming Traffic flows: July 2009
CD14.5.2	Deleted: duplicate of 14.11
CD14.5.3	Updated SOCG – HA & NY Local Highway Authority – A1(M) Wetherby to Leeming Traffic flows
CD14.6	SOCG between LES and HDC
CD14.6.1	Addendum & Appendix to SOCG between LES and HDC
CD14.7	SOCG between LES and NY & HA
CD14.7.1	Supplementary SOCG between LES, NY & HA
CD14.8	SOCG between JT & HBC
CD14.9	SOCG between REL & HBC
CD14.9.1	Supplementary SOCG between REL & HBC
CD14.10	SOCG between HIA & HBC
CD14.11	SOCG regarding distance verification data – NY & HA: June 2010
CD14.12	SOCG between HA & NY & HIA
CD14.12.1	SOCG between HA & HIA: updated 17 November 2010
CD14.13	SOCG between HA & NY
CD14.14	NOT allocated
CD14.15	SOCG between NYCC & HIA
CD14.16	SOCG between HBC & NY (Local Highway Authority)
CD14.17	NOT Allocated
CD14.18	SOCG between XLB & HDC
CD14.19	SOCG between HIA & HBC on drainage
CD14.20	SOCG between JT & HA & NY
CD14.21	Supplementary SOCG on foul drainage between LES, YWS & EA
CD14.22	SOCG between XLB, NY & HA
SECTION FIFTEEN – Planning Inspectorate and Secretary of State correspondence	
CD15.1	Recovery appeal letter from Secretary of State re. Kirby Hill
CD15.2	Call-in application letter GOYH to HDC re. Leeming Bar: 13 July 2009
CD15.3	Agreed bespoke Inquiry Programme: 7 August 2009
CD15.4	PINS letter with Inquiry Timetable: 1 September 2009
CD15.5	Ward Hadaway letter to PINS: 1 February 2010
CD15.6	Marrons to Ward Hadaway: 5 February 2010
CD15.7	Harrogate to PINS: 16 February 2010
CD15.8	PINS to Ward Hadaway: 19 February 2010
CD15.9	PINS to HBC: 19 February 2010
CD15.10	Ward Hadaway to PINS and Marrons: 2 March 2010
CD15.11	Marrons to Ward Hadaway: 8 March 2010
CD15.12	Ward Hadaway to PINS and Marrons: 19 March 2010
CD15.13	Ward Hadaway to PINS and Marrons: 25 March 2010
CD15.14	Marrons to Ward Hadaway: 26 March 2010

CD15.15	GOYH letter to Harrogate re Baldersby Gate
CD15.16	Call in application letter GOYH re Baldersby Gate: 22 July 2010
CD15.17	Call in application letter GOYH re Refined Estates, Jaytee and Exelby applications: 26 July 2010
CD15.18	Final Bespoke Programme
CD15.19	Final Timetable
CD15.20	Call-In letter from GOYH to Hambleton District Council: 22 July 2010
SECTION SIXTEEN – Pre-Inquiry notes	
CD16.1	Notes of Pre-Inquiry meeting held on 8 July 2009
CD16.2	Notes of Pre-Inquiry meeting held on 9 November 2009
CD16.3	Notes of the PIM meeting held on 20 July 2010

Annex 7**Proofs of Evidence and Inquiry Documents**

Highway Agency (HA)	
HA1/1	Proof of Evidence of Mr Askew (Need)
HA1/2	Mr Askew's Summary Proof of Evidence (Need)
HA1/3	Mr Askew's Appendices (Need)
HA2/1	Mr Cawthorne's Proof of Evidence (Transport and Highway). (Summary at the back)
HA101	Opening statement by HA
HA102	Letter from HA to PO: 30 November 2010
HA103	RSS Position Statement
HA104	Letter from HA to JT re agreed statement: 6 December 2010
HA105	Email from Mr S Wilkins to Mr P Cawthorne regarding traffic flows: 13 December 2010
HA106	Letter from Treasury Solicitor regarding HA's first witness: 20 December 2010
HA107	Response regarding questions raised by REL on HIA proposal
HA200	HA's perspective on HIA conditions
HA201	HA's perspective on JT conditions
HA202	HA's perspective on LES conditions
HA203	HA's perspective on REL conditions
HA300	Closing Submissions by The Highways Agency
HA301	Response to REL's costs application (REL301)
Harrogate Borough Council (HBC)	
HBC1/1	Mr Allenby's Summary Proof of Evidence (Need and Planning)
HBC1/2	Mr Allenby's Proof of Evidence (Need and Planning).
HBC1/3	Mr Allenby's appendices
HBC1/4	Response to RSS
HBC2/1	Mr Etchell's Summary Proof of Evidence (Landscape and Visual)
HBC2/2	Mr Etchell's Proof of Evidence (Landscape and Visual)
HBC2/3	Mr Etchell's Appendices to Proof of Evidence
HBC3/1	Summary Proof of Evidence of Angela Haslam. (Drainage)
HBC3/2	Ms Haslam's Proof of Evidence (Drainage)
HBC3/3	Ms Haslam's Appendices
HBC3/4	Ms Haslam's Supplementary Proof of Evidence and Appendices
HBC3/5	Ms Haslam's Appendices to HBC3/4 are included in the proof above
HBC3/6	Ms Haslam's Further Supplementary Proof: re Ripon Services
HBC3/7	Ms Haslam's Appendices to HBC3/6
HBC3/8	Ms Haslam's Supplementary Proof of Evidence: drainage at HIA site
HBC101	Opening Statement by HBC
HBC102	Contour Map – Figure 4
HBC103	Extract from The Strategic Framework (July 2005)
HBC104	Letter from YW to HBC: 9 December 2010
HBC105	Composite showing proposed mound at HIA site
HBC106	Letter from Government Office for Yorkshire and The Humber on extension of Saved Policies
HBC200	Ripon Services – Draft Conditions
HBC201	Baldersby Gate – Draft Conditions
HBC202	Kirby Hill – draft Conditions
HBC203	Ripon Services (JT) draft conditions <i>[as discussed at Inquiry]</i>
HBC204	Baldersby Gate (REL) draft conditions <i>[as discussed at Inquiry]</i>

HBC205	Kirby Hill (HIA) draft conditions <i>[as discussed at Inquiry]</i>
HBC206	Deleted
HBC206.1	Ripon Services (JT) – reasons for HBC conditions
HBC207	Deleted
HBC207.1	Baldersby Gate (REL) – reasons for HBC204 conditions
HBC208	Kirby Hill (HIA) – reasons for HBC205 conditions
HBC209	Site Restoration Scheme – proposed condition
HBC210	Minor amendments to HBC 203 & 204
HBC300	Closing Submissions by Harrogate Borough Council
Heather Ive Associates (HIA)	
HIA1/1	Mr Hough's Proof of Evidence (Need)
HIA1/2	Mr Hough's Proof of Evidence (Planning)
HIA1/3	Mr Hough's Appendices (Planning)
HIA1/4	Mr Hough's Summary Proof of Evidence on Need
HIA1/5	Mr Hough's Summary Proof of Evidence (Planning)
HIA1/6	Mr Hough's Rebuttal Proof of Evidence (Need)
HIA1/7	Mr Hough's Rebuttal Proof of Evidence (Planning)
HIA1/8	Response regarding the RSS
HIA1/9	Note on drainage proposals at Kirby Hill
HIA2/1	Mr Rech's Summary Proof of Evidence (Environmental)
HIA2/2	Mr Rech's Proof of Evidence of Phil Rech (Environmental)
HIA2/3	Mr Rech's Appendices
HIA2/4	Mr Rech's Rebuttal Proof of Evidence and Appendices
HIA3/1	Mr Plumb's Proof of Evidence (Highways and Transportation)
HIA3/2	Mr Plumb's Appendices
HIA3/3	Mr Plumb's Rebuttal Proof of Evidence
HIA101	Opening Statement by HIA
HIA102	Extract from Ongars Farm Design & Access Statement 2010
HIA103	Letter re HIA's decision to provide a voluntary Regulation 19 Submission: 24 September 2010
HIA104	Letter from Stephanie Walden Yorkshire Water Services Ltd: 29 November 2010
HIA105	Email from Stephanie Walden Yorkshire Water Services: 30 November 2010
HIA106	Letter from Road Chef to HIA: 2 December 2010
HIA107	Land Use Planning Guide - Yorkshire Water
HIA108	Note in relation to issues raised in respect to the proposed access arrangements
HIA109	Rebuttal Statement of Paul Chadwick to RJ Lonsdale
HIA110	Planning Permission – Stroud DC: 17 December 2010
HIA111	Appeal Decision Stalbridge Dock, Dock Road. Port of Garston, Liverpool: 5 October 2010
HIA112	SSE v Walsall MBC: 7 November 1997
HIA113	Information regarding the advertisement of R19 by HIA
HIA114	Note for the Inspector regarding lighting at Wetherby MSA
HIA115	Note in relation to issues in documents MOT109, MOT110 & MOT111 and on the clearance under the A168 Bridge
HIA116	Letter from HIA to Inspector regarding HIA Voluntary Regulation 19 Submission: 10 December 2010
HIA117	Letter from HIA to Inspector responding to KH, REL and MOT response to HIA's Voluntary Regulation 19 Submission: 28 January 2010

HIA118	HIA response to documents JT5/5 & JT6/5
HIA119	Cross sections across proposed mounding at southbound part of proposed MSA
HIA120	Rebuttal Note relating to Archaeology at Kirby Hill
HIA201	List of Application Plans
HIA202	Kirby Hill (HIA) final plans
HIA203	Draft Conditions
HIA204	Suggested Planning Conditions from HIA
HIA205	Note on HIA Condition 26
HIA206	Schedule of building heights and actual vehicle parking numbers in relation to HIA proposed conditions 6 and 16
HIA300	Closing Submissions by Heather Ive Associates
Jaytee Rainton (LLP)	
JT1/1	Mr Long's Summary Proof of Evidence (Design and Operation)
JT1/2	Mr Long's Proof of Evidence (Design and Operation)
JT1/3	Mr Long's Rebuttal Proof of Evidence
JT2/1	Mr Wilkins' Summary Proof of Evidence (Highways)
JT2/2	Mr Wilkins' Proof of Evidence (Highways)
JT2/3	Mr Wilkins' Appendices
JT2/4	Mr Wilkins' Summary Proof of Evidence (Need)
JT2/5	Mr Wilkins' Rebuttal Proof of Evidence (Need)
JT2/6	Mr Wilkins' Rebuttal Proof of Evidence
JT3/1	Mr Beswick's Summary Proof of Evidence (Landscape)
JT3/2	Mr Beswick's Proof of Evidence (Landscape)
JT3/3	Mr Beswick's Appendices
JT3/4	Mr Beswick's Rebuttal Proof of Evidence
JT4/1	Mr Barker's Summary Proof of Evidence (Ecology)
JT4/2	Mr Barker's Proof of Evidence (Ecology)
JT5/1	Mr Smart's Summary Proof of Evidence (Groundwater)
JT5/2	Mr Smart's Proof of Evidence (Groundwater)
JT5/3	Mr Smart's Appendices
JT5/4	Mr Smart's Rebuttal Proof of Evidence
JT5/5	Mr Smart's Statement (Groundwater at HIA site)
JT6/1	Mr Knott's Summary Proof of Evidence (Drainage)
JT6/2	Mr Knott's Proof of Evidence (Drainage)
JT6/3	Mr Knott's Appendices
JT6/4	Mr Knott's Rebuttal Proof of Evidence
JT6/5	Mr Knott's Statement (Drainage at HIA site)
JT6/6	Mr Knott's Statement (Drainage at REL site)
JT7/1	Mr Lane's Summary Proof (Planning)
JT7/2	Mr Lane's Proof of Evidence (Planning)
JT7/3	Mr Lane's Appendices
JT7/4	Mr Lane's Summary Proof of Evidence (Need)
JT7/5	Mr Lane's Rebuttal Proof of Evidence
JT7/6	RSS Position Statement
JT7/7	Rebuttal Evidence to XLB
JT101	Opening statement by JT
JT102	Letter for the Inspector responding to REL105: 18 November 2010
JT103	Submissions on behalf of JT re REL's proposed amendment
JT104	Response to Revised HGV Flows on the A1(M) & Appendices: 26 November 2010

JT105	Updated Drawing Schedule
JT106	Response to TD 16/07 Design Compliance
JT107	General site layout – TSP-315/001 – Rev Z
JT108	Agreed final layout – 222260/100/01 – REV E
JT109	Site Layout Plan showing the line of the Sections, now with its own drawing no TSP/315/0012
JT110	Site layout with levels – TSP/315/018A
JT111	Response to written representation by J T Lonsdale
JT112	Response to matters raised in relation to Ripon Services
JT113	Site layout (final) TSP/315/001 rev Z2
JT114	Technical Note on Areas of Built Development
JT115	Response to REL116 – Cut and Fill information
JT116	Response to REL5/1 – sewage treatment
JT117	Response to HIA118 – groundwater, sewage treatment and earthwork bund
JT118	Response to REL124 - earthwork quantities
JT200	Draft Conditions
JT201	Ripon Services (JT) final plans
JT201.1	Drawing Plans & Schedule (attached to JT201)
JT202	JT revised drawing schedule clipped in to JT201
JT203	Completed s106 unilateral undertaking re.: local employment and training; police force facilities floor space; and sourcing of materials
JT203A	Redline drawing to accompany JT203 (attached to JT203)
JT204	Updated draft conditions
JT300	Closing Submissions by Jaytee (Rainton) LLP
Kirby Hill RAMS (KH)	
KH1/1	Dr Ramsden's Proof of Evidence (Traffic and Highway Safety)
KH1/2	Dr Ramsden's Figures & Appendices
KH1/3	Dr Ramsden's Written Statement (Need and Spacing)
KH1/4	Dr Ramsden's Figures & Appendices (Need and Spacing)
KH1/5	Home Locations of KH RAMS members appearing at Public Inquiry
KH2/1	Mr Pickering's Proof of Evidence (Landscape and Environment)
KH2/2	Mr Pickering's Figures & Appendices
KH3/1	Mr Harris' Proof of Evidence (Residential Amenity, History & Archaeology)
KH3/2	Mr Harris' Figures & Appendices
KH4/1	Lt. Col. (Retd) Ken Lawson OBE Proof of Evidence (Aerodrome Safeguarding)
KH4/2	Lt. Col. (Retd) Ken Lawson OBE Figures & Appendices
KH5/1	Mr Rae's Proof of Evidence (Public Perception of Harm)
KH5/2	Mr Rae's Figures & Appendices
KH101	Opening Statement by KH
KH102	Profile of Mr Nick Flood.
KH103	Extract from 2006-2007 Travel Plan: Team Valley Gateshead
KH104	Correspondence Mr Plumb/Mr Cawthorne: 28 July 2008
KH105	Photographs – lighting at Wetherby MSA
KH106	Email from Mr Rech to Mr Rae: 23 June 2008
KH107	Letter from GH Dick 9 Regt AAC to Ms Rolland-Jones: 8 October 1997
KH108	Note regarding HIA111
KH109	Note regarding KH & Wetherby night sky photos
KH110	Letter to HIA in reply to HIA116: 14 December 2010

KH111	Representations and Letter and PINS information regarding HIA's Regulation 19 Voluntary Submission
KH300	Closing Submissions by Kirby Hill Residents Against Motorway Services (RAMS)
Moto Hospitality Limited (MOT)	
MOT2/1	Mr Dixon's Summary Proof of Evidence (Need)
MOT2/2	Mr Dixon's Proof of Evidence (Need)
MOT2/3	Mr Dixon's Appendices(Need)
MOT2/4	Mr Dixon's Summary Proof of Evidence (Site Specific Planning)
MOT2/5	Mr Dixon's Proof of Evidence (Site Specific Planning)
MOT2/6	Mr Dixon's Appendices (Site Specific Planning)
MOT2/7	Response to the RSS Issues
MOT3/1	Mr Finlayson's Summary Proof of Evidence (Highways)
MOT3/2	Mr Finlayson's Proof of Evidence
MOT3/3	Mr Finlayson's Appendices
MOT3/4	Mr Finlayson's Rebuttal Evidence (Exelby)
MOT4/1	Ms Reynolds' Summary Proof of Evidence (Landscape)
MOT4/2	Ms Reynolds' Proof of Evidence
MOT4/3	Ms Reynolds' Appendix 1
MOT4/4	Ms Reynolds' Appendices 5 - 13
MOT4/5	Ms Reynolds' Appendices 2-4
MOT4/6	Ms Reynolds' Rebuttal Proof of Evidence
MOT4/7	Ms Reynolds' Appendices to MOT/4/6
MOT4/8	Ms Reynolds' Rebuttal Evidence (Exelby)
MOT4/9	Ms Reynolds' Appendices to MOT/4/8
MOT4/10	Response to Leeming MSA
MOT4/11	Written response on behalf of Moto in relation to Leeming Revisions
MOT4/12	Comparison of site areas, percentages of development and mitigation proposed – including MOTO sites
MOT101	Opening Statement by MOT
MOT102	Value for money assessment
MOT103	Letter from Savills to Ian Askew of HA: 15 October 2008
MOT104	Extract from Hansard: 28 October 2010
MOT104A	Extract from Hansard: 26 October 2010
MOT105	SoS 'minded to grant' Decision on MSAs J3a-J6 of M42 West Midlands (6 Mar 2001)
MOT106	SoS decision on Re-opened inquiry (ref MOT105): 22 January 2009
MOT107	Related Inspector's Report (ref MOT106): 17 September 2008
MOT108	Drawing showing entry path curvature on site access roundabout to Ripon MSA
MOT109	Drawing showing alignment of connector road to meet standards to Kirby Hill MSA
MOT110	HA & the Planning Application Process – A protocol for dealing with Planning Applications
MOT111	Extract from Design Manual for Roads and Bridges – Cross Sections and Headrooms
MOT112	Extract from Design Manual for Roads and Bridges – Provision for Non-Motorised Users
MOT113	Exchange of correspondence from Moto & HA
MOT114	XLB102A resubmitted by MOT with amendments.
MOT115	Response regarding HIA's Additional Environment Information

MOT300	Closing Submissions by MOTO Hospitality Limited
North Yorkshire County Council (NY)	
NY1/1	Ms Johnson's Summary Proof of Evidence (Highways)
NY1/2	Ms Johnson's Proof of Evidence
NY1/3	Ms Johnson's Appendices
NY1/4	Ms Johnson's Supplementary Evidence (HIA appeal)
NY1/5	Ms Johnson's Appendices to NY1/4
NY1/6	Response to RSS by NYCC
NY101	Opening Statement by NYCC
NY102	Letter from NYCC dated 7 December regarding Western Dumbell Roundabout
NY103	Letter to HDC from AECOM dated 4 January
NY104	Letter on entry path radius shown on JT Drawing 222260/602 RevA: 20 January 2011
NY200	Explanatory note to s106 agreement XLB203
NY300	Closing Submissions by North Yorkshire County Council
Refined Estates Limited (REL)	
REL1/1	Mr Simkins' Proof of Evidence (Planning)
REL1/2	Mr Simkins' Summary Proof of Evidence (Need)
REL1/3	Mr Simkins' Summary Proof of Evidence (Site Specific)
REL1/4	Mr Simkins' Appendices
REL1/5	Mr Simkins' Rebuttal Proof of Evidence to MOTO
REL1/6	Mr Simkins' Rebuttal written response to KH RAMS
REL1/7	Mr Simkins' Rebuttal Proof of Evidence (incorrectly referenced as REL1/6)
REL1/8	Mr Simkins' Appendices to Rebuttal Proof (incorrectly referenced as REL1/7)
REL1/9	Mr Simkins' Rebuttal Evidence (Foul Drainage)
REL1/10	Mr Simkins' Appendices to REL/1/9
REL1/11	Mr Simkins' Response to the RSS Issue
REL1/12	Response to JT/114 – Note on areas of built development
REL2/1	Mr Webb's Proof of Evidence (Highways and Traffic)
REL2/2	Mr Webb's Summary of Evidence (Need)
REL2/3	Mr Webb's Summary of Evidence (Site Specific)
REL2/4	Mr Webb's Appendices
REL2/5	Mr Webb's Rebuttal Proof of Evidence (Need) (written submission)
REL2/6	Mr Webb's Rebuttal proof of Evidence of Mr Webb with appendices (incorrectly referenced as REL/2/5)
REL2/7	Mr Webb's Supplementary Proof of Evidence
REL2/8	Mr Webb's Appendices to Supplementary Proof of Evidence (REL/2/7)
REL3/1	Mr Denney's Summary of Evidence (Landscape and Visual)
REL3/2	Mr Denney's Proof of Evidence
REL3/3	Mr Denney's Appendices
REL4/1	Mr Gregory's Proof of Evidence (Design and Layout)
REL4/2	Mr Gregory's Appendices
REL4/3	Mr Gregory's Plans
REL4/4	Mr Gregory's Summary Proof of Evidence
REL4/5	Mr Gregory's Rebuttal Proof of Evidence
REL5/1	Response to JT/6/6
REL101	Opening Statement by REL
REL102	Letter on land holding from CBRE to NYCC: 1 November 2010

REL103	Option agreement re Land at Baldersby Gate, Hutton Conyers.
REL104	Letter from CLG to Jill Davis: Davis Partnership regarding Appeal – Swayfields Ltd and Shirley Estates: 22 January 2009
REL105	Letter from REL to the Inspector regarding traffic figures and drainage: 16 November 2010
REL106	Inspector's response to REL105
REL107	Letter for the Inspector on potential amendments to submitted scheme: 19 November 2010
REL108	Assessment Plan (Kirby Hill) (HIA)
REL109	Letter from Manches to James Lawson: 23 November 2010)
REL110	Extract from Circular 02/99 - Environmental Impact Assessment
REL111	Plan of Outlines of Baldersby Gate & Ripon Proposed MSA layouts
REL112	Email from Steven Gedye: 25 August 2010
REL113	Company (REL) Resolution re funding
REL114	Information on comparative building heights
REL115	REL response to written representation by R J Lonsdale on historic environment
REL116	Note on cut and fill balance: 7 December 2010
REL117	Information on Baldersby Gate further information report (Regulation 19)
REL118	Formal request for substitution of plans: 12 January 2011
REL119	Email chain regarding HIA's 2002 Environmental Assessment
REL120	Email chain regarding land ownership at Baldersby Gate
REL121	Letter CBRE to HA: 18 January 2011
REL122	REL representation concerning HIA December 2010 Voluntary Regulation 19 submission
REL123	Follow up on REL121: 20 January 2011
REL124	Baldersby Gate MSA earthwork quantities
REL125	Response to document MOT4/12 on site areas and mitigation
REL200	Not used
REL201	Baldersby Gate application plan details
REL202	<i>[originally a s106 document, but REL chose not to take it through to completion]</i>
REL203	Not used
REL204	Conditions with track changes
REL300	Closing Submissions by Refined Estates Limited
REL301	Costs Application
Exelby (XLB)	
XLB1/1	Mr Bird's Summary Proof of Evidence (Need)
XLB1/2	Mr Bird's Proof of Evidence (Need)
XLB1/3	Mr Bird's Appendices
XLB2/1	Mr Phillip's Summary Proof of Evidence (Highways)
XLB2/2	Mr Phillip's Proof of Evidence
XLB3/1	Mr Popplewell's Summary Proof of Evidence (Landscaping)
XLB3/2	Mr Popplewell's Proof of Evidence
XLB3/3	Mr Popplewell's Appendices
XLB3/4	Mr Popplewell's Supplementary Statement
XLB3/5	Mr Popplewell's Appendices to XLB3/4
XLB4/1	Mr Exelby's Proof of Evidence
XLB5/1	Mr Williams' Summary Proof of Evidence (Planning)
XLB5/2	Mr Williams' Proof of Evidence

XLB5/3	Mr Williams' Appendices Vol 1
XLB5/4	Mr Williams' Appendices Vol 2
XLB5/5	Mr Williams' Appendices Vol 3 – Lighting Assessment & Updated Noise Impact Assessments
XLB5/6	Statement in relation to RSS
XLB5/7	Final Scheme Plans
XLB101	Opening Statement by XLB
XLB102	Note from XLB to summarise HGV parking at Wetherby & Barton
XLB102A	Further note regarding HGV Parking Provision.
XLB103	Email to Ms Johnson NYCC with 2 plans: 23 December 2010
XLB104	Technical Note 14: 23 December 2010
XLB105	A3 plans of XLB5/7
XLB106	Drawing – Zone of Visual Influence – drg No 2229/2
XLB107	Email from Mr Williams to Ms V Molton with draft condition & plan
XLB200	Draft conditions and reasons <i>[as discussed at Inquiry]</i>
XLB201	Coneygarth, Leeming Bar (XLB) final plans
XLB202	Draft s106 agreement XLB/HDC/Londonderry Services/Herbert John Smith on Londonderry Garage matters (Superseded)
XLB203	Draft s106 agreement XLB/HBC/NY /Herbert John Smith on Londonderry Garage matters (Superseded)
XLB204	Completed s106 planning agreement relating to the Bedale, Aiskew and Leeming Bar Bypass (BALB) scheme and local road widening
XLB205	Completed s106 unilateral undertaking relating to signing
XLB206	Completed s106 planning agreement relating to use of land at Londonderry Garage
XLB300	Closing Submissions by Exelby Services Limited
Carl Les (LES)	
LES1/1	Mr Brocklehurst's Summary Proof of Evidence (Planning)
LES1/2	Mr Brocklehurst's Proof of Evidence
LES1/3	Mr Brocklehurst's Appendices
LES1/4	Mr Brocklehurst's Rebuttal Proof of Evidence(Need)
LES1/5	Mr Brocklehurst's Rebuttal Proof of Evidence
LES1/6	Mr Brocklehurst's Response to RSS
LES1/7	Rebuttal to document EA/WR/1
LES2/1	Mr Short's Summary Proof of Evidence (Highways)
LES2/2	Mr Short's Proof of Evidence
LES2/3	Mr Short's Appendices
LES2/4	Mr Short's Rebuttal Proof of Evidence
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DOC13	Post Inquiry: Minister's Written Statement (Mike Penning MP, Parliamentary Under-Secretary of State for Transport): "Policy on service areas and other trunk road facilities on motorways and allpurpose trunk roads in England": 22 June 2011, and Rule 6(6) Parties' responses
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Supplementary Report to the Secretary of State for Communities and Local Government

by David Richards BSocSci, Dip TP, MRTPI

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

Date: 21 May 2012

MOTORWAY SERVICE AREA PROPOSALS

ON THE A1(M)

BETWEEN WETHERBY AND BARTON

AND

TRUCKSTOP PROPOSAL AT FAIRFIELD FARM, LEEMING BAR

HEATHER IVE ASSOCIATES – HARROGATE BC Recovered Appeal APP/E2734/A/09/2102196 – 08/05860/EIAMAJ
MR CARL LES – HAMBLETON DC Called-in Application APP/G2713/V/09/2108815 – 09/01202/OUT
JAYTEE (RAINTON) LLP – HARROGATE BC Called-in Application APP/E2734/V/10/2133571 – 10/01982/EIAMAJ
REFINED ESTATES LIMITED – HARROGATE BC Called-in Application APP/E2734/V/10/2133577 – 10/02490/EIAMAJ
EXELBY SERVICES LIMITED – HAMBLETON DC Called-in Application APP/G2713/V/10/2133567 – 10/00624/FUL

Re-opened Inquiry dates

Regulation 19	21 – 23 February 2012
Departures and NMUs	28 – 29 February 2012
Conditions	29 February 2012
Site Visits (Unaccompanied)	14 February and 1 March 2012
Closings	2 March 2012

File Ref: APP/E2734/A/09/2102196

Land to the East and West of the A1(M) North of the Ripon to Boroughbridge Road (B6265) near Kirby Hill, North Yorkshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal was recovered for decision by the Secretary of State by a direction, made under section 79 and paragraph 3 of Section 6 of the Town and Country Planning Act 1990, on 5 May 2009.
 - The appeal is made by Heather Ive Associates against the decision of Harrogate Borough Council.
 - The application Ref 08/05860/EIAMAJ, dated 18 December 2008, was refused by notice dated 13 March 2009.
 - The development proposed is an outline application for a core twin-sided motorway service area at Kirby Hill comprising amenity building, petrol filling station, heavy goods vehicle amenity building, vehicle parking, landscaping and associated infrastructure with all matters reserved except for access from the A1(M).
 - The reason for making the direction is that the appeal relates to proposals against which another Government department has raised major objections or has a major interest.
 - The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 November 2011, and subsequent letters of clarification dated 28 November 2011.
-

File Ref: APP/G2713/V/09/2108815

Motel Leeming Services, Bedale Road, Bedale, North Yorkshire DL8 1DT

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 13 July 2009.
 - The application is made by Mr Carl Les to Hambleton District Council.
 - The application Ref 09/01202/OUT is dated 6 May 2009.
 - The development proposed is an outline application with all matters reserved except access at Motel Leeming Services for a motorway service area comprising amenity buildings, lodge, manager's accommodation, petrol filling station, drive through restaurant, parking and turning areas and landscaping.
 - The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.
 - The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 November 2011, and subsequent letters of clarification dated 28 November 2011.
-

File Ref: APP/E2734/V/10/2133571

Field south of Junction Leeming Lane and Hutton Grange, Hutton Conyers, North Yorkshire

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
- The application is made by Jaytee (Rainton) LLP to Harrogate Borough Council.
- The application Ref 10/01982/EIAMAJ is dated 6 May 2009.
- The development proposed is an outline application with all matters reserved except access for the erection of a motorway service area at the junction of the A1 and A61, comprising of an amenity building, hotel, filling station, sewage treatment plant, balancing pond, new access from the A61, parking, landscaping and associated works.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the

proposals may conflict with national policies on important matters.

- The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 November 2011, and subsequent letters of clarification dated 28 November 2011.
-

File Ref: APP/E2734/V/10/2133577

Land in north west quadrant of A61/A1(T) Junction, Baldersby Gate

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
 - The application is made by Refined Estates Limited to Harrogate Borough Council.
 - The application Ref 10/02490/EIAMAJ is dated 7 June 2010.
 - The development proposed is an outline application: Junction Motorway Service Area comprising; amenity building, lodge, petrol filling station, parking including heavy goods vehicle parking, shower and toilet facilities, a police post, landscaping and associated infrastructure works.
 - The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.
 - The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 November 2011, and subsequent letters of clarification dated 28 November 2011.
-

File Ref: APP/G2713/V/10/2133567

Fairfield Farm, Leases Road, Leeming Bar, Northallerton, North Yorkshire DL7 9DD

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 22 July 2010.
- The application is made by Exelby Services Limited to Hambleton District Council.
- The application Ref 10/00624/FUL is dated 17 February 2010.
- The development proposed is development of land within the curtilage of Fairfield Farm to form a Truck Stop Service Area for the relocation of an existing service area from Londonderry to Leeming Bar, comprising: HGV/LGV re-fuelling, fuel bunkering/tank farm and associated forecourt shop including overnight and rest-stop parking and driver welfare facilities.
- The reason given for making the direction was that the Secretary of State is of the opinion that this application is one that he ought to decide himself because he considers that the proposals may conflict with national policies on important matters.
- The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 November 2011, and subsequent letters of clarification dated 28 November 2011.

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ABBREVIATIONS USED IN THE REPORT

AADT	Annual Average Daily Traffic
AOD	Above Ordnance Datum
BALB	Bedale Aiskew Leeming Bypass
BBT`	Byways and Bridleways Trust
BHS	British Horse Society
CBR	California Bearing Ratio
CD	Core Document
CMS	Construction Method Statement
CTC	Cyclists' Touring Club
DCLG	Department of Communities and Local Government
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
DV	District Valuer
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
FRA	Flood Risk Assessment
HA	Highways Agency
HBC	Harrogate Borough Council
HGV	Heavy Goods Vehicle
HIA	Heather Ive Associates
JT	Jaytee (Rainton) LLP
KH RAMS	Kirby Hill Residents Against Motorway Services
LAR	Local Access Road
LES	Mr Carl Les
LHN	Local Highway Network
LVIA	Landscape Visual Impact Assessment
MOTO	Moto Hospitality Limited
MSA	Motorway Service Area
NMU	Non Motorised User
NY, NYCC	North Yorkshire County Council
PROW	Public Right of Way
RA`	Ramblers Association
REL	Refined Estates Limited
RSA	Road Safety Audit
SOCG	Statement of Common Ground
SRN	Strategic Road Network
SoS	Secretary of State for Communities and Local Government
SSD	Stopping sight distance
XLB	Exelby Services Limited

1. Procedural and Preliminary Matters

1.1 Costs Application

- 1.1.1 At the Inquiry applications for costs were made by Heather Ive Associates (HIA) and by Jaytee (Rainton) LLP (JT) against Refined Estates Limited (REL). These applications are the subject of separate Reports.

1.2 Background

- 1.2.1 An Inquiry into the proposals was held in 2010/11 by an Inspector, Mr R R Lyon MA CEng MICE MRTPI FCIHT. The Inquiry was closed on 4 February 2011. The Inspector submitted his report to the Secretary of State for Communities and Local Government (SoS). On 8 November 2011 a letter was sent to the parties by the Department of Communities and Local Government (DCLG), informing them that 'the Secretary of State considers that he is not yet in a position to determine the appeal and called in planning applications referred to above because he does not have sufficient information on certain aspects of the proposals' (2012/MSA/1). The purposes of the re-opened Inquiry are set out in Paragraphs 3 and 4 of the letter:

3. *The Secretary of State is of the opinion that the statement which Refined Estates Limited (the applicant) has submitted in respect of the called-in application at Baldersby Gate on the basis that it is an environmental statement for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 should contain additional information in order to be an environmental statement. The Secretary of State therefore hereby gives notice to the applicant, in accordance with Regulation 19(1) of the above regulations, that the applicant shall provide additional information for the purposes of the re-opened Inquiry. Specifically, the applicant is required to undertake a full assessment of the earthworks required to accommodate the proposed scheme, including details of the proposed ground modelling; an assessment of the extent to which there would be a balance between cut and fill; and the environmental implications of any need to remove material from the site.*
4. *As, in the case of each application, the arrangements for access from the A1(M) have not been reserved for later consideration, the Secretary of State has concluded that he needs to be fully satisfied that there would be no impediments to securing such access. In demonstrating this, the Secretary of State requires, in particular, that the following considerations are dealt with fully:*
 - a) *that, in respect of each case, it can be demonstrated that any issues relating to acquiring any additional land which may be required are capable of being resolved in principle within the lifetime of any permission which might be granted;*
 - b) *that, in respect of each case, it can be demonstrated that any need to divert any public rights of way have been resolved in principle with the relevant parties and would be capable of securing the necessary consent(s) within the lifetime of any permission which might be granted;*

- c) *that, in respect of each case, applications for any necessary departures under the Highways Act have been obtained from the Highways Agency, so that there would be no impediment in that respect to the implementation of the particular scheme;*
- d) *any other matter which the Inspector considers it appropriate to pursue.*

5. *The Secretary of State does not require the re-opened inquiry to consider issues other than those listed above.*

- 1.2.2 In response to requests from parties for clarification, further letters were sent by DCLG on 28 November 2011 (2012/MSA/2 and 2012/MSA/3). 2012/MSA/2 confirms that *'it is not intended to publish the Inspector's Report as it currently stands as material information for the re-opened inquiry. It is not normal practice to invite the parties to debate the Inspector's Report before the Secretary of State comes to his decision; and it is not intended in this case that the reopened inquiry should provide an opportunity for the parties to comment more widely on the issues including the comparative effect on safety and policy of the various schemes. I can therefore confirm that, with regard to access arrangements, the scope of the re-opened inquiry is to be confined to additional information about the access arrangements which have already been proposed for each site, to enable the Secretary of State to assess the relative merits of each proposal as it currently stands. It is not intended that alternative arrangements should be put forward.'*
- 1.2.3 Paragraph 4 of 2012/MSA/2 indicates that the purpose of reopening the inquiry is to discuss the further information which the Secretary of State requires in relation to the Environmental Impact Assessment for Baldersby Gate and the arrangements for access to the prospective sites. It also states that *'to the extent that there have been any material changes in circumstances concerning issues other than access affecting any or all of the schemes, these should be brought to the attention of the Secretary of State in writing'*.
- 1.2.4 2012/MSA/3 clarifies those matters relating to access on which the Secretary of State requires further information to assist him in formulating his decision. Paragraph 4 specifies a need for further information in respect of any need to divert a public right of way at Baldersby Gate if the Secretary of State were to favour either of the schemes promoted by REL and JT at that location. Paragraph 5 sets out an expectation that promoters of all of the schemes would provide clarification, in consultation with the Highways Agency (HA), as to whether it would be necessary to apply for Departures to secure the implementation of their respective schemes and the extent to which any necessary negotiations with the HA have been completed or can be expected to be fully resolved if any particular schemes were to be granted permission. It also confirmed that parties who are not promoting a scheme will not be required to produce evidence but will have an opportunity to respond to any additional evidence produced.
- 1.2.5 In my report I have dealt with the matters specified by the Secretary of State on a topic basis, with my conclusions on each topic following immediately after the statement of cases. My overall conclusions on matters relevant to the re-opened Inquiry are set out in section 9. They relate only to those matters specified by the SoS as set out above. Any

comparison between the merits of the various schemes was expressly precluded from the remit of the re-opened Inquiry. The report should be read as an addendum to Mr Lyon's report on the main Inquiry. I have read Mr Lyon's report, though it was not made available to the parties to the re-opened Inquiry. Where necessary, I have referred to his conclusions.

- 1.2.6 Some of the parties have submitted written representations on matters outside of the scope of the re-opened Inquiry for consideration by the Secretary of State. These are set out in Section 8.

2. REGULATION 19 SUBMISSION – BALDERSBY GATE SERVICES

2.1 The case for REL

- 2.1.1 In his letter dated 8 November 2011 the SoS asked for further information in these terms:

“Specifically the applicant is required to undertake a full assessment of the earthworks required to accommodate the proposed scheme including details of the proposed ground modelling, an assessment of the extent to which there would be a balance between cut and fill, and the environmental implications of any need to remove material from the site.”

- 2.1.2 There is no doubt that REL has carried out a “full assessment”. Such assessment of the earthworks involved:
- i) consideration of the existing topographical survey;
 - ii) three dimensional (3D) modelling of the proposed earthworks including landscape features around the site preparation;
 - iii) consideration of further geotechnical information;
 - iv) use of industry recognised computer model software (AutoCAD and KeyTERRA-FIRMA) to calculate volumes of cut and fill based on design and topographical models.

The combination of these assessment tools had led to a high degree of accuracy.

- 2.1.3 Having carried out this work the proposed development remains within the maximum development height of 51 AOD set across the site in accordance with paragraph 3.3.4 of the Environmental Assessment. This was introduced to keep the MSA below the level of new A1(M)/A61 junction when viewed from the surrounding area. This fact is not under challenge at the inquiry. Similarly the proposed layout of the site remains the same.
- 2.1.4 The mounding remains the same height of approximately 1.6m and is in the same position around the edges of the site as stated in the ES. The earth works required to accommodate the scheme are entirely consistent with and facilitate achieving the height limitation of the built development.
- 2.1.5 Mr Green, REL’s appointed engineer, supervised the modelling work upon which the cut and fill balance has been determined. The results are to be found in Table 3.1 of the Reg 19 information. The cut operation would produce 24,520 m³ of topsoil and 82,033 m³ of subsoil. The fill operation which uses the cut materials utilises 19,919 m³ topsoil creating a surplus of 4,601 m³. The subsoil utilised is 22,258 m³ for roads and 59,775 m³ for landscaping. The total of these figures is 82,033 m³. Thus there is a balance relating to the subsoil cut and fill, and a surplus of topsoil of 4,601m³.

What has been excavated?

- 2.1.6 There was no issue on the quantum of material excavated, whether it be topsoil or subsoil. In the Reg 19 information at Appendix 3.3 is a memorandum entitled “Baldersby Gate Ground Investigation Appraisal”

dated January 2012. The purpose of this document is to categorise the nature of the excavated material. Under the heading "Material Classification" it is stated:

"All classifications discussed below are in reference to MCHW¹ Volume 1 Series 600 Specification for Highways Works, Earthworks (amendment Nov 2005).

2.1.7 In the final paragraph it states:

"Table 6/1 of MCHW Series 600 provides typical uses for earthworks material classified 1 to 6. With subsoil arisings being primarily classed as either 1 or 2, the excavated material may be deemed as entirely suitable for reuse as general fill. The excavated sandstone material may be used as either general fill, for sub grade strengthening and potentially for use within the road construction itself"

The weathered sandstone (slightly silty, gravelly sand) is likely to be classified as either Class 1 or 6, both classes being deemed suitable for use as general fill or in construction areas."

2.1.8 When the materials are used they have to be compacted in order to expel air from the air voids which arise when material is excavated. Depending on the type of material and its size, an appropriate method for compaction will be determined. The sandstone will be extracted by a pneumatic hammer which having been hammered out will be collected in by mechanical bucket to which the hammer is attached. The desired level of compaction is 95% expulsion of air voids.

2.1.9 Table 3.1 of the Reg 19 information shows that the excavated material (other than top soil) is to be used for:

- (a) roads (17,445 m³);
- (b) car parks (2,123 m³);
- (c) building foundation (978 m³);
- (d) landscaping (19,348 m³);
- (e) bunds (40,983 m³);
- (f) footways (1,712 m³).

At 2102/REL/7/4 are extracts from the specification for Highway Works Series 600 showing the uses of material and the compaction methodology.

2.1.10 In Mr Poyser's appendices 2012/JT/8/3 Appendix D is a document entitled 'End Specifications for Compaction Fill.' Notwithstanding the fact that it is headed 'Ripon Motorway Service Area', Mr Poyser (for JT) assures us that it

¹ Manual of Contract Notes for Highway Works

applies to REL's site. In any event, like Mr Green, he recommends that compaction of 'All fill material used on the site shall be compacted to achieve a minimum of 95% of the maximum dry density when tested in accordance with requirements of BS 1377'. At the end of the document it goes on to state:

'Any area where the required specification has not been achieved, shall be recompacted to the satisfaction of the Engineer and re-tested as necessary'.

- 2.1.11 It is clear that Mr Poyser contemplates 'fill material' being capable of compaction up to 95%. 2012/REL/7/4 'specification for highway works' categorises the material excavated from this site as 'General Fill'. Table 6/4 of 2012/REL7/4 describes the method of compaction as method 2 (Vibratory Tamping Roller) weighing up to 5000 kg. Mr Poyser's note indicates a number of 'passes' may be required and re-testing to get to the 95% mark.
- 2.1.12 Mr Poyser maintains that the sandstone extracted from the site needs to be crushed. Mr Green maintains that the use of the roller will compact and crush to the required standard because it is a soft material. Mr Poyser maintained that the embankment could not utilise the excavated materials at all. However other than assertion, no evidence was adduced to support this contention. Nor was empirical evidence produced to show that embankments so constructed would 'creep' in the long term. Mr Green has constructed highways using this recommended type of fill and has not experienced any problems.
- 2.1.13 Given that the MCHW specifically specifies this type of material as general fill suitable for highway works and the methodology for its compaction, Mr Poyser's contention that it cannot be used at all should be rejected.
- 2.1.14 Further, REL's contractor has examined the information before the inquiry and confirmed that the cut and fill operation using the materials excavated will be done as stated by Mr Green and given a contract period of 8 weeks for the work (see 2012/REL/7/2 Appendix C). This would be unlikely if the material to be used was unsuitable.

Bulking up of material

- 2.1.15 The efficient use of material necessitates its utilisation quickly after extraction. Thus as material is dug out it would be transported from where it was being excavated to say the embankment where it would be compacted. The relevance of the bulking up of material is to its transportation across the site and the calculation of movements/time (see 2012/REL/7/2 Appendix C). It is also relevant to the movement of the surplus topsoil and the contingency figure if in fact they materialise. These are standard features of any construction contract. In terms of construction work bulking up is largely negated by compaction.

Backhauling

- 2.1.16 Mr Poyser accepts this is a recognised operation. His reservation was the possibility of cross-contamination between 'soft' material taken out and hard material being brought in. He did accept however with a properly run and supervised contract containing the appropriate conditions, this would be avoided. Equally this could be secured by planning conditions. Mr Green, in

his evidence, indicated that the contractors Kier have made arrangements for backhauling (see 2012/REL/7/2 Appendix D) in the contract.

- 2.1.17 The significance of the backhauling operation is that there are no additional traffic movements on the network. There is more than ample capacity to move the surplus/contingency material if it in fact arises. There is no adverse impact.

Earthworks

- 2.1.18 Mr Poyser made the point that the topsoil material beneath the perimeter bunds would be damaged unless removed prior to constructing with subsoil. This would not alter the cut and fill balance (see 2012/REL/7/1 para 2.2.4).
- 2.1.19 A point was also raised in relation to the stockpiling of topsoil. Mr Green explained that such works would be phased in order to avoid the need to move it more than twice (see 2012/REL/7/1 paras 2.6.5 and 2.6.6). When stockpiled and graded out it would be lightly compacted with a bulldozer in order to seal it and protect it and reduce bulking that would have occurred during excavation. There is no problem in either stockpiling on the perimeter of the site or in the subsequent utilisation of the topsoil. The area for stockpiling is extensive.

Temporary Access

- 2.1.20 Prior to the construction of the main entrance to the MSA, a temporary access is required. Its location is agreed (see 2012/REL/7/2 Appendix B). The earthworks operation will be phased so that following the initial removal of topsoil, the materials may be excavated from one part of the site and taken directly to its permanent position and then progressively built up to avoid the need for temporary stockpiles. This represents good practice and would be implemented by REL's appointed contractor. The direct movement from excavation to utilisation would significantly reduce the need for stockpiling.

Drainage

- 2.1.21 The drainage scheme relating to Baldersby Gate has been agreed by the Environment Agency. As Mr Normandale of the Agency put it to Mr Allenby of Harrogate Borough Council in the HBC/107:

"... I can confirm that in terms of surface water drainage issues, the Environment Agency does not have any particular concerns that a satisfactory surface water scheme can be delivered on the site."

- 2.1.22 From REL/127 it will be noted from the answer to Question 1 that:

"... it can be readily appreciated that critical 1-100 year storm water can easily be accommodated within a gravity system without need of the infiltration lagoon. The lagoon can therefore be considered as providing flexibility for managing extreme floods meeting 'design for exceedance' requirements as described in PPS 25".

- 2.1.23 It was for this reason that Mr Graham (REL's drainage witness) described the scheme as 'over engineered'. Mr Poyser (for JT) raised an issue over maintenance of the 'stormbloc' storage cells. He accepted that since the

planned storage facility was underneath the car and lorry parks, the surface water would be conveyed by pipes and gullies which would incorporate chambers for collecting silt. Subject to maintenance there was no reason to conclude that the stormbloc cells would be silted up. Indeed the stormbloc cells can be cleaned as well.

- 2.1.24 The contention of requiring a massive lagoon in addition to 31,000 m² of drainage available is not supported by the evidence. The flood water goes straight to permeable sandstone. The EA are clearly satisfied. JT were equally satisfied with EA's acceptance of their own scheme.

Landscaping

- 2.1.25 The Non Technical Summary in the Regulation 19 Statement puts the position as follows:

Landscape and Visual Effects

The footprint of the proposed buildings is no larger than previously proposed, and the maximum heights of the buildings proposed remain within 51m AOD maximum development height.

It was concluded in the May 2010 ES that the magnitude of change to the view from the A61/A1M Junction would be high and therefore the significance of effects would thus be no greater than that already assessed from that point.

The proposed level of the internal access road relative to the landscape modelling along the northern edge of the site could lead to vehicles and lights being slightly more visible before mitigation in the form of planting than previously assessed. This does not, however, affect the conclusions of the May 2010 ES from relevant viewpoints.

Following a review of the amended scheme in accordance with the EIA Methodology it is confirmed that the proposed changes do not affect the findings of the May 2010 ES with regard to Landscape and Visual Resources. Therefore there is no further information provided in respect of this topic for the amended scheme. The following italic text repeats that presented in May 2010 ES Non Technical Summary:

'The proposed MSA will have varying impact upon visual amenity within the study area between year 1 and year 15 of the development. The significance of effect on visual amenity at year 15 ranges from none to moderate/slight beneficial. A small number of receptors would also experience temporary adverse effects during the construction phase of the development.

Views towards the development site are largely restricted by the gently undulating landscape which creates prominent ridgelines in the landform within the study area. The development site benefits from such ridges which are located to the south west and northwest of the site. Visual effects are largely limited to receptors within close proximity to the site where the gently undulating landscape and existing woodland and shelterbelt vegetation do not restrict views.

Of the properties that are likely to afford views towards the site, Hutton Grange Cottages are likely to experience moderate adverse effects at year 1 due to the location of the two cottages in close proximity to the site. Views of the development will however be restricted to first floor windows and be oblique due to the orientation of the properties in relation to the site. Other visual receptors that are likely to experience moderate/slight or slight adverse impacts at year 1 are A61, Melmerby, A1(M)/A61 interchange, and two public rights of way near to Baldersby St James and Pilimore Carr.

At year 15, no adverse effects on visual amenity will prevail. The mitigation planting would have established to screen or soften the view towards the development and contain the lighting within the site. Beneficial effects have been assessed where the mitigation planting also provides screening of the elevated A1(M)/A61 junction or general A 1(M) corridor.

The proposed MSA development will not have any substantially adverse effects upon landscape and visual receptors within the 5km study area. The MSA site benefits from being set down in the landscape immediately adjacent to a locally elevated road junction with prominent ridgelines in the landscape to the southwest and northwest. These landscape elements provide natural screening to the site from a number of local landscape and visual receptors.'

- 2.1.26 The Conclusions and Residual Effects section of the Reg 19 in the context of landscape states:

'Similarly with visual issues, the question of mitigation in terms of strategic landscaping is closely related to the basic assessment. Dependent on the type and density of planting used, mitigation can take time to mature. In this case there will be no significant residual effects with landscaping fully in place. Indeed, the final effects in this regard will become positive ones.'

- 2.1.27 The matters to be addressed at the re-opened Inquiry are set out in a letter from DCLG dated 8 Nov 2011, and subsequent letters of clarification dated 28 November 2011. In respect of these matters REL's scheme can be assessed as follows:

- (a) A scheme in which the layout remains the same.
- (b) A scheme in which the built level does not exceed 51 AOD.
- (c) A scheme where the ground modelling does not exceed 1.6 - 1.7 metres (described as "not high" by Mr Beswick).
- (d) A scheme where it was always intended to provide ground modelling around the edges of the site.

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- (e) A scheme where it was always intended to use excavated material in the construction and landscaping of the site. This is good practice and sustainable.
 - (f) A scheme where there was always intended to have non-block perimeter planting which could take advantage of being slightly elevated by virtue of utilising the ground modelling. Given that these factors remain constant and unaltered, it is not surprising that Mr Denney (REL's landscape witness) is able to conclude that the assessment of the earthworks does not affect the findings of the original ES. It is not surprising also that Mr Etchells, on behalf of Harrogate Borough Council (HBC), agrees that Mr Denney's conclusions in the Reg 19 are justifiably consistent in the Regulation 19 Statement.

2.1.28 As Mr Denney puts it in 2012/REL/3/4 at paragraph 3.57:

'Overall, Mr Beswick's evidence [for JT] is based on the suggestion that the REL Jan Reg 19 submission involves significant changes to the Baldersby Gate proposal and also that these changes give rise to greater environmental impacts in visual and landscape terms. He is incorrect in both respects. The further information in the Reg 19 simply provides additional details in respect of the form of proposal that was the subject of my assessment in 2010. As such, these details confirm my understanding of the form of the proposal including the nature and scale of the peripheral ground modelling and my assessment thus remains as before in terms of the ranges of impacts I previously identified.'

2.2 The Case for JT (Rainton)

2.2.1 The issues which the Inspector has to determine in the light of his remit at the Inquiry are as follows: -

- (a) What impact will the ground modelling of REL's site have on the landscape.
- (b) What impact will the ground modelling have on the drainage strategy for the site.
- (c) Whether there will be a cut/fill balance as contended for by REL and what will be the consequences if there is not.

(a) Landscape impact

2.2.2 On 17 January 2012, in accordance with the Secretary of State's 8 November 2011 direction, REL submitted full information as to its proposed ground modelling of the Baldersby Gate site. Prior to that, there had been only oblique references in its ES and in Mr Denney's evidence to the original Inquiry to the construction of a bund in the north eastern corner of the site, to 'minor earthworks' and to the levels of the site being 'slightly lower than that of the existing ground level' – see JT's Closing Submissions to the original Inquiry (JT/300 at paragraphs 120 – 122) and the useful summary of the position in section 3 of 2012/JT/7/9.

2.2.3 At this re-opened Inquiry, Mr Denney re-confirmed in cross-examination that none of the plans or figures in the ES gave any indication of the extent

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- of excavation or mounding required and that the references to the need to excavate the site and create mounds was at paragraphs 3.3.4 and 11.8.1 of the original ES (CD6.12).
- 2.2.4 Mr Denney's position at this Inquiry is that, whatever the ES did or didn't say, when the Landscape Visual Impact Assessment (LVIA) was undertaken for the ES, he was aware that the Baldersby Gate site had to be extensively excavated to achieve a height limit for the buildings of 51 AOD and that this would result in the excavated soil being used in mounding around the whole site. It is for this reason alone that he now says that there is no change to the landscape and visual assessment in the ES. This is reflected, as he confirmed in cross-examination, in the impact on the landscape of the now known details of the ground modelling exercise revealed through the Reg 19 material being confined to the 4 lines in paragraph 11.2.10 of the Reg 19 Statement.
- 2.2.5 If he was aware of what was proposed when the LVIA was undertaken this was not apparent to other participants because, as JT submitted at the original Inquiry, not one of the witnesses appearing at the original Inquiry was aware of the proposal to excavate the site and it was impossible to deduce any such intention from the information in the ES (which did not contain any topographical information) – see paragraph 122 of JT's closing submissions. The explanation he gave to the re-opened Inquiry about his involvement in the design process was not given to the previous Inquiry. His evidence that Mr Etchells' (for HBC) was aware of what was proposed at the time is simply wrong as is plain from any reading of his written statement (2012/HBC/2/4) to this Inquiry.
- 2.2.6 It is submitted that the correct position is this. First, the extent of the ground modelling exercise plainly was not known by REL when it carried out its LVIA. This is clear from (a) the absence of any information in the ES to support that position; and (b) the fact that SLR's calculations in REL/116 and REL/124 suggesting that only 76,000 m³ would need to be excavated from the site were significantly less (approx. 30%) than the minimum of 106,000 m³ REL now accepts in the Reg 19 Statement will have to be excavated.
- 2.2.7 Secondly, however Mr Denney now seeks to explain away the reference in the ES to the proposed earthworks being 'minor', they plainly are not. The excavation of 106,000 m³ of soils and the creation of extensive mounding comprise substantial earthworks operations which Mr Green (REL's engineering witness) in his own words described as being a 'reasonably large earth works operation'.
- 2.2.8 Thirdly, in the light of Mr Denney's position at the Inquiry and asserted awareness of what was proposed, it is clear, and he accepted, that REL has not re-assessed the impact of the earthworks operation on the landscape. This explains why the impact of those operations on the landscape merits a single, 4 line paragraph in the Reg. 19 Statement.
- 2.2.9 Fourthly, when he assessed the visual and landscape impacts of REL's scheme Mr Beswick was not privy to Mr Denney's private understanding of what ground modelling was proposed for the REL site. Now that Mr Beswick does know that what is proposed is substantial he has re-assessed the visual and landscape impacts. Whilst he has fairly concluded that there would be no additional visual impacts on sensitive receptors there would be
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an increased adverse landscape impact during construction and in years 1 and 15 on (a) the existing landscape features; and (b) the immediate landscape character – see paragraphs 2.4.3 – 2.4.5 (2012/JT/3/5).

- 2.2.10 The absence of any landscape re-assessment is a fatal omission by Mr Denney. REL accepts that the perimeter mounds are not necessary for landscape mitigation (see paragraph 11.1.2 of the Reg 19 Statement) and that their primary purpose is as a means of disposing of the huge amount of soil required to be excavated from the site to lower the building platforms so that REL's scheme does not exceed a height of 51 AOD because of the even greater damaging landscape impacts that would have resulted.
- 2.2.11 There is a further point. It is unknown what the original Inspector, Mr Lyon, concluded to be the visual and landscape impact of REL's proposals as they were understood to be at the original Inquiry because the SoS and Inspector have refused to disclose his Report to the parties. However, if Mr Lyon (a) accepted the visual/landscape evidence of those objecting to REL's scheme (including JT, HIA and HBC) as those parties understood that scheme to be at the time; and (b) concluded that the REL scheme would have a greater impact than Mr Denney had assessed at the time, then Mr Denney's evidence to this Inquiry will have to be rejected. That is because Mr Denney's position to this Inquiry is that there has been no need to reassess REL's scheme (because he was aware of the scheme and its implications when the original assessments were done) and the original assessment has not changed. However, if REL's original assessment and evidence to the original Inquiry has been rejected by Mr Lyon, the present Inspector (who has made clear that it is no part of his remit to re-visit those matters canvassed before Mr Lyon) cannot be in a position to reach a different conclusion to Mr Lyon. He must in those circumstances therefore reject Mr Denney's evidence to this Inquiry.

(b) Drainage impact

- 2.2.12 The issue is confined to the implications for drainage in a storm event (i.e. 1 in 100 year storm). Mr Poyser's evidence is that now the proposed ground levels are known, there is a flooding issue in a storm event with REL being able to drain the site when the proposed drainage pond is to be located in the higher part of the site. In simple terms, unless that pond is so deep and wide as to affect the internal road layout, there is not sufficient storage capacity in that pond to prevent lower parts of the site from being flooded. REL's case is that by using permeable paving and storm water cells under the car park and lorry park there will be more than adequate storage capacity in a storm event and there need be no reliance on the balancing pond shown in the north east corner of the site.
- 2.2.13 It is not disputed that the Reg 19 Statement has not attempted to assess the implications of the ground modelling exercise on storm water run-off because, as the fourth bullet point of paragraph 3.3.6 of the Reg 19 Statement says, 'Storm water run off, handling and treatment remains unchanged, i.e. it is to be discharged via on-site soakaways (beneath the main car park)'. That requires the reader to go back to the original ES (CD6.13) and to the Flood Risk Appraisal (FRA) (Appendix 10 in CD6.13) to understand what that strategy comprises. Mr Graham (for REL) acknowledged that in a storm event the drainage hierarchy would start with infiltration devices and permeable surfaces rather than with green roofs. In

this regard, the FRA is unequivocal. Paragraph 4.3.4, under the heading of Permeable Paving, states that: -

‘The car parking areas (the access road isn’t suitable for permeable paving as it may have heavy goods vehicles traversing it, the same for coach and lorry car-parking and refuelling station) occupy approximately 11,270m². At 30% void capacity (i.e. 70% of space is taken by the granular fill); a paving depth of 1m results in 3,381m² which could provide some of the storage required for the site.’

- 2.2.14 It was clear from the FRA that the storm water drainage strategy relied on a combination of the balancing pond and permeable paving under the car-park to attenuate storm water flows. However, what REL through Mr Graham now says is that storm water attenuation will be achieved by the use of storm water cells underneath the car park and lorry parking areas which will collect water through a system of gullies and pipes from the other impermeable areas. Even allowing for some storage under the car park it is submitted that the FRA was clear that no reliance should be placed on the use of permeable paving in the lorry parking areas for the obvious reason that these areas will have heavy goods vehicles traversing over them. Nonetheless, REL now put a significant emphasis on using the space below the lorry parking as part of its drainage strategy in order, it is submitted, to try and overcome the problems pointed out by Mr Poyser of having its balancing pond in a higher part of the site than most of the areas it is proposed to drain.
- 2.2.15 As Mr Poyser said in evidence he was not aware of the use of ‘storm-bloc’ cells beneath lorry parking areas and had concerns about their lateral strength where HGV’s were turning on top of them and creating lateral forces. Moreover, there is very real concern with the efficacy of a drainage system which relies on the regular maintenance and cleaning of gullies, pipes and silt traps needed to prevent sediment affecting the ability of storm water to infiltrate through the base of these areas as intended by REL. That is a well recognised problem associated with balancing ponds and reflected in BRE365 and there is no difference in the present case where the water will not simply permeate down through the permeable paving but accept water through a system of gullies and pipes. Notwithstanding the EA’s purported acceptance of the position, the issue of just how the site will cope in a storm event is unresolved. That is unacceptable for a development whose rationale is its need for safety reasons to provide rest and refreshment for tired motorists.

(c) Cut/fill balance

- 2.2.16 The dispute is whether there will be a cut/fill balance as REL’s Reg 19 Statement purports to show or whether, as JT contends, there will be a surplus of excavated material which cannot be re-used on site in, for example, the embankment required for access into the site. It is submitted that there will be a surplus of cut for the following reasons. First, REL’s calculations do not include the stripping of all the topsoil across the site. Secondly, no adequate allowance has been made for the excavated topsoil and subsoil to “bulk up”. Thirdly, much of the excavated subsoil will not be suitable for use in the construction of the access embankment.
- 2.2.17 Taking these in turn, it is good site practice to strip all the topsoil from a development site because it is a valuable material but has a fragile nature

which breaks down if it is tracked over or moved more than is necessary. Mr Green confirmed that the cut/fill calculations in the Reg 19 Statement left in place all the topsoil outside of the black line on Isopachyte drawing EM/04 in arriving at a cut topsoil figure of 24,520 m³. However, as Mr Poyser made clear, leaving it in place would be bad practice because it would mean depositing clay subsoil on top of the existing topsoil before depositing more topsoil over the clay. That would be contrary to good practice, result in the topsoil being tracked over by the vehicles creating the bunds to be constructed in the same area and result in the loss of a valuable material. Consequently, it is obvious that all the topsoil will be stripped from the site thereby increasing the total amount of topsoil to be excavated to Mr Poyser's figure of 29,500 m³ before bulking.

- 2.2.18 So far as bulking is concerned, there is no dispute that as soil is excavated it expands because of the creation of air voids in the material during the process of excavation. By how much it expands (i.e. bulks up) is dependent on the type of material being excavated. The figures given by Mr Poyser in Appendix A of his evidence from Trenter and the Engineering Tool Box (2012/JT/8/3) were not disputed by Mr Green. Therefore, applying the undisputed bulking factors to the material on the site (see Table 1 at page 9 in 2012/REL/7/1) the topsoil is likely to bulk by between 25-45%, the sandstone by 40-80%, the gravelly clay (cohesive material) by 20-40% and the sandy gravel by 20-30%. However, Trenter makes clear that an allowance then has to be made for the bulked up excavated material to be re-compacted to arrive at a "net" bulking factor of between 0-20% depending on the material. This Mr Poyser does in his evidence to arrive at net bulking figures of 17.5% for the sandstone and gravelly clay, 10% for sandy gravel and 20% for topsoil.
- 2.2.19 Mr Poyser's structured approach to assessing the bulking factor is in stark contrast to Mr Green who was responsible for preparing Chapter 3 of the Reg 19 Statement. In cross-examination he accepted that the Reg 19 Statement had applied a contingency factor of 2.5% (see paragraph 3.3.40) to account for modelling error and "potential bulking up of excavated material" (see paragraph 3.3.39). He further accepted that deducting 1% for modelling error from the total contingency of 2.5% meant that only 1.5% had been allowed for any bulking of the excavated material in the Reg. 19 Statement. When asked where his bulking factor was derived from his response was that it came from general conversations with unidentified colleagues. Mr Green subsequently tried to argue that in fact he had made a 5% allowance for bulking because the contingency allowance was for a difference of +/-2.5% (i.e. giving a spread of 5%). That is not what the Reg. 19 Statement says and is, in any event, nonsense in this case because there is no suggestion that any of the excavated material will reduce from its original volume (as some material can, for example chalk – see Trenter).
- 2.2.20 Mr Green then sought to argue that a maximum bulking factor of 5% should be allowed for all the subsoil material because all the excavated material would be re-compacted to 95% of its bulked volume including the cohesive clay material which (a) comprises approx. 75% of the total excavated subsoil (see Mr Green's Table 1 in 2012/REL/7/1); and (b) is principally destined for the bunds (see Table 3.1 in the Reg 19 Statement). In doing so, Mr Green purported to rely on Mr Poyser's evidence that it would be appropriate to ensure that the excavated material is compacted to 95% of

the minimum dry density (see 2012/REL/7/1, paragraphs 2.3.4 and 2.3.5). That was a mischievous partial quotation of Mr Poyser's evidence and was not said to apply to all the excavated material as Mr Green implied. What Mr Poyser actually said in paragraph 3.20 (2012/JT/8/2) of his evidence was that (emphasis added): -

"For construction of the MSA surfaces and buildings, it would be appropriate to ensure that the material is compacted to achieve a minimum of 95% of the maximum dry density when tested in accordance with the requirements of BS1377. This is a strict specification to ensure full compaction under areas of future construction, and there will be significant periods of downtime during construction, when the material is too wet to be placed and compacted."

- 2.2.21 Mr Poyser was not saying that it would be appropriate to compact the clay material used in the bunds to 95% and made plain in his oral evidence that compaction to 95% of the material in the landscaping bunds was neither desirable nor likely to be achieved because of the cohesive nature of the material and the fact that the clay could not practically be excavated and placed in the bunds as a single operation but would have to be stockpiled in the open where it would be likely to become wet and even less susceptible to compaction.
- 2.2.22 Mr Green's unconventional approach to making an allowance for bulking is also demonstrated by the fact that he doesn't allow anything for bulking of topsoil. He didn't make a distinction between topsoil and subsoil in applying his bulking factor of 1.5% in the Reg. 19 Statement and accepts that topsoil would not be mechanically compacted (see his paragraph 2.3.6). Instead, he now argues that there would be no bulking in the first place and if there was it would naturally settle over time. That approach derives no support from Trenter or the Engineering Tool Box and is contrary to REL's own proposed contractor (Kier) who apply a bulking factor of 20% to the topsoil (i.e. the same as Mr Poyser's) in their calculations set out in the 13 February 2012 letter (see Appendix C of 2012/REL/7/2). Mr Green's own evidence states that the topsoil will not be mechanically compacted and there is no basis for his assertion that the stripped topsoil will naturally settle back to its original volume.
- 2.2.23 It is submitted that Mr Poyser's evidence on the issue of bulking is plainly to be preferred and that if the appropriate net bulking factors are applied there will be a surplus of excavated material which will have to be exported from the site.
- 2.2.24 It is also submitted that Mr Green is wrong to assume that REL will be able to construct up to formation level the very substantial embankment required for the main access road into the site from the A61 with material from the site. Apart from the difficulty of compacting the clay to 95%, it is evident that the sandstone excavated will have to be crushed to achieve a grade of 6F1 or 6F2 required to ensure the embankment's stability if it is to be used in the embankment. That cannot be achieved at the point of excavation by using a digger with a bucket and drill nor by simply running a roller over it when it is laid. It would have to be crushed to achieve the grade which NYCC would require under a road as set out in Table 6/2 (see Appendix B of 2012/JT/8/3) and it is no answer that the MSA roads will not be adopted as

public highway. The consequence would be that the 6,000 m³ of capping material required for the proper construction of the access road and embankment would have to be imported and the equivalent quantity of subsoil would have to be taken off the site as surplus material.

- 2.2.25 Taking all these factors into account, Mr Poyser applies his considered bulking factors to the quantities of material in Mr Green's Table 1 to arrive at a figure in his Table 1 of 2012/JT/8/4 of a residual volume of surplus material of 35,145 m³ which would have to be taken from the site by a minimum of 3,500 HGV movements. Even if the Inspector accepted Mr Green's maximum bulking figure of 5% for all material other than topsoil, a full top soil strip and need for the import of capping material results in an excess of cut over fill of 25,582 m³ (2,558 HGV movements) – see Table 2 in 2012/JT/8/4 .
- 2.2.26 There are two further matters arising out of the inadequacies of REL's cut/fill exercise. First, the site constraints (i.e the need to stockpile the stripped topsoil along the southern and western perimeters; the sequence of excavation to get to the harder sandstone to be used as general fill material in the access embankment; the need to stockpile the clay before it can be used in the landscape bunds; and the movement of the topsoil stockpiles 3 times in order to construct the landscape bunds along the southern and western perimeters) all make an 8 week earth moving exercise extremely unlikely. Mr Poyser's considerable experience in these matters clearly suggests that his estimate of approximately 6 months to carry out the earthworks is realistic.
- 2.2.27 Secondly, there will be limited opportunities to backhaul material from the site using HGVs delivering road stone. In theory it is possible but the reality is rather different. The suggestion by Mr Green that the material exported from the site in the road stone vehicles would be dry and leave only dust when tipped demonstrates the unreality of his evidence. Moreover, Kier's letter (Appendix D of 2012/REL/7/2) clearly expressed a preference of the road stone supplier to backhaul 6F1 material from the site. There is no such material on site and no proposal to process it to that grade by crushing it on site. The probability is therefore that the opportunities for backhauling will remain theoretical.

2.3 Written representations of North Yorkshire County Council

Material to be exported

- 2.3.1 Table 3.1 of the REL Reg 19 Statement provides an Earthworks Balance Summary. The contents are not challenged. It indicates that the subsoil and fill will balance and that there will be an excess of 4,601 m³ of topsoil to be exported from site.
- 2.3.2 Paragraphs 3.3.39 and 3.3.40 indicate there is potential for variance in the figures recorded in table 3.1 as a result of modelling tolerances and that a contingency of 2.5% variance in material volumes is accepted good practice.
- 2.3.3 For the 82,000m³ total excavated subsoil, this contingency amounts to 4,100 m³ which may need to be exported from site and not the 4,000 m³ quoted by REL at 3.3.42.
- 2.3.4 No contingency provision has been made for the volume of topsoil to be excavated from the site. Making the same assumptions to those for subsoil,

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- 2.5% of the topsoil to be exported equates to an extra 613 m³ topsoil to be exported and 498 m³ less topsoil to be deposited giving a potential total of 5712 m³ topsoil to be exported from site and not the 4,601 m³ stated by REL.
- 2.3.5 The contingency allowances result in a potential of 9,812 m³ material to be exported from site. In order to ensure that a robust assessment of the potential impact of the earthworks at the REL site is made the appropriate volume of exported material to assess must include the contingency allowances. On this basis the appropriate volume of fill that should be assessed as potentially leaving the site is 9,812 m³.
- 2.3.6 Paragraph 3.3.45 states that it is expected that 20,000 m³ road stone will be imported to site by HGV and that the vehicles will thus also be available for exporting surplus material from site in a process known as “backhauling”. This process is also known as “backloading” in the haulage industry.
- 2.3.7 At paragraph 6.1.1 REL indicate that “as a worst case, HGV vehicle trips for importing road stone may be used to export material”. In reality this is a best case where vehicles delivering 49% of the clean road stone to site will make the return trip carrying general fill or topsoil.
- 2.3.8 The worst case is that no vehicles are willing to “backhaul” and thus 9,812 m³ of excess material needs to be exported from the REL site using HGVs which would not otherwise have visited the site.

Backhauling and Contamination

- 2.3.9 The Department of Transport (DfT) produce Freight Best Practice which includes the document ‘Make Back-loading work for You’. At pages 20 to 22 table 2 (Appendix 2012/NY/1-10-1) summarises the ‘Operational Constraints and Associated Barriers and Solutions to back-loading’. Several constraints may apply. For example, in the section listing ‘incompatibility of vehicles and products’ as an operational constraint the ‘risk of cross contamination of products’ is identified.
- 2.3.10 REL have provided no evidence to indicate the compatibility of vehicles importing road stone to the site with those same vehicles exporting waste soils. It may be that Environmental Permitting requirements will apply to the export of these materials. It is unclear whether the HGVs delivering 49% of the road stone to the site will be in a position to carry away topsoil or general fill as a back load.

Number of loads

- 2.3.11 If REL use the larger 8 wheel HGVs it will require approximately 613 loads to export the 9,812 m³ of surplus material from site. Should the smaller six wheel HGVs be used 818 loads would be needed. Each load would result in two HGV movements; one entering and one leaving the site. The point of eventual disposal is unknown.

A61 Flows

- 2.3.12 Table 6.1 of CD 6.12 details Annual Average Daily Traffic (AADT) flows on the highway network surrounding the REL site; it provides separate figures for goods vehicles, which are categorised as “OG1 and OGV2”. The flows on

the A61 and the Local Access Road (LAR) are of relevance to the LHA. In 2012 AADTs for HGVs and total number of vehicles are:-

(AADT)	HGVs	Total Vehicles	% HGVs
A61 eastbound	1,188	9,650	12.31
A61 westbound	1,102	8,410	13.10
A61 total	2,290	18,060	12.68
LAR northbound	519	5,587	9.29
LAR southbound	654	3,606	18.14
LAR total	1,173	9,193	12.76

Impact of Number of loads on the Local Highway Network

- 2.3.13 The REL submissions have indicated that there will be no additional traffic on the Local Highway Network (LHN) as a result of their earthworks. Depending on the size of vehicle there is a potential for up to 818 additional HGV visits to site, resulting in 1636 additional HGV movements on the highway network from REL's earthworks. In the absence of a detailed breakdown of how these trips would be distributed, it must be assumed that they would be confined to the local highway network.
- 2.3.14 Similarly, REL have provided no evidence on the period over which any waste soils would be exported from site. Again in the absence of evidence the LHA needs to consider a worst case scenario with all surplus material stockpiled on site and exported over a short period.
- 2.3.15 Thus REL will potentially add 1636 trips to the LHN which has the potential to impact on the travelling public on both the A61 and LAR. The LHA considers that the additional 1,636 trips that REL's earthworks will put on the highway network needs to be properly assessed and managed. REL have provided no assessments of this potential impact basing their assumptions on no additional movements due to 100% backhauling.
- 2.3.16 In assessing the potential additional HGVs on the LHN the likely relative short term nature of the additional trips will need to be included. This will enable appropriate management solutions to be formulated. It is likely that appropriate management of the timing and numbers of HGVs visiting the site could mitigate this temporary increase in HGV numbers and its impact on the travelling public.

Mitigating the impact on the local highway network

- 2.3.17 In the non technical summary to CD6.11 REL state on page 3 that 'a full Construction Method Statement (CMS) will be produced for approval by NYCC (prior to start on site) which will confirm the numbers and types of construction vehicles that will be present during the site works, traffic management arrangements for site access and an agreed HGV routing strategy.'
- 2.3.18 In the proposed conditions for REL (REL-204) a CMS is required at Condition 14. The matters covered by this condition do not specifically require the issue of number and timing of HGV movements from the site to be addressed. However, given the potential HGV movements associated with the REL Regulation 19 submissions Condition the relevant condition should include explicit reference to the number and timing of HGV movements.

- 2.3.19 The addition of a suitably worded clause to the suggested condition would ensure the CMS fully covers all matters of concern to the LHA; by providing the opportunity for the impact of HGV movements to be controlled and thus manage their impact on the travelling public on both the A61 and LAR. Suitable wording is suggested at Appendix 2012/NY/1-10-2.

2.4 Other Inquiry Appearances

- 2.4.1 **Mr Chris Brown MBE** is a local resident and District Councillor for Wathvale Ward. With regard to the impact of the REL Baldersby Gate application on the locality, local people are still very concerned about the impact on the landscape that moving 106,000m³ of soil will have in addition to the effect on the water table and the many boreholes servicing private supplies of water in the surrounding area.

2.5 Written Representations on behalf of Harrogate Borough Council

- 2.5.1 The Environmental Statement (ES) for the Baldersby Gate site made some reference (in paragraphs 11.7.10 and 11.8.1) to '*grading to the periphery of the site*' and also a '*1.6m high landscape bund*', but the precise extent and form of the earthworks involved was not made clear, and Figure 3.4 of the ES was confusing, as in section AA the existing levels did not match the proposed levels at the site boundary.
- 2.5.2 These matters were considered in more detail in the evidence of Mr Denney, REL's landscape witness, which described in paragraph 4.7 the intention to '*slightly lower*' ground levels within the site, the use of a '*graded and sloping landform*' and the use of '*an appropriately designed retaining wall*'. However, the relative heights involved and the materials, height and extent of the retaining wall were still not made clear. In cross examination Mr Denney then elaborated and stated that the mounding would be around 1.6m in height and around the north, west and south sides of the site, though this was not apparent from the drawings before the Inquiry.
- 2.5.3 The Secretary of State's request for further environmental information was presumably intended to resolve some of this confusion.

The Regulation 19 Statement

- 2.5.4 The Statement shows that the main, developed part of the site would for the most part be set down below existing levels, with much of the excavated material used as fill around the site perimeter, and also with some areas of mounding within the main body of the site. There would be a '*retaining structure*' alongside the perimeter access road, varying in height up to a maximum of 3m in the south western corner of the site. Above this retaining structure levels would rise gently for the proposed mounding and then fall again to meet existing levels at or inside the site boundary.
- 2.5.5 The Statement also provides further details of the proposed perimeter planting, both in the form of a plan and planting matrices (Figure 3.5) and a series of cross sections showing the anticipated height of the planting after 10 years (Figure 3.6).
- 2.5.6 The following comments relate to the additional information set out in the Statement:
- The '*retaining structure*' would be a large engineered structure, extending around much of the site perimeter for a distance of around

900m. This would be a discordant and unsympathetic feature, though one which would be mostly visible from inside the site only.

- There are some significant gaps between the areas of perimeter planting, which would allow views into the site - this was also the case with the planting as illustrated on Figure 3.3 of the ES.
- From the planting matrices shown on Figure 3.5, it would appear that the perimeter planting is proposed to be at 5m centres. This is very sparse (though planting at these centres is used for long term forestry planting) - planting designed for a reasonably rapid screening effect would more typically be carried out at 1.5m centres, which would involve around 10 times as many plants as planting at 5m centres. The use of low density planting may be appropriate for the mixes which include mainly tree species planted at heavy standard or feathered sizes, but is not appropriate for the shrub mixes, S1 and S2.
- The drawings show a 4m gap between the boundary hedgerow and the proposed 2m high security fence. This gap appears to be unplanted, and its purpose or how it would be maintained is not made clear.
- The combination of sparse, low density planting with wide gaps between the planting groups and a 4m unplanted strip around the edge of the site means that the efficacy of the perimeter planting in screening the proposed development would be limited. However, the proposed planting could, if the scheme were to proceed, be subject to a condition requiring submission of revised landscape proposals to address the above concerns.

Landscape and visual effects

- 2.5.7 The additional information provided within the Regulation 19 Statement, relative to that set out in the original ES, shows that the proposed development would be set down into the ground, with a retaining structure of varying height around the edge of the site, and low mounding rising above the retaining structure, grading back out to existing levels around the site boundary. Some of that information may have been implied in the ES, but it is now shown more explicitly.
- 2.5.8 The original assessment of the landscape and visual effects of the Baldersby Gate proposal was based on the information provided within the original ES, and was that there would be moderate adverse effects on local landscape character, as the development would be visible over an extensive area, and some elements of it would be discordant and intrusive within the view. It was concluded that the presence of a new, large scale built development within an expansive rural landscape would inevitably have significant adverse effects, and that the proposed planting would only begin to provide an effective screen to the development after some considerable time.
- 2.5.9 In terms of visual effects it was acknowledged that only a few residential properties would be affected, with effects no more than slight adverse. For road users, it was concluded that the new MSA would fill the foreground of views to the west from the junction, and would significantly change what is at the moment a pleasant, expansive view. However, that would only be one view in the context of an overall journey, and effects on motorists using the A61 or A1(M) would be no more than slight adverse.

2.5.10 In the light of the further information set out in the Regulation 19 Statement, the Council's position on the likely landscape and visual effects is as follows:

- The proposed development would be set further down into the ground, and would be surrounded by mounding to a slightly greater extent, than was apparent from the information available at the time of the previous Inquiry.
- However, the new buildings would still be visible from the surrounding countryside, and would still be prominent and discordant in views from the higher ground of the adjacent A61 junction.
- The presence of the extensive retaining structure around the edge of the site would also increase the extent to which the new development would be seen as an artificial and discordant intrusion into the surrounding countryside - while this structure would be most apparent from within the site it would also be visible from around the site entrance and to some extent from the A61 to the east of the site.
- The landscape and visual effects of the Baldersby Gate scheme may therefore be slightly reduced in some respects but slightly increased in others, and the previous conclusion that the development would be significantly out of character with the surrounding landscape does not alter as a result of the further information.
- Temporary landscape and visual effects during the construction period would be greater than previously assumed, as a result of the extensive retaining structure and the quantities of cut and fill required.

Comments on JT response to the Regulation 19 Statement

2.5.11 The following comments relate to the response to the Regulation 19 Statement prepared on behalf of JT by Paul Beswick (2012/JT/3/5):

- In paragraph 2.2.3 Mr Beswick states that (based on a number of assumptions) a topsoil stockpile of up to 5.9m in height (he actually says, presumably in error, that the stockpile would be 'approximately 5.9m² in height', though he appears to rely on Mr Poyser's statement for this information, and Mr Poyser gives his estimate of the likely height as 6.9m) would be required, and offers the opinion that this would be 'a significant visual detractor during the construction period' and is also higher than recommended for topsoil storage. 5.9m would indeed be too high and could lead to a deterioration in the quality of the topsoil. However, while a large topsoil heap may be a visual detractor it would only be for a limited duration, and may (depending on location) have some benefit in terms of screening construction activity behind it - either way, this would not be a significant factor.
- In paragraph 2.3.4 Mr Beswick states that the enclosure of the site by retaining walls and mounding would screen views out of the site 'in an area where views are valued, thereby diminishing the user experience'. However, the user experience of an MSA is geared more to filling the car up with petrol and obtaining refreshment than with seeking countryside views, and in any case limiting views out will also tend to limit views in from the surrounding area, which would be desirable.

- In paragraphs 2.5.1 and 2.5.2 Mr Beswick notes that much of the green space within the site boundary would be inaccessible to users because of the proposed retaining structure, and that the net area of open space available to MSA users is now very small. While this is true, it can be assumed that the site still complies with Highways Agency guidance for minimum provision of amenity space, and for most MSAs, while the peripheral landscape areas may be physically accessible in theory, they are not designed for public access and public access to them is not generally encouraged.
- Finally, in paragraphs 2.6.4 to 2.6.6 Mr Beswick suggests that the amount of soil handling required during the earthworks operations will result in a loss of soil quality and that this will affect the growth and efficacy of the proposed planting in screening and integrating the development. Mr Beswick is correct to note this as a potential concern, but it is one which should be capable of resolution by good construction and soil handling practice - most major highways construction projects involve extensive earthworks and movement of soils, and plant growth rates achieved on many of them are very good.

Conclusions

- 2.5.12 The information set out in the Regulation 19 Statement does lead to some changes in the detail of the likely landscape and visual effects which would result from the proposed development of the Baldersby Gate site, but does not alter the overall assessment of significant adverse effects on local landscape character - any changes in the effects would be relatively minor and would not affect HBC's previous conclusion that this is not an appropriate site for an MSA, as it is within an open, expansive landscape where significant long term landscape harm would result.
- 2.5.13 The additional information does not alter the previous overall ranking of the four sites in landscape terms, from least to greatest effects, which was:
1. Leeming Bar
 2. Ripon Services
 3. Baldersby Gate
 4. Kirby Hill
- 2.5.14 The additional information does nothing to alter the previous conclusion that HBC's reason for refusal on landscape grounds is entirely justified.

2.6 Inspector's Conclusions - Baldersby Gate Services - Regulation 19 Matters

Drainage

- 2.6.1 JT sought to demonstrate that the proposed drainage arrangements would not cope with a 1 in 100 year event. Mr Poyser (JT's witness on engineering matters) considered that a much larger and deeper balancing pond would be needed, occupying more of the site and interfering with the proposed access layout. Mr Poyser's criticisms appear to have been based on an understanding that the scheme relies on gravity flows to a balancing pond which is a single point of discharge. [2.1.22, 2.1.24, 2.2.12]

- 2.6.2 The proposed drainage arrangements have been designed on sustainable drainage principles, incorporating substantial volumes of storm water capacity under the impermeable surfaces of the car parking and lorry parking areas. These are designed to hold rain water immediately following a storm which then drains directly to the underlying permeable sub-soil. Such methods are widely used on construction projects to ensure satisfactory disposal of surface water and to avoid creating a downstream flood risk. The purpose of the balancing pond in this scheme is to provide for additional capacity in extreme events, and thus provide an element of insurance, rather than to provide storm-water storage for the whole site. [2.1.23, 2.2.13, 2.2.14]
- 2.6.3 The use of this means of drainage for the REL scheme has been accepted in principle by the EA. Mr Normandale (EA development and Flood Risk Technical specialist (Yorkshire)) confirmed on 16 February 2012 that 'in terms of surface water drainage issues, the EA does not have any particular concerns that a satisfactory surface water scheme can be delivered on this site' (2012/HBC/107). [2.1.21]
- 2.6.4 Mr Poyser questioned whether it was appropriate to construct such storage capacity under the lorry parking area, where the system of drainage voids could be degraded or damaged by lateral forces caused by the manoeuvring of heavy vehicles. He also suggested that linking drainage channels could become blocked, and that the build up of silt over time could limit and ultimately prevent infiltration to groundwater. In that event he argued that a much larger and deeper balancing pond would be needed to accommodate a 1 in 100 year event. [2.1.23, 2.2.15]
- 2.6.5 I acknowledge that storm water storage under the lorry parking area appears to be a new feature of the scheme which was not contemplated at the time of the previous Inquiry. However, notwithstanding Mr Poyser's concerns, there is no evidence to demonstrate that such a method of construction is unsuitable for use under lorry parks. While I accept that there is likely to be an ongoing need for maintenance of gullies and storage voids, I was informed that the design of such systems allows mechanical access for maintenance purposes. Methods to prevent the built up of silt which might impede infiltration, such as the use of geo-membranes, can be designed into the system. [2.1.23, 2.2.15]
- 2.6.6 In conclusion, it is apparent that, having had the opportunity to consider the Regulation 19 information, the Environment Agency has not raised any concerns that a satisfactory surface water scheme cannot be delivered on this site (2012/HBC/107). The scheme has been designed to deal with a 1 in 100-year storm event +20% to allow for climate change. This is on the basis that commercial developments have a lifespan of some 60 years, and that PPG 25 recommends that for developments with an end date of between 2055 and 2085 a +20% climate change allowance should be used². [2.1.21, 2.2.15]

Cut/Fill Balance

- 2.6.7 Table 3.1 of the Regulation 19 Statement – January 2012 (2012/CD/6/36) sets out an assessment of the volumes of material involved in the cut and fill exercise. The amount of material to be moved is estimated at some

² Advice now included in Table 5 of the Technical Guidance to the National Planning Policy Framework.

- 106,500 m³ in total, comprising some 82,000 m³ of subsoil and 24,500 m³ of topsoil. It is proposed to use all the subsoil on the site, using cut material to build up the site adjacent to the A1M/A61 junction. Subsoil and topsoil would also be used in the construction of the landscaping bunds around the perimeter of the site. A surplus of some 4,601 m³ of topsoil would be carted off site. It is intended that this would be 'backhauled' by lorries bringing construction materials to the site, so avoiding the need for any additional vehicle movements. Up to 20,000 m³ of roadstone would need to be imported to the site in the construction of roads and car-parks. [2.1.5, 2.1.6]
- 2.6.8 The assessment of quantities of material has been undertaken using AutoCAD and KeyTERRA-FIRMA (KTF), both well established software tools which are widely used in the industry. KTF is a bespoke modelling tool which enables the user to design and then assess large ground models. It is used widely in the design of quarry and landfill operations, and to design ground re-profiling models for major projects and provide accurate information on materials quantities. The accuracy of the model output was not disputed by any party, and the figure of 106,500 m³ was taken as the appropriate basis for assessing impacts. [2.1.5, 2.3.1]
- 2.6.9 In his evidence on behalf of JT, Mr Poyser raised a number of concerns over the way the base data derived from the model was interpreted in the Regulation 19 Statement. His first point was that it made unrealistic assumptions in respect of the bulking up of materials when excavated. In his view, the Regulation 19 statement did not make adequate provision for this, with the result that the impacts of topsoil stockpiling on site were underestimated. Secondly, he took issue with the bearing strength of material cut from the site and its appropriateness for use in building up the site adjacent to the access roundabout, particularly where it would support access roads and buildings. In his view the use of subsoil material for this purpose would be unacceptable, and there would be a need to import additional materials of an appropriate bearing quality, with a consequent need to export surplus material off site. Thirdly, he questioned the practicality and likelihood of backhauling as a realistic option, given the sequence in which the varying operations would take place, and the incompatibility of topsoil and subsoil to be carted away by the same vehicles bringing 'clean' roadstone. [2.1.4, 2.1.5, 2.2.16, 2.2.17]
- 2.6.10 One point of divergence between the parties is that Mr Poyser considers that topsoil should be stripped from the whole of the site, producing an additional 5,000m³ of topsoil to be removed from the site. REL stated that topsoil around the periphery of the site where the landscape bunds are to be constructed, would simply be left in place. Excavated subsoil and topsoil would be placed directly on top of the retained topsoil. I acknowledge that topsoil is a valuable resource in its own right which it might in other circumstances be desirable to remove before construction of the bunds. However, I do not consider that any particular problems would arise from constructing the bunds over in situ topsoil. The potential for any significant concentrations of gas to occur as a result of the decay of organic materials in the soil is very limited. Any gas generation that did occur would quickly disperse to the atmosphere and is unlikely to cause any long term problems for the establishment of landscape planting on the bunds. [2.2.17, 2.2.22, 2.5.11]
- 2.6.11 With regard to bulking of excavated materials, Mr Poyser (for JT) considered that REL's contingency of 2.5% is inadequate. He proposed bulking factors

of 30% for clay materials, 60% for sandstone, 15% for general non-clay ground materials, and around 20% for topsoil. He accepted that excavated material would be re-compacted when placed in its final fill position, proposing a net bulking factor of 17.5% for original 'as excavated' material for clay and sandstone and around 10% for general made ground. In consequence he suggested a significantly greater allowance should be made for material generated by the cut-and-fill operation which may need to be disposed off-site, including 19,428 m³ of subsoils and 15,480 m³ of topsoil. [2.1.10, 2.2.18 - 2.2.21]

- 2.6.12 Based on these calculations, Mr Poyser's assessment on behalf of JT is set out in Table 1 of his evidence (2012/JT/8/2). He identifies a residual volume of 34,908m³ of material which will need to be disposed off-site, equivalent to 3,500 HGV movements in and out of the site. The import of roadstone to use as a capping material is likely to generate a further 600 – 700 additional HGV movements in and out of the site. He expects the earthmoving phase prior to main construction to take 6 months, if carried out in favourable conditions, or 8 months if any of the works were to fall in the winter period. [2.2.18, 2.2.25]
- 2.6.13 It was not in dispute that some bulking-up of materials would occur during earthworks which would inevitably increase the volumes which need to be moved on site. REL's contention is that these would be re-compacted when placed in their final positions, and that a reasonable maximum allowance for bulking up after compaction would be 5%. [2.1.10, 2.2.20]
- 2.6.14 As regards topsoil the site is presently arable land, and the topsoil will not therefore be in a compacted state beyond what would be normal in the course of settlement and cultivation. I note that Keir Construction (appointed by REL to provide contractor support) apply a bulking factor of 20% to calculate the amount of topsoil needing to be moved on site (2012/REL/7/2 Appendix 3). While I accept that topsoil will bulk up during the earthworks, there is no reason to suppose that it will not settle to a similar volume after placement. [2.1.18, 2.2.17, 2.2.22, 2.5.11]
- 2.6.15 With regard to gravelly clay, Mr Poyser questioned whether this would have a satisfactory bearing strength to provide suitable fill under the roads as a replacement for the use of imported roadstone as a capping layer material. He considered that the compaction of gravelly sands and weathered sandstone could provide a suitable sub-grade, subject to appropriate re-grading and processing required for capping material. His view was that the ability for such materials to achieve an acceptable bearing strength would depend on moisture content for cohesive materials such as clay, and the use of an on-site crusher to grade the excavated sandstone so as to avoid larger angular pieces of rock and stone creating air voids. [2.1.7, 2.1.12, 2.2.24]
- 2.6.16 The suitability of excavated material to support construction of roads and buildings is calculated by reference to its 'California Bearing Ratio' (CBR). The Regulation 19 statement identifies a requirement for approximately 20,500 m³ of fill of suitable bearing quality under roads, car-parks and building foundations. The groundworks model indicates the availability of some 13,079 m³ of weathered sandstone with a CBR of some 50% or above, and 9,216 m³ of sandy gravel, with a CBR of some 4%. In total this would provide a sufficient quantity of material. Mr Green's evidence on behalf of REL is that these resources can be processed on site to provide suitable material to form the fill areas for road, car park and building construction.

His view is that it would not be necessary to use a crusher, as the sandstone material is relatively soft, and would be excavated using a pneumatic hammer on the excavator to break up any larger particles. It could be placed and compacted on site using standard construction plant. It would be a requirement for the bearing strength of the sub-grade to be tested on site in accordance with Interim Advice Note 73/06: Revision 1 (2009): Design Guidance for Road Pavement Foundations (2012/REL/7/2 Appendix A). In the event of further stabilisation being needed, this could be achieved by means of a stabilisation layer, without the need for an imported capping layer. [2.1.7, 2.1.12, 2.2.20 -21]

- 2.6.17 There is an apparently irreconcilable difference between the parties as regards the cut and fill balance. While it is not a requirement that the internal roads of the proposed MSA should be built to an adoptable standard, it is clearly necessary that the fill material achieves an acceptable bearing strength so that roads are built to an appropriate standard, and that the fill material would be placed and compacted to achieve a high degree of stability. While Mr Poyser highlights the difficulties involved in achieving satisfactory bearing strength given the materials available on site, he does not say that it would be impossible. Clearly the site engineer would have to exercise a high degree of supervision to ensure that the appropriate engineering standards would be met. The rigorous testing referred to above would be part of that process. Site supervision could be expected to take into account and make allowance for adverse operating conditions. However the evidence of borehole tests suggests that the materials available on-site are capable of achieving the required bearing strength in the right conditions. Notwithstanding Mr Poyser's concerns I do not consider there are likely to be any significant requirements for the importation of additional capping materials to be imported, beyond the 20,000 tonnes of stone identified in the Regulation 19 Statement. [2.1.11, 2.1.13, 2.2.19, 2.2.23, 2.3.6]
- 2.6.18 I acknowledge that the Regulation 19 earthworks assessment makes limited provision for contingencies to allow for the bulking up of materials, with a possibility that a commensurate amount of surplus cut material would need to be exported. Nevertheless I consider Mr Poyser's assessments to be unduly pessimistic. It appears to me that he has not allowed for the existing condition of the topsoil as recently worked arable land, nor for the fact that settlement could be expected over time. I acknowledge that it may not be possible or desirable to achieve 95% compaction of material other than where it is necessary to achieve the bearing strength under roads, buildings and car-parks, so some additional allowance may need to be made for the removal of additional surplus material, primarily the gravelly clay material which is unsuitable for use under buildings and surfaces. [2.1.15, 2.2.22 – 2.2.25, 2.3.1 – 2.3.8, 2.4.1]
- 2.6.19 Acknowledging the fact that there could in the event be a requirement for additional movement of materials on and off site, I consider that such effects would be moderate adverse and temporary. The potential additional impact could be addressed by NYCC's suggested addition to the Construction Method Statement condition, requiring an HGV movement plan to be prepared and the development to be implemented in accordance with the plan. [2.3.8, 2.3.17 - 19]

- 2.6.20 JT also raised a number of points about the extent and height of stockpiles. However it appears to me that there are ample areas around the perimeter of the site to accommodate stockpiles during construction. I deal with the long term landscape and visual impacts of the scheme below. However while stockpiling may have some temporary visual impact on the locality, it would have no lasting adverse impact. [2.1.19, 2.2.16]

Backhauling

- 2.6.21 The Regulation 19 Statement identifies a need for some 20,000 m³ of stone to be imported to the site for road building purposes. It suggests that vehicles delivering the material to the site could be used to backhaul any surplus excavated materials, thus minimising the need for any additional HGV trips during the earthworks phase.
- 2.6.22 North Yorkshire County Council did not take issue with the assessment of quantities of cut and fill, but considered that the impact of the earthwork operations should be assessed on the basis that no backhauling would take place, due to the potential incompatibility of materials being imported to the site, and cut material required to be exported. Mr Poyser on behalf of JT considered there would be a substantial additional quantity of material to be exported (see above) and that in reality there would be no scope for backhauling, due to a conflict between 'clean' roadstone and topsoil and subsoil to be exported. [2.1.16, 2.2.27, 2.3.9, 2.3.10]
- 2.6.23 I note that REL's partner contractor identified scope for backhauling, and identified a potential destination willing to accept surplus material. While backhauling would clearly be desirable to minimise vehicle movements if it could be achieved, I accept that there are questions regarding the programming of imports and exports, and the compatibility of materials. I have accepted that there may be some additional surplus material to be exported, though not in the quantities Mr Poyser identified. Accordingly if permission were to be granted on the Baldersby Gate North site (the REL proposal) it would be necessary to make provision for a condition requiring a scheme of HGV management as part of the Construction Method Statement, as proposed by North Yorkshire County Council and agreed by REL. [2.1.16-17, 2.2.27, 2.3.17-19]

Landscape Impact

- 2.6.24 The proposed development at Baldersby Gate Services would remain within the overall development height of 51m AOD set out across the site. This design constraint was set in paragraph 3.3.4 of the May 2010 ES, Main Volume 1 (CD/6.36) and has not changed as a result of the submission of the Regulation 19 information (2012/CD/6.36 paragraph 3.3.2). Its purpose is to keep the MSA below the level of the new A1(M)/A61 junction when viewed from the surrounding landscape. [2.1.25]
- 2.6.25 Paragraph 11.8.1 of CD/6.36 is the only reference to the 'cut and fill balance' in the original ES. It states that 'The construction of the MSA would include the creation of roads, car parking and buildings alongside a 1.6m high landscape bund to the north eastern corner of the development. To accommodate the development all of the existing arable land of the site would be removed and minor earthworks within the site would take place.' [2.2.3, 2.5.1]

- 2.6.26 The assessment of landscape impact during the construction phase is at paragraph 11.8.4: 'The removal of this farmland from the immediate arable landscape would result in a high magnitude of change however, due to the low sensitivity of the land, the significance of effect would be temporary moderate/slight adverse.'
- 2.6.27 Paragraph 11.1.3 of the Regulation 19 Statement (2012/CD/6.36) identifies a mistake in the original ES, in that the 1.6 metre reference should have been to the north-west corner of the site, as the north-east corner is already well above 1.6 m in order to marry in with the A1(M) junction. The more detailed information including the landscape plan and the sections in figures 3.5 and 3.6 of the Regulation 19 Statement indicates that the height above existing ground level of the peripheral landscape modelling (excluding the area around the main access) would be between 1.14 and 1.74 metres above existing ground. The gradients of the proposed bunds are not severe, so that in my judgment the artificial land form along the western and southern boundaries of the site would not appear particularly stark when viewed from the west or south. The gentle grading is facilitated by the use of the proposed retaining structures on the inner edge of the bunds. While it has been suggested that these would reduce the internal visual amenity for users of the site, I do not consider that the effect would involve material harm, or interfere with the primary purpose of providing an MSA in this location. The A61 approaching the junction from the Ripon direction and the junction itself are already artificial elements in the landscape, and the impact of earthworks would be viewed in that context by users of the roads. [2.2.2, 2.5.6, 2.5.10, 2.5.11]
- 2.6.28 While Mr Denney on behalf of REL stated that he was always aware of the requirement for cut and fill, this was not fully reflected in the original ES. In my view, the requirement for cut and fill now proposed, involving the movement of some 106,000 m³ of material as detailed in the Regulation 19 information, amount to more than 'minor earthworks within the site.' This was accepted by Mr Green (REL's engineering witness) who considered the extent of the works to be 'a reasonably large earthworks operation'. However I also acknowledge Mr Denney's position that there is a meaningful distinction between the volumes to be moved in the context of the site and its immediate environs, and the visual impact in the wider landscape. [2.1.28, 2.2.2 – 7, 2.5.1]
- 2.6.29 I accept that the works will have an adverse impact in the immediate context during the period of construction, and pending completion of the works and the establishment of the landscaping scheme. However in the context of the wider landscape, such effects will appear localised and temporary. The other proposed schemes have not been subject to such detailed scrutiny of construction impacts, but it is reasonable to assume that any large construction project will involve at least some degree of disturbance to the landscape during the construction phase.
- 2.6.30 As regards the longer term landscape impact, the original ES concluded that *'The proposed MSA will have a varying impact upon visual amenity within the study area between year 1 and year 15 of the development. The significance of effect on visual amenity at year 15 ranges from none to moderate/slight beneficial. A small number of receptors would also experience temporary adverse effects during the construction phase of the development At year 15, no adverse effects on visual amenity will*

prevail. The mitigation planting would have established to screen or soften the view towards the development and contain the lighting within the site. Beneficial effects have been assessed where the mitigation planting also provides screening of the elevated A1(M)/A61 junction or general A1(M) corridor.'

- 2.6.31 The landscape and visual impact of the scheme was debated extensively at the main Inquiry. On the basis of all the evidence to the main Inquiry, Inspector Lyon's conclusion on the landscape and visual impacts of the Baldersby Gate Services proposals are summarised at paragraphs 14.5.58 – 14.5.60 of his report, as follows:
- 14.5.58 *The site has no formal landscape quality designation, but it has been assessed in the district's landscape character appraisal. It is in a uniform and open agricultural landscape that would not easily mitigate the harmful effects of the large-scale MSA. The landscape mitigation would retain and enhance planting around the site and introduce some native species woodland, avoiding large scale woodland blocks that would be inappropriate to the area's characteristics and would impact upon views. However, the site would appear as a landscaped box that contained development, an effect that may be enhanced if a continuous 1.6m high mound were introduced around the edge. From most long views only the tops of the buildings may be visible. I conclude that the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight.*
- 14.5.59 *Any views of the MSA from the A1(M) would be of lesser importance, but there would be clear views of the MSA from the A61, which is a tourist route. The visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well as large volumes of motorway traffic. There are few close sensitive visual receptors to the site, the nearest being at Hutton Grange Cottages and Hutton Grange. I consider that the proposal would cause slight visual harm to those receptors, which would lessen as vegetation matures.*
- 14.5.60 *There would be a slight detrimental visual effect from nightglow.*
- 2.6.32 In reaching the conclusion that 'the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight' it is evident that he has taken into account the effect of a 1.6m mound around the edge. It is clear from this that he disagreed with REL's assessment. While he identified deficiencies in the original ES, I consider that the 2012 Regulation 19 Statement, together with other evidence presented to the re-opened Inquiry, has provided sufficient information on which to assess the likely significant environmental effects of the proposal. [2.5.9, 2.2.4 - 6]
- 2.6.33 Mr Lyon dealt with REL's assessment in terms at paragraph 14.5.35: *'I do not believe that the proposal would ever be beneficial in landscape terms as REL suggests, notwithstanding that in the long term there would be some screening of the embankment and junction. I conclude that the proposal would cause moderate harm to the landscape character. The harder*

elements may soften over the years as the vegetation matures, but the box-like appearance would remain; I consider that the harm would lessen from moderate to slight.' [2.1.26, 2.2.8, 2.2.11, 2.5.12]

- 2.6.34 Mr Beswick, JT's landscape witness, distinguished between the effects of the proposal on existing landscape features and effects on the immediate landscape character. While he considered that the magnitude of change as a result of the earthworks would be very high, his overall assessment of the impact on existing landscape features was as follows: 'construction impacts would be *moderate adverse*, winter Year 1 impacts *slight adverse* and summer Year 15 impacts *neutral/slight adverse*, as a result of the significant earthwork requirements' (2012/JT/3/5 para 2.4.4 – error in text *neutral/slight beneficial* corrected by Mr Beswick to read *neutral/slight adverse* at re-opened Inquiry). Likewise, his assessment of effects on the immediate landscape character is: 'construction impacts would be *moderate adverse*, winter Year 1 impacts *moderate adverse* and summer Year 15 impacts *neutral*, as a result of significant earthwork requirements.' (2012/JT/3/5 para 2.4.5). While Mr Beswick's judgement is that the long term impacts on the immediate landscape character would be neutral rather than slight adverse, these assessments are not inconsistent to any significant degree with Mr Lyon's conclusions on the landscape and visual impacts of the Baldersby Gate proposal. [2.2.9, 2.5.10]
- 2.6.35 Although I acknowledge that there would be adverse effects arising from the need for cut and fill during the construction period, I consider that these would be of limited duration, even if JT is right that the contract period would be longer and more materials need to be exported from the site than the REL assessment indicates. In my judgement there is nothing in the Regulation 19 Statement that would alter the overall assessment reached by the original Inspector that the proposal would result in moderate harm to the landscape character of the area, lessening from moderate to slight, and also that visual impacts would be slight, and would lessen as vegetation matures. [2.1.14, 2.2.9]

2. DEPARTURES

3.1 The case for REL

- 3.1.1 Paragraph 4(c) of the DCLG letter dated 8 November 2011 provides that the SoS needs to be satisfied that there would be no impediments to securing access to the site. So far as REL is concerned, the following are relied upon:

a) 2012/HA/4/1

Mr Buckley is a Senior Adviser in the Safe Road Design Team (Geometric) of the Highways Agency. He deals specifically with the issues of Departures from Standard in relation to paragraph 4(c) of the letter dated 8.11.11. In relation to Baldersby Gate Mr Buckley states:

"Drawing 22280 13A Geometric Compliance to DMRB Standards for MSA Access proposals. That plan also incorporates the crossing facility for NMU (non motorised users)".

- b) Under the heading 'Highways Agency Review' it states:

'12. The Highways Agency has reviewed the ... Baldersby Gate Services and the Ripon Services (Baldersby Gate Western Dumbell Roundabouts) drawings/schedules and no departures from standard have been identified.'

- 3.1.2 The North Yorkshire County Council as local highway authority issued document 2012/NY/106, also addresses the same issue. They say at paragraph 8:

'The LHA has previously confirmed that it has no objection to ... the REL proposal on departure grounds.'

- 3.1.3 At paragraph 10 it records:

'In CD/6.35, a Statement of Common Ground with REL, the HA and the LHA have confirmed at paragraph 4.3 'the access arrangements as set out in Drawing 22280 6F are acceptable.'

- 3.1.4 Finally at paragraph 16 it is stated:

'No departures from standard affecting the LHN arise from the REL proposal. The only new matter before the inquiry is the agreed amendment to a planning condition to allow for approval of HGV movements during construction (see 2012/CD/14.23).'

- 3.1.5 It is clear that there is no impediment to implementation of the REL scheme under paragraph 4(c) (or indeed in any other regard).

3.2 The case for JT (Rainton).

- 3.2.1 Paragraph 4(c) of the 8 November letter required assurance that, if a departure was required to be approved by the HA, the relevant party had obtained the necessary approval so that there was no impediment to the implementation of that scheme for which a departure was necessary. The HA, having been asked to review JT's proposed alterations to the western dumbbell roundabout at Baldersby Gate junction, has confirmed that there are no departures from geometric standards required to be approved (2012/HA/2/3). The HA has also indicated that it is minded to grant the

departure from policy necessary because of Ripon Services inability to accommodate the very largest abnormal loads, although it is the HA's roundabout and overbridge which in fact is the pinch point (2012/HA/2/2). Thus, there is no impediment to the delivery of the JT scheme in respect of the matters specified in paragraph 4(c) about which the SoS wished to be reassured.

- 3.2.2 In addition, NYCC as the highway authority for the A61 west of the dumbbell roundabout, has confirmed that it has not identified any departures to the JT access roundabout or the short section of road linking the access roundabout to the western dumbbell (2012/NY/105). Thus the SoS can also be reassured that there is no impediment to Ripon Services being implemented for reasons that are not of concern to the HA and are the responsibility of NYCC.
- 3.2.3 The absence of any highway impediment to the JT scheme being implemented is accepted by all parties except MOTO who through Mr Finlayson sought to argue that the design of the access roundabout had been altered, the widening of the western dumbbell roundabout would result in the loss of the berm on its western side and that there was inadequate stopping sight distance along the link road travelling north along the A61 from Ripon. MOTO's involvement in the discussion cannot be regarded as independent.
- 3.2.4 The allegation about JT 'amending' its access was premised on the relevant plan submitted by Mr Wilkins (JT's highways witness) as part of his evidence to this Inquiry having a different name and number to that before the original Inquiry. Mr Finlayson (MOTO's highway witness) should have realised that there has been no change to the geometric design of the access roundabout and the only difference between drawing 11/349/TR/001 submitted in Appendix F of 2012/JT/2/7 and drawing 22260/602 Rev A submitted to the last Inquiry relates to the name and number to reflect Mr Wilkins' change of employer and the additional information that has been added to the drawing for the purpose of showing that it is designed to standard (see section 2 of 2012/JT/2/9).
- 3.2.5 The next point was that the berm would be lost on the western edge of the dumbbell. It was a point which could have been raised at the original Inquiry but wasn't and is capable of being engineered out at the detailed design stage as Mr Wilkins made clear in section 3 of 2012/JT/2/9 and evidence in chief. He confirmed in response to a question from the Inspector that the options for replacing the berm (e.g. by steepening the embankment slope through the use of gabions) could all be done within the highway boundary. This was not disputed and the point ultimately appeared to be that because access was not a reserved matter it was necessary for the road improvements to be designed to a fully engineered standard. That obviously is wrong and doesn't reflect the SoS's request in paragraph 4(c) of his 8 November letter.
- 3.2.6 The last point related to an alleged inadequacy in the stopping sight distance along the link road. As with the berm, this is a point which, if it had had any real substance to it, could and should have been raised at the original Inquiry but was not. Mr Finlayson's interpretation of paragraph 2.2 of TD9/93 (CD17.1) (i.e. that the stopping sight distance line to be measured between any two points in the centre of the lane should not go

outside of that lane) was plainly inconsistent with figure 8.1 of TD 16/07 (CD1.1) (which shows the stopping sight distance crossing the verge and other carriageways on a curved approach to a roundabout). If Mr Finlayson was right, it would mean that every road would have to be straight or with only a minimal curvature. Such points served to underline MOTO's acknowledged goal of seeking to prevent a new MSA being built to compete with its MSA at Wetherby (even though the SoS must have concluded that there is a need for one because otherwise there would have been no point in re-opening the Inquiry).

- 3.2.7 Moreover, MOTO's argument was premised on the central reserve of the link road having a vehicle restraint system (VRS) installed and the design speed of the link road being not less than 70kph. Those assumptions were wrong. At no point in its application drawings has JT shown a VRS being installed, NYCC has never indicated that one should be installed and a VRS is not a mandatory requirement at speeds less than 50mph. Further, the default design speed of the link road is 60kph because it is lit. But even if the design speed was 70kph there would be adequate stopping site distance without a VRS in the central reserve.
- 3.2.8 The suggestion that vehicles would exit the roundabout at between 30 – 40 mph and reach speeds along the 180m link road of 50 – 60 mph is an untenable position in the light of Mr Finlayson's own written evidence that vehicle speeds 'are likely to be lowered by the presence of the roundabouts and the relatively short distance between them' (see paragraph 22 of 2012/MOT/3/5). To reach those speeds along the link road a driver would have to 'floor' the accelerator on exiting the access roundabout and then stand on the brakes to slow down or stop for the next roundabout. Questions put to Mr Wilkins by MOTO about lighting along the link road and fencing around the equestrian corral were speculative and indicative of the weakness of MOTO's position at the Inquiry.

3.3 The case for HIA

- 3.3.1 The ultimate questions for the Secretary of State in this regard are:
- (1) how likely is it that the scheme designer and/or the HA will identify a need for a departure or departures from standard? and
 - (2) if such a need is identified, how likely is it that a departures application will be approved by the HA in sufficient time as to cause no impediment to the implementation of the planning permission?

(1) How likely is it that a need for a departure will be identified?

- 3.3.2 It was common ground between HIA and the HA at the inquiry in 2010/11 that no departures from standard were required (see eg. HA/107, the SCG at CD14.12, Mr Cawthorne's written and oral evidence and HA/300 paras. 41-42). Mr Plumb for HIA has explained that nothing has changed since then to justify taking a different view today.
- 3.3.3 The HA has confirmed in its written statement dated 14 February 2012 that it continues to hold the view that "no departures from standard have been identified".
- 3.3.4 Whilst it has to be said that Mr Buckley's oral evidence indicated that he personally had not undertaken a particularly painstaking assessment of the

schemes, the crucial point is that the HA's position at the 2010/11 inquiry that no departures were required was both considered and consistent (see eg HA/107) and nothing has changed with HIA's scheme since then. The HA's stance at this re-opened inquiry must be viewed against that important context. If there was a genuine ground for concern about whether HIA's scheme will require any departure(s) from standard, it is extremely unlikely that the HA would have failed to spot this over the c.16 months since the 2010/11 inquiry opened.

- 3.3.5 MOTO's objective for this inquiry is clearly to do whatever it can to prevent or delay the arrival of competition, and its evidence must be viewed accordingly. Ultimately it is for the scheme designer in consultation with the HA to decide whether departures from standard are required, and not for MOTO's highway witness. Greater weight should therefore be given to the consistently stated judgment of both the scheme designer (Mr Plumb) and the HA that no departures will be required.
- 3.3.6 Mr Finlayson acknowledged that his evidence for the re-opened inquiry (2012/MOT/3/5) alleged only one departure from standard – the question of whether a 120m stopping sight distance could be achieved on the slip road for the southbound egress. Whilst at para. 14 of 2012/MOT/3/5, he expressed the view that the southbound off-slip should be aligned away from the mainline, he accepted (a) that this was not a requirement of standard, (b) that 'if you meet standard you get a high level of safety' and (c) therefore if something is not required by standard then it cannot on any view be necessary in order to achieve a high level of safety. It is clear that as the alignment point is not a requirement of standard, it cannot be required to achieve a high level of safety. In any event, Mr Plumb explained that the alignment of the southbound off-slip was not unusual and was perfectly safe.
- 3.3.7 As Mr Finlayson acknowledged, he advanced both these two points at the 2010/11 inquiry (see MOT/3/2 para. 6.47 and MOT109). They were responded to then by Mr Plumb (see eg. HIA/3/3, HIA/108 and HIA/115) and were the subject of cross-examination and submissions. They are not new points and are therefore outside the purposes for which the inquiry has been re-opened.
- 3.3.8 In any event, they are points without merit. Mr Plumb demonstrated by reference to the annotated extracts of plans 63B & 64B (2012/HIA/124, the unannotated versions of which were in 2012/HIA/3/5 and which could and should have been measured up by Mr Finlayson long before he gave evidence) that a Stopping Sight Distance (SSD) of 120m could be provided within the parameters of HIA's application plans. In particular:
- (1) In relation to the northbound egress, the spit of land over which the 120m line of sight is drawn can and will be kept free of obstructions (the proposed landscaping condition provides sufficient comfort in this regard);
 - (2) In relation to the southbound egress, a SSD of 120m can be provided to the line drawn on 2012/HIA/124. HA/107, which was not challenged at the last inquiry, demonstrates the HA's agreement that the retaining wall for the overbridge could be constructed in a way that would allow for this (and at para. 1.6 it states that the consequent forward visibility is 'acceptable' to the HA).

(3) MOTO's counsel invited Mr Plumb to agree that the number '2' on Drawing 60B in 2012/HIA/3/5 indicated that the motorway regulations would start a few metres before where it was indicated on 2012/HIA/124. There was no substance in the point. As Mr Finlayson himself acknowledged, drawing 60B was no more than generally indicative as to the location of the gateway and the beginning/end of motorway regulations (were it otherwise one would see the associated signage and road markings indicated on the drawings). The precise location of the beginning and end of the motorway regulations on the slip road is not a matter for the planning process to determine but is instead a matter for the HA, which will be secured by the s.278 agreement (hence the reason why drawing 60B was generally indicative in this respect). Although access is not reserved, the precise location of where motorway regulations start does not need to be part of the grant of a planning permission which covers access since it is not an issue within the scope of the planning process. If, as is likely, the HA decide that the precise location of the beginning of motorway regulations on the southbound egress should be where it is shown on 2012/HIA/124, then they will be able to secure that and with it a full 120m forward stopping sight distance.

- 3.3.9 He also explained that there was no requirement in the HA standards for slip-roads to be aligned away from the mainline, nor was it necessary in safety terms to do so.
- 3.3.10 RAMS' written statement (2012/KH/1/1) also fails to raise any new points on the issue of departures that were not considered at the 2010/11 inquiry. As before, they rely on the same points as well as expressing concern about the possibility of a condition providing for rear access for staff at the MSA (as suggested by NYCC on sustainability grounds). That point has also been dealt with in evidence and submissions at the 2010/11 inquiry (see para. 71 and footnote 129 of HIA's closing submissions dated 4 February 2011 (HIA/300)). Kirby Hill RAMS' statement is simply a re-run of arguments already made and to which Mr Plumb has already responded.
- 3.3.11 Overall, therefore, the evidence clearly demonstrates that it is virtually inconceivable that the scheme designer and/or the HA will identify a need for any departures from standard in respect of HIA's scheme. The Secretary of State can be satisfied that there are no grounds for concern in this regard.

(2) Even if a need for a departure were to be identified, how likely is it to be an impediment to the implementation of the planning permission?

- 3.3.12 In response to a question from the Inspector, Mr Finlayson confirmed that he had not considered this question. There is therefore simply no evidence that, even if a need for departures is identified, a departures application is unlikely to be approved by the HA in good time.
- 3.3.13 By contrast, the evidence of Mr Buckley, based on his first-hand experience of dealing with departures applications, was that:

- (1) The HA will assist a designer to resolve a departures situation if it arises (2012/HA/4/1);
- (2) a departures application normally takes c.40 days to determine;
- (3) where a departures application is refused, reasons are given to enable the applicant to understand how it might address the grounds for refusal in a subsequent application;
- (4) it is not uncommon for a refusal to be followed by an application that addresses the reasons for refusal.

3.3.14 Mr Plumb's unchallenged evidence was that, even if a departure is required in relation to SSD (which is very strongly resisted for the reasons outlined above), the egress arrangements for HIA's scheme were both safe and convenient. Indeed Mr Plumb expressed the professional view that the access arrangements would be the safest of any online site that he had seen in his considerable experience of MSA sites. Therefore his judgment was that even if an application for departures was necessary, the HA is likely to approve it.

3.3.15 Accordingly, on the evidence available to the re-opened inquiry, it is extremely unlikely that even if a departure was required, it could not be resolved through a successful departures application in sufficient time as to pose no impediment to the implementation of the planning permission.

3.4 The case for MOTO

3.4.1 The origin for the SoS's request for further information on Departures may lie in our original submissions. In closing submissions to the main Inquiry (MOT/300), the correct approach to Departures was set out as follows:

'157. If a new access is to be introduced, it follows that it should meet highways standards in full to compete with the continued use of existing facilities and their compliant access arrangements. There is no place, in a comparative exercise, for allowing new sites to fail the prescribed standards but to be allowed 'departures'. That was a matter considered by the Inspector and Secretary of State at the 2003-2004 Inquiry.

Departures

158. The Highways Agency's normal approach is set out in 'The Highways Agency and the Planning Application Process – a protocol for dealing with Planning Applications' which was published in August 2010 [MOT/110]. As Mr Finlayson pointed out, the protocol requires Departures to be applied for and granted before planning permission is granted. That is to guard against the possibility that either they cannot be achieved later or that if planning permission has already been granted the Agency would find itself compelled to allow Departures that would not otherwise be acceptable on safety grounds.

159. Whilst the protocol did not apply at the time of the 2002/3 inquiry, its requirements were nonetheless complied with in relation to all of the proposals under consideration at that time, including Kirby Hill.

160. Mr Dixon identified the relevant sections of the Inspector's Report which confirmed that although the Highways Agency initially took the view that departures did not need to be applied for at planning stage, it

changed its position during the inquiry, requiring departures applications from each site but indicating that a Grampian condition could be employed where no application was received because there was reasonable certainty that the necessary departures would be approved in every case. The Report also confirms (a) that departures were required in the case of Kirby Hill; and (b) that the necessary departures were applied for before the close of the inquiry (CD/12.1 paragraphs 10.6.29, 8.4.30 and 3.2.38).

161. That Departures application was required before the close of the Inquiry notwithstanding that access was a reserved matter in the case of the previous Kirby Hill scheme. It is applied for in detail in the current scheme. The option of a subsequent 'tweak' of the access design at a later stage does not arise. With the Protocol in place The possibility of a Grampian condition is not available.

162. ...

163. The Protocol at page 7 states where proposals are not fully consistent with DMRB, the Agency's Departures procedure must be followed. It goes on to state that as part of this procedure, the developer will be required to demonstrate that a design that complies with standards cannot be reasonably achieved; and that the proposed design is safe and fit for purpose.

164. The approach to Departures is addressed in paragraph 1.38 of TD22/06 (CD/1.17). This states:

'In exceptional situations, the Overseeing Organisation may be prepared to agree to a Departure from Standard where the standard, including permitted Relaxations, is not realistically achievable. Design Organisations faced by such situations and wishing to consider pursuing this course must discuss any such option at an early stage in design with the Overseeing Organisation. Proposals to adopt Departures from Standard must be submitted by the Design Organisation to the Overseeing Organisation and formal approval received before incorporation into a design layout.'

- 3.4.2 All the applications require access to be determined and not to be reserved. Consequently, all departures should be in place or disputes as to the need for departures should be resolved before the grant of planning permission is considered for an individual site. They each include different areas of land for access within their application boundaries: Baldersby Junction (N) a stub off the dumbbell roundabout; Ripon Services (S) the A61 Link from the new dumbbell, south to the proposed access roundabout and into the site; Kirby Hill, part only of the land lying between the site and the edge of the motorway.
- 3.4.3 Unfortunately, the SoS is no better placed now to resolve these matters than he was after the original Inquiry because of the reluctance of the HA and NYCC to give evidence and the admission by the HA that they had not examined the detail of the access independently but had accepted what they had been told by the individual designers as to whether relaxations or departures were required (Mr Buckley when examined-in-chief by Mr Evans). In particular, Mr Buckley stated that he had not seen plans with drawings of stopping site distances.

- 3.4.4 In the case of Kirby Hill, no one seems to have even picked up that the references in the schedule submitted to him (had he looked at it) referred to the wrong drawings in respect of the southbound merge. No reports were written. The HA had not considered the proposed dual carriageway link into their new dumbbell roundabout at Baldersby or the effect on the HA scheme of public paths for Non Motorised Users on that link despite it being within 400m of their motorway³.
- 3.4.5 The individual sites claim that their accesses have been approved by the HA but the reality is as Mr Buckley said, that the Agency, through him, rely upon what the Designers have told him. The argument is completely circular and there has been no objective assessment. In a further answer to a question from Mr Evans, he repeated that he had seen no plans/drawing or evidence and could not offer any opinion on whether Mr Finlayson was right or wrong about departures.
- 3.4.6 NYCC as local highway authority do not have any standards of their own and do not consider themselves bound by the DMRB. They 'use judgment as to whether the standards are appropriate'. However, it would seem that there is no way of knowing whether something is or is not a departure in North Yorkshire because they apply no written standards. The consequence of this is extremely inequitable.
- 3.4.7 In theory, one site will be judged harshly against standards whilst a neighbour on the same road will not, depending upon whether the stretch of road is a non-trunk road being administered by the HA or by NYCC. The theory is proved by the practice, in this re-opened Inquiry, when the HA calls expert evidence about the effect of traffic entering Baldersby Gate (N) on horses and other NMUs on the network it has just dedicated; whilst NYCC are unconcerned about the same public route about 100 metres to the south where the flows to Ripon Services (S) would be much greater and the introduction of a 3m refuge in the central reservation of a dual carriageway much more dangerous. The SoS is not helped by NYCC in reaching a proportionate decision when two different standards or approaches are applied to alternative proposals affecting the same public path, beside or across the same road, and within 100m of each other. In this case, the SoS can take no assistance in making his decision from those charged with making an objective assessment.
- 3.4.8 The matter goes further. In cross-examination, the NYCC witness did not accept that the Protocol applied to them. In the case of Ripon Service (S), where the proposed dualling of the A61 link road is part of the unreserved access provisions within the application site, the details of the road (lighting, barriers, NMU protection/retention etc.) are unknown to the County at this stage and have not been assessed. That conflicts with the policy of leaving nothing for later determination espoused both by the previous Inspector and by the Protocol.

Examination of the unreserved access applications for each site

- 3.4.9 In the case of each of the sites considered in oral evidence at the Inquiry there are unresolved impediments to securing access, whether directly or indirectly, to the A1(M).

³ HA Circular 1/08

Baldersby Gate (N):

- 3.4.10 There is the question of precisely what detailed access arrangements are being applied for and at what levels. These are not matters which can be reserved for later determination since the application requires them to be determined now.
- 3.4.11 There is an objection from the HA on the impact on NMUs which they make in isolation from any consideration of the same point arising in connection with Ripon Services (S). The Secretary of State has been left to undertake a proportional comparison.

Ripon Services (S):

- 3.4.12 There are questions over precisely what detailed access arrangements are being applied for along the A61 and whether design standards are adequately met. The application quite correctly includes the A61 in the planning application, in contrast to the access to Kirby Hill. However, the details for which permission is sought have not been set out anywhere. The Statement of Common Ground entered into between the promoter and the two Highway Authorities describes the access design as “preliminary” and the design of the new dual carriageway section as merely agreed “in principle” with the details left for a later design process.
- 3.4.13 The missing details include the form of the substitute NMu crossing and its protection from errant vehicles. Whilst there may be street lighting, its location and protection is undecided and was not described in the EA. Once designed there may be a need for some form of central barrier. There is no room for an adequate horse refuge on the 3 m central reservation. These are not matters which can be reserved for later determination since the application requires them to be determined now.
- 3.4.14 Although there is no clear explanation of the NYCC approach to the horse crossing in terms of removal or adequacy, the Secretary of State does not have the luxury of a piecemeal approach to the issue of NMUs being applied by the HA and NYCC. Any lawful decision requires a like for like comparison, particularly given that the provision for NMUs was precisely described in the justification for building the new A1(M).

Kirby Hill:

- 3.4.15 There are questions over precisely what detailed access arrangements are being applied for. The southbound site application stops short of reaching the motorway. There is no detailed access planning application linking the site to the motorway. There is a question over whether and what illustrative plans over land outside the application site meet design standards or require departures. The planning application, unlike that at Ripon Services (S), fails to include the necessary slip roads between the site and the motorway. The HA have given no evidence as to how this omission and the standards to be adopted on any such access (when and if it is made available) will be rectified or permitted.
- 3.4.16 The access arrangements for which permission may be sought are not detailed sufficiently to establish that best standards are met or that no departures will be required. Even the start of motorway regulations shown to the HA on drawing 208006_60: Site Layout (HA/2012/4/1 para. 11) had moved by the time Mr Plumb gave evidence to the re-opened Inquiry.

3.5 The case for the Highways Agency (HA)

- 3.5.1 Mr Buckley of the HA's Safe Road Design Team gave evidence on this matter in response to a specific request from the Inspector in order to assist the inquiry as best he could (including the production of a written statement 2012/HA/4/1). Mr Buckley's evidence was simply a factual account of (a) the departure process and (b) the extent of what he had done by way of review of the drawings/other material identified in his written statement which were submitted to the HA on behalf of the scheme promoters and then provided to him. Mr Buckley explained that he had had no previous involvement in the schemes prior to his review of what was provided to him this year. His evidence does not therefore impinge on any matters agreed by the HA during the course of the previous inquiry.
- 3.5.2 In this closing submission it is sought to do no more than provide what is considered to be a fair summary of Mr Buckley's evidence to assist the decision-maker with a factual picture which can be taken into account in the decision-making process as considered appropriate.
- 3.5.3 Mr Buckley said that his review had been only to look at the drawings in a general (and not detailed) way and that he had gone on what the scheme designers had told him. It was their responsibility to identify any departures, they had not identified any and (as he told Mr Newberry) he had not seen anything which caused him to ask the question whether there was a departure. He had not considered Mr Finlayson's points on behalf of Moto and could not therefore assist in expressing a view on the likelihood of any departure being approved if one were needed. Mr Buckley had not, in respect of Kirby Hill, been provided with drawings which had had available visibility on the merges/diverges marked on them. Any issues at Baldersby Gate in relation to the link road south of the western dumbbell roundabout would not have had the HA's departure procedure applied to them because that link was not the province of the HA. As a matter of generality, designers usually came up with schemes which met requirements.

3.6 The Case for North Yorkshire County Council

- 3.6.1 Departures from standard on the local highway network (LHN) were again not a matter upon which the Secretary of State sought clarification at this Inquiry (paragraph 4(c) of CD/MSA/1). As set out in 2012/NY/106, the standards of the Highways Agency's Design Manual for Roads and Bridges are not compulsorily applicable on the LHN. The LHA has nevertheless set out, in Inquiry Notes 2012/NY/105 and 2012/NY/106, its view of the acceptability or otherwise on safety or departure grounds, in respect of the LHN, of each proposal before the Inquiry.
- 3.6.2 Nothing said in evidence changes the position set out in Inquiry Note 2012/NY/106. Even if the A61 is to be considered a primary distributor road, it does not change the position in relation to the JT site set out in 2012/NY/106 because, as paragraph 13 of the Note makes plain, there is no departure from the requisite Stopping Sight Distance at 70kph set out in Table 3 of TD/9/93. At that Design Speed, as Mr. Finlayson accepted in evidence, there is no mandatory requirement, even on the strategic road network, for a vehicle restraint system in the central reserve that might otherwise interrupt visibility.

- 3.6.3 To summarise the position on all sites, the LHA has no objections on safety or departure grounds to any scheme, subject to the imposition of appropriate conditions. Where departures from the standards set out in DMRB do occur, they have been judged not to compromise highway safety. These matters (and the Inquiry documents and drawings to which they relate) are as set out in Inquiry Note 2012/NY/106.

3.7 The case for Mr C Les (Motel Leeming) (Written Representations)

- 3.7.1 Document CD/2012/14/7/2 is an agreed Statement of Common Ground between Mr C Les and NYCC. The HA have stated that they consider there are no departures from DMRB standards required on the strategic road network in relation to the Motel Leeming MSA scheme, and do not consider that it is necessary for them to be a party to the SOCG. The layout and access arrangements for the Motel Leeming scheme have previously been agreed by NYCC in CD/14.7 and CD/14.7.1. While DMRB standards are not mandatory on the local highway network, departures from DMRB standard TD42/95 have nevertheless been identified in respect of entry and exit radii. NYCC have agreed to these departures.
- 3.7.2 The HA proposals were for a roundabout at the eastern end of the Local Access Road (LAR), and a traffic signal controlled junction at the northern end of the A684/LAR junction. On this basis, Mr Les withdrew his objection to the Side Roads Order (SRO).
- 3.7.3 HA now propose to construct a priority junction instead of the agreed signal controlled layout. The HA has stated that it will provide written assurances to NYCC that if the outcome of the MSA Inquiries favours an MSA at Motel Leeming, it will undertake any necessary facilitation works so that NYCC can construct a larger signalised junction at a later stage.

3.8 The case for Exelby Truckstop (XLB) (Written Representations)

- 3.8.1 The proposed development at Coneygarth would be accessed directly off Leases Road (with the site access taking the form of a priority junction). Whether or not the Bedale, Aiskew and Leeming Bar Bypass (BALB) is implemented, the site would still be accessed directly off Leases Road, which is part of the local highway network.
- 3.8.2 In respect of BALB three possible scenarios have been considered: No BALB; XLB implemented before BALB; BALB implemented before XLB. It is proposed to deal with these by way of Grampian planning condition and by two Section 106 agreements which were before the main Inquiry. If the BALB scheme goes ahead, NYCC accepts that appropriate amendments can be made to the BALB scheme without adversely affecting the local highway network.
- 3.8.3 In the event that the XLB and Motel Leeming proposals are both granted planning permission, a minor scheme of works to the eastbound approach of the eastern dumbbell of the New Leeming Junction (NLJ) would be required in 2022, which is acceptable to HA and NYCC (CD/14.22 refers).
- 3.8.4 There are no impediments to achieving any of the possible access scenarios to the XLB proposal.

3.9 The case for Kirby Hill Residents Against Motorway Services (Written Representations)

- 3.9.1 It is clear that after 15 years of applications and appeals, during which HIA's design proposals and drawings have been extensively modified, the scheme has not yet reached a stage where the HA can unequivocally state that no departures from standard are required. The access proposals (especially the southbound access) remain confusing and unsafe. HA's vacillation suggest to lay residents that the proposed scheme will require a departure from standards.
- 3.9.2 Although RAMS are not traffic experts it is understood that a departure from HA standards is required in order to construct access from the motorway, down a steep gradient, under a tunnel and up another steep gradient, while negotiating a 180-degree decreasing radius loop into the proposed southbound MSA. It is further understood that HA standards require that a diverging slip road should leave the main carriageway at a set angle and should not diverge and then run parallel with the main carriageway for some distance. The Inquiry should require HA to address these features and whether they would require departures from standards.
- 3.9.3 It is hoped that HIA will not be permitted to circumvent the need for departures from standards, for example by clever positioning of 'end of motorway' signs, or by relying on errors in the drawings. It is ridiculous to suggest that HA design standards for accesses can somehow cease to apply part way into or out of an MSA, at an arbitrary point where the developer chooses to erect a gate. There are outstanding questions over whether the proposed access tunnel would be of sufficient height to accommodate abnormal loads.
- 3.9.4 The proposed rear access also represents a departure from policy.
- 3.9.5 It remains the case that departures from standard are likely to be required in respect of the proposed Kirby Hill MSA. These have serious safety implications that are a matter of major concern to local residents. The appeal should be dismissed.

3.10 Inspector's Conclusions - Departures

Baldersby Gate Services (REL)

- 3.10.1 The position at the close of the main Inquiry was that the HA was satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN, as set out in the Statement of Common ground between REL, the HA and NYCC. [3.1.3]
- 3.10.2 For the re-opened Inquiry, REL resubmitted the access design to the HA and NYCC for confirmation. Drawing no. 22280_13A: Geometric Compliance to DRMB Standards for MSA Access Proposals were considered by Mr Buckley of the HA safe roads design team. He confirmed that no departures from standard had been identified. [3.1.1]
- 3.10.3 MOTO raised a concern that, in view of the submission of the Regulation 19 Information in respect of earthworks for this site, there was now uncertainty as to the vertical alignment of the access road. In response REL referred to drawing SLR Drawing SK02 Site Entrance – Sections, which confirms that the resultant gradients along the site access accords with the design standards. The point was accepted by MOTOs witness and not pursued.

- 3.10.4 I conclude that as regards the site access geometry, no departures from standard would be required, and the question of departures would not be an impediment to the grant of planning permission for this scheme were the Secretary of State so minded. [3.1.1 – 4, 3.4.3 – 5, 3.4.10 – 11, 3.5.1, 3.5.3]

Ripon Services (JT)

- 3.10.5 The proposed access for the Ripon Services scheme is via a new four arm roundabout located on the A61 section of dual-carriageway leading to a roundabout on the A61, approximately 210 m to the south of the western dumbbell of the upgraded Baldersby Gate junction. The A61 would be dualled between the junction and the proposed access roundabout. This section of road would fall within the remit of NYCC rather than the HA.
- 3.10.6 The modified western dumbbell roundabout is shown on Drawing No 11/349/TR/009 and the site access on Drawing No 11/349/TR/001 (2012 JT/2/7 Appendix SCW F).
- 3.10.7 JT's position is that the design accords fully with the Design Manual for Roads and Bridges (DMRB) TD 16/07: Geometric Design of Roundabouts and therefore there are no requirements for any departures from standard to be applied for or approved.
- 3.10.8 At the main Inquiry, a joint Statement of Common Ground was agreed by JT, HA and NYCC (CD14/20). It was agreed that the preliminary horizontal design of the four armed roundabout with the A61 had been designed in accordance with DMRB. NYCC accepted Drawing 222260/100/01 Rev E which showed the entry path curvatures at the site access roundabout, and agreed that minor modifications could be made to the detailed design of the roundabout, including increasing the size of the central island, and amendments to kerbing and lining at deflection islands, to further decrease the available entry path curvature, without significant changes to the design presented in 222260/100/01 Rev E.
- 3.10.9 These details are presented in Drawing 11/349/TR/001 (2012 JT/2/7 Appendix SCW F). The plan illustrates the entry path curvature that can be achieved.
- 3.10.10 NYCC has confirmed that it has no concerns on departures in respect of the proposed access roundabout or the dual-carriageway link, having regard to the standards in DMRB (2012/NY/105). The assessment has been made on the basis of the mandatory elements of TD 16/07 (Geometric Design of Roundabouts) (CD/1.19) and the Stopping Site Distance from table 3 of TD 9/93 (Highway Link Design) (CD/1.18). They also comply in general with the parameters of the non mandatory elements of TD 16/07. Mr Buckley of the HA had also reviewed the design drawings and confirmed that he had not identified any Departures from Standard. [3.6.2]
- 3.10.11 Nevertheless MOTO raised a number of concerns in respect of the access design.
- 3.10.12 Firstly it was argued that the drawings now presented were prepared by a different firm to the application plans. I do not consider this to be of any significance. Mr Wilkins for JT stated that he had been involved with the design since the inception of the project, but has recently changed firm. He confirmed that the roundabout design shown in Bryan G Hall Drawing No 11/349/ TR/001 included in 2012 JT/2/7 Appendix SCW F) is no different to

that shown in Steer Davies Gleave Drawing No 222260.602 Rev A previously presented to the Inquiry, and included in the list of application plans in JT/201. The only differences are that the dotted line indicating the original access design has been omitted, key geometric dimensions have been included, and confirmation that all the mandatory requirements of TD 16/07 are complied with. To my mind the changes in design are no more than minor amendments, and the revisions would not amount to a material change in the nature of the scheme. They have been considered by the relevant highway authorities, were in the public domain before the Inquiry re-opened, and I do not consider that the degree of amendment would result in a requirement for any further consultation, or prejudice to any interested party. [3.2.4, 3.4.12]

- 3.10.13 Secondly MOTO argued that the design speed of the new dual carriageway is uncertain. The plans do not include lighting or protection. If a higher design speed was appropriate, required visibility standards could not be achieved. Mr Finlayson considered that traffic would exit the access roundabout at higher speeds. DMRB requires that the design speed of a rural dual carriageway should be 70 kph. [3.2.6]
- 3.10.14 NYCC's position is that while it uses DMRB as a starting point, its requirements are not mandatory for roads which are not part of the strategic network. The road is proposed as a short stretch of linking dual carriageway to provide access to the proposed MSA. The A1(M) junction is lit and NYCC clearly envisage that this stretch would also be lit. In the absence of a specific order it would attract a speed limit of (30 mph), notwithstanding the advice on minimum speeds in DMRB. [3.4. 8, 3.6.1]
- 3.10.15 While I accept it would be possible theoretically for drivers to achieve higher speeds on the short stretch of the link road, I consider it very unlikely, and the geometry of the roundabout approaches would act as a deterrent. To my mind a design speed of 60 kph would be appropriate in this situation. At this speed, the provision of vehicle restraint systems is not mandatory. However NYCC also state that the DMRB SSD requirement is met if the design speed were to be set at 70 kph. Mr Finlayson's point that SSDs should be assessed on the basis that they do not cross adjacent lanes was not accepted by NYCC, and I accept the point made by JT in response that such an interpretation of paragraph 2.2 of TD9/93 would be inconsistent with figure 8.1 of TD 16/07 which shows the SSD crossing the lanes and other carriageways on a curved approach to a roundabout. [3.2.6 – 8, 3.6.2]
- 3.10.16 The means of access is not a reserved matter and the SoS requires to be confident that the access proposals are shown in sufficient detail, so that changes which might be of such significance as to require further publicity and consultation do not emerge at a later stage. While I acknowledge that details of lighting and any vehicle restraint system which may be needed are not shown, I consider that there is sufficient detail in respect of the design of the proposed access, and in particular the geometry and visibility standards which can be achieved, for the purposes of granting planning permission should the SoS be so minded. That is not to say that there will not be further refinement of precise detail at a later stage. However, given the level of detail available now, and the degree of agreement between the relevant authorities, I do not consider that such matters of detail would be a material change in the nature of what is being applied for, nor that they would be in anyway likely to prejudice the interests of another party. In the

unlikely event of material changes amounting to the need for a departure to be sought, it would be open to the applicant to seek a variation of condition as regards access details subject to attendant publicity and consultation. However, given the current position of NYCC and the HA I consider that such an eventually is very unlikely. [3.2.1, 3.4.13, 3.5.3, 3.6.2, 3.6.3]

Kirby Hill MSA

- 3.10.17 Kirby Hill MSA would take access directly from the A1(M), and is the only on-line MSA proposed. MOTO and Kirby Hill Rams have both objected on the grounds that the access arrangements would require departures to be obtained from the HA. [3.4.1 – 3, 3.4.15 – 16, 3.9.2]
- 3.10.18 Mr Finlayson on behalf of MOTO argued that the submitted details in drawing nos 208006/63 Rev B and 208006/64 Rev B submitted by Mr Plumb on behalf of HIA leave outstanding matters to be resolved. He maintained the view that forward visibility on the merges remains substandard. On the southbound side, visibility needs to be achieved under the B6265 overbridge, and the current plans do not show the dimensions of visibility. For merges from MSAs there is no relaxation permitted in stopping sight distances (SSD). An SSD of 120 metres is required for a slip road connecting to a mainline with a design speed of 120 kph. A similar situation applies on the northbound side. [3.3.6, 3.4.16, 3.9.2]
- 3.10.19 Mr Finlayson also suggested that the southbound slip should be aligned away from the mainline to comply with TD9 (DMRB 6.1.1), though he accepted that this is not explicitly stated in the guidance. In cross-examination Mr Finlayson accepted that the required SSD could be achieved on the northbound-side, and that no departure from standard was required. [3.9.2]
- 3.10.20 At the main Inquiry, HA stated in closing that it was satisfied with the technical acceptability of the proposal in terms of the safe and efficient operation of the SRN. Document HA 107 produced in response to questions arising over forward visibility on the southbound merge slip confirmed that forward visibility on the southbound exit slip was acceptable and that it could be accommodated without affecting the structural integrity of the eastern span of the Ripon Road Bridge. [3.3.6 - 7]
- 3.10.21 The drawings now relied on by HIA were supplied to HA prior to the reopening of the Inquiry. In respect of Kirby Hill, the HA were provided with the following information: Drawing 208006_63 Rev B: Southbound Merge/Diverge Dimensions; Drawing 208006_64 Rev B: Northbound Merge/Diverge Dimensions; Drawing 208006_60: Site Layout; Schedule of design elements and relevant standards.
- 3.10.22 These drawings are contained in Mr Plumb's Appendices (2012/HIA/3/5). I note that there is an error in the schedules in respect of the southbound merge arrangement, where some of the plans were annotated 64B rather than 63B. However it is clear from the plans themselves which refer to the northbound and which to the southbound access arrangement, and I do not consider that this would have resulted in a false assessment. [3.3.8]
- 3.10.23 Mr Buckley, a senior technical adviser in the HA Safe Roads Design Team (Geometric) confirmed to the Inquiry that he had reviewed the plans and had not identified any need for departures to be applied for. Identification of the need for a departure is a matter for the scheme designer and the HA.

While it was suggested that he had simply endorsed the view of the scheme designer without undertaking a detailed consideration of the points raised by objectors, I consider that it is reasonable to assume that he would have examined the plans in the context of the guidance in DMRB, and raised an issue if he was not satisfied that the design was in compliance. It is not unusual for schemes to be re-submitted if they fall short of standards on first submission. [3.4.3]

- 3.10.24 Mr Buckley's confirmation that he had not identified any departures from standard was entirely consistent with the position of the HA at the main Inquiry. Although he did not personally assess the proposal in the light of Mr Finlayson's concerns, there were no new concerns raised by Mr Finlayson in respect of the Kirby Hill proposal that had not been addressed previously.
- 3.10.25 MOTO raised the point that the drawings reviewed by Mr Buckley were not listed as application drawings, and were different from those drawings. In particular, they showed a revised location for the start of motorway regulations to accommodate the 120 stopping site distance on the south bound slip. While I acknowledge that this represents a difference from the application drawings, it does not affect the geometry of the design. The position of the start of motorway regulations is a matter for the HA to be addressed through a S278 agreement at the appropriate time, and is not a matter which needs to be addressed in determining the planning appeal. The drawings submitted in evidence by Mr Plumb (HIA 124) demonstrate that the 120m SSD can be achieved as regards the slip road, and the standard only reduces within the MSA itself, where tighter radii would be acceptable. [3.4.10, 3.3.8 - 9]
- 3.10.26 The issue of headroom in the tunnel raised again by KH Rams was fully canvassed at the main Inquiry. [3.3.10, 3.9.2]
- 3.10.27 The proposed rear access would not affect the strategic highway network. NYCC accepts that the visibility envelope for drivers at the northbound construction and rear vehicular staff access is restricted below standard by a dip in the western approach. Nevertheless NYCC consider that it would be acceptable because the full stopping sight distance is available at an object height of 1.05 metres and highway safety would not be compromised. [3.3.10, 3.9.5]
- 3.10.28 Accordingly I conclude in respect of Kirby Hill Services that no requirement to obtain approval for any departures from standard has been demonstrated, and that there would be no impediment to the grant of permission on this basis. [3.3.2 -3, 3.3.11, 3.4.15 – 16, 3.5.3, 3.9.5,]

Motel Leeming

- 3.10.29 The proposed means of access to Motel Leeming does not affect the A1(M). The agreed access is via a signalised junction at the northern end of the A684/Local Access Road (LAR) junction. It will be for NYCC as local highway authority to consider the final proposals for access. This is accepted by the HA. The question of departures in relation to the strategic road network is therefore not relevant to this proposal.
- 3.10.30 Departures from standard on the link road adjoining the site have already been accepted and are shown in Appendix NY1-3-3 submitted to the main Inquiry.

- 3.10.31 Since the main Inquiry closed the HA has reviewed the proposal to provide a signalised junction to serve Motel Leeming on cost grounds, and now proposes a priority junction with a lesser footprint. However to ensure that the outcome of this Inquiry is not compromised by the construction of the new junction, the HA states that it will offer written assurances to NYCC that if the Inquiry outcome favours provision of an MSA at Motel Leeming, the Agency will undertake any necessary additional facilitation works so that NYCC can construct the agreed larger signalised junction in the future. Any such works can be carried out entirely within land owned by Mr Les or within the highway boundary. [3.7.3]
- 3.10.32 The Motel Leeming proposal was assessed on the basis of the proposed signalised junction, as shown in Appendix NY1-3-3 to Pamela Johnson's evidence to the main Inquiry. It is recognised that the priority junction may not have sufficient capacity to accommodate the additional traffic resulting from an MSA. At the re-opened Inquiry NYCC proposed a grampian condition to address this eventuality, requiring analysis of the effects on the link-road junction, approval of a design based on this analysis and delivery of the proposed solution prior to the opening of an MSA at Motel Leeming.
- 3.10.33 In the event of the SoS's decision favouring the Motel Leeming scheme, I consider that, subject to an appropriate condition, there are no departures from standard required, other than those which have already been agreed by NYCC, which would prevent the granting of planning permission for this site. [3.6.3, 3.7.3]

XLB Truckstop

- 3.10.34 It is not proposed to access XLB directly from the A1(M). Accordingly, the issue of Departures from DMRB standards is not relevant to this proposal.
- 3.10.35 NYCC's position is that these matters were discussed at the original Inquiry, and no new matters arise.
- 3.10.36 The site would be accessed via the A1(M) motorway New Leeming Junction (NLJ) which has now been constructed and is open to traffic. It comprises two roundabouts and an underpass which form a grade separated junction with the A1(M). The HA has also constructed a 250 m link road to a three-arm roundabout with Leases Road. The local highway authority (NYCC) will assume responsibility for the link road in the vicinity of the access to the site. [3.8.1]
- 3.10.37 The access arrangements may be affected by NYCC's proposal to construct a bypass for Bedale, Askew and Leeming (BALB), part of which will make use of the NLJ and follow the alignment of the link road. The access arrangements for the proposals would be slightly different in the 'with BALB' and 'without BALB' scenarios. Three possible scenarios have been examined: (1) No BALB, (2) XLB implemented before BALB and (3) BALB implemented before XLB. [3.8.2 - 4]
- 3.10.38 If planning permission is granted for the XLB proposals, a grampian condition is proposed that requires Leases Road to be widened between the site entrance and the existing Leases Road roundabout, as well as provision of pedestrian facilities.
- 3.10.39 If the XLB planning permission is granted, alterations to the original BALB scheme will be required at and near the new BALB/Leases Road

roundabout, to give priority to traffic from the application site. NYCC accept that in the 'with BALB scenario', appropriate amendments can be made without adversely affecting the local highway network.

- 3.10.40 If the BALB scheme goes ahead before the XLB scheme and road widening, the costs of the amended BALB scheme will be greater than if XLB is implemented before BALB.
- 3.10.41 The implications of these three scenarios were fully considered at the main Inquiry. It was proposed to address scenario 1 through a grampian condition, and scenarios 2 and 3 through executed S106 obligations. All land for the schemes is either within the highway or within the ownership or control of XLB services.
- 3.10.42 I therefore conclude that there are no obstacles to granting planning permission for the XLB Truckstop proposal, either as a result of a need to apply for departures, or land ownership. [3.6.3, 3.8.4]

Overall conclusion on Departures

- 3.10.43 The HA document *The Highways Agency and the Planning Process: A Protocol for Developers* published in August 2010 states:

Proposals for physical mitigation shall be fully consistent with the relevant standards set out in Design Manual for Roads and Bridges (DMRB). Where proposals are not fully consistent with DMRB, the developer will be required to demonstrate: that a design that complies with standards cannot be reasonably achieved; and that the proposed design is safe and fit for purpose.

The onus is on the designer to identify any departure from standard and discuss them with the Highways Agency. If a departure from standard has been identified the designer will then submit an application to the Highways Agency with supporting evidence on why a departure is requested. The application is processed by a specialist team within the HA. The Highways Agency will inform the designer if it accepts or rejects a departures application. It is not for the HA to find an alternative solution to a rejected application for a Departure from Standard but it is a matter for the development promoter to resolve.

If no departures from standard are identified at the preliminary design stage that does not necessarily mean there will be no Departures identified at the subsequent detailed design stage. However, if any departures are identified at this stage the HA will assist the designer to resolve departures if it arises.

- 3.10.44 Notwithstanding the specific concerns raised by MOTO and Kirby Hill RAMS, the HA has not identified a need for any departures in respect of schemes for which they would be the responsible highway authority, that is to say the Kirby Hill and Baldersby Gate Services Schemes. The access proposals have not changed in any material way from what was considered at the main Inquiry. I accept that the HA evidence at that stage was not subject to cross-examination. However, Mr Buckley reviewed the schemes for the re-opened Inquiry. His evidence is consistent with the HA's position at the close of the main Inquiry. While he had not given specific consideration to the points of detail raised by MOTO and Kirby Hill RAMS, his technical expertise was not questioned, and I consider that it is reasonable to assume

that he would have identified any problems to be addressed had they amounted to a need for departures to be applied for. [3.4.3 – 5, 3.5.1 – 3.5.3]

- 3.10.45 NYCC has not identified any departures in respect of the Ripon Services and Exelby Truckstop schemes. DMRB standards are not mandatory on the local highway network. While a relaxation of geometry was identified in respect of the link road at Motel Leeming, it was accepted by NYCC. There is no formal departure procedure which applies to the local highway network. [3.4.8, 3.6.3]
- 3.10.46 I therefore conclude in respect of all the schemes before the Inquiry that there are no impediments to planning permission being granted arising from a need to apply for departures.

4. Non-Motorised Users (NMUs)

4.1 *The Case for the Highways Agency*

- 4.1.1 In respect of the issue of the provision for NMUs in connection with the REL proposal it is common ground that no issue arises in respect of the need for any formal diversion of a public right of way. The issue relates to the acceptability of the provision in itself.
- 4.1.2 The HA's objection to the equestrian crossing facility shown on the (application) drawing 22280_6F is as recorded in paragraph 2.3 of Mr Webb's statement 2012/REL/2/9: "The equestrian crossing facility would be a departure from policy (Circular 01/08 – paragraph 39) as it encourages equestrians into the site. Another solution to incorporate existing NMU facilities around the SRN junction should be found."
- 4.1.3 It was in order to try to progress the issue that the revised proposal shown on drawing 22280_6G was submitted to the HA (see paragraph 2.3 of Mr Webb's supplementary statement 2012/REL/2/11). That revised proposal – which moves the equestrian crossing closer to the roundabout – drew the objection from Mr Wright (2012/HA/3/1) which formed the subject of debate at the inquiry.
- 4.1.4 Mr Wright's primary concern was the safety of the equestrian crossing facility. He founded that concern on the location of the facility some 15m from the turning off the roundabout into the MSA access road, the fact that 135m is the preferred minimum distance for an equestrian crossing facility when the design speed of the road to be crossed is 50kph (as shown in table 3.4 of TA90/05 "The Geometric Design of Pedestrian, Cycle and Equestrian Routes") and the consequent comparison that, whereas the distance in the Advice Note would equate to a vehicle travel time of 9 seconds at 50kph, the 15 metres in question would be covered by a vehicle in only 1 second. Mr Wright was also concerned about the risk of cycle collision on the roundabout with vehicles turning across cyclists.
- 4.1.5 Mr Wright's evidence should be treated as stating the position of the HA in respect of these matters rather than simply his own view. Paragraph 1.10 of the HA's written statement of 14th February 2012 – 2012/HA/2/3 – refers.
- 4.1.6 It is submitted that there are essentially 4 points taken by Mr Webb on behalf of REL against Mr Wright. They are: that there is little equestrian use to be concerned about in any event and that the same goes for cyclists; that the key to the safety of the equestrian crossing is the achievement of intervisibility between the crossing and the roundabout rather than travel time over a given distance; that the provision already incorporated into the new road layout by the HA (and at Wetherby MSA) does not reflect Mr Wright's approach to the matter; and that any differences can be resolved at detailed design stage.
- 4.1.7 Taking each point in turn and dealing with the likelihood of future use first, it is true that equestrian counts in relation to the Baldersby Gate junction have not revealed equestrian use as appears from the NMU Audit which forms the appendix (2012/REL/2/10) to Mr Webb's first statement. However limited weight should be placed on this given the improvement to facilities which will occur when the new road scheme is open, not least with the provision of the LAR as a northbound route. It is also true that a representative of the British Horse Society (BHS) earlier questioned the

wisdom behind any equestrian provision at the Baldersby Gate junction in the light of the likely lack of use (see annex E to the NMU Audit) but this should be balanced against the fact that neither the BHS nor the Byways and Bridleways Trust (BBT) expressed a similar view when consulted by REL on drawing 22280_F in the build-up to the re-opened inquiry (paragraph 2.3 of Mr Webb's statement 2012/REL/2/10 refers). Mr Wright acknowledged that a route south from the LAR was unlikely to be used but thought that there was a likelihood of use of the route from the A61 north to the LAR. He also stated that an extremely low level of use had to be catered for in any case which, it is submitted, represents a reasonable approach to take. Lack of significant use should not provide a justification for sub-standard provision. Overall, it is submitted that Mr Wright's objection does not founder on arguments which are directed towards lack of likely use. In relation to cycle use on the roundabout, the e-mailed response of the Cyclists' Touring Club (CTC) – that there was no likely use to any great extent (see appendix JWS4 of 2012/REL/2/12) – cannot be denied but Mr Wright was able to point to what he regarded as a similar case (the A74(M) Carlisle to Gretna, Guardsmill scheme) where a comparable pre-scheme completion expectation of little cycle use was confounded when the new LAR was opened.

- 4.1.8 In relation to the issue of intervisibility between the crossing and the roundabout, Mr Wright's concern about the time a vehicle would take to cover the distance between turning to enter the MSA access and meeting the crossing cannot simply be ignored. Mr Wright's calculations based on TA90/05 are not disputed but the application of that document to provision at roundabouts is contested. However, whilst table 3.4 of TA90/05 does not refer specifically to roundabouts, it does refer specifically to visibility requirements for equestrian crossings. It is thus submitted that it does provide a proper basis for Mr Wright's calculation of the time taken to cover the 15m between a vehicle turning off the roundabout and meeting the crossing, his comparison of this with the time which would be available were 135m visibility provided and his use of this approach to inform his judgment. It is also true to say that paragraph 8.12 and figure 8/6 of TD16/07 "Geometric Design of Roundabouts", on which Mr Webb relies for the foundation of his intervisibility approach, refer only to pedestrian crossings.
- 4.1.9 As to the issue of the equestrian crossings already designed for the Baldersby Gate junction as part of the road upgrade scheme, Mr Wright's evidence (paragraph 8 of 2012/HA/3/1) was that these should not be considered a precedent. The crossing of the slip at the Wetherby MSA and its evaluation as a precedent is a matter which must be left to the inspector's site visit and judgment.
- 4.1.10 In respect of the question of leaving the matter to detailed design, it is correct that Mr Wright said that the matter could be left to that stage but he was also clear that, if it was not thought that the matter could be so deferred, the provision which was currently on the table was unacceptable.

4.2 *The case for REL*

- 4.2.1 Pedestrians cyclists and horse riders have the right to use the A61. The agreed position of the HA and NYCC and REL in relation to NMUs is set out

at paragraph 4.4 of the Statement of Common Ground (CD/6.35). This states:

"At detailed design stage it will be necessary for consultation to be undertaken with representatives of non motorised users (NMU) at the Baldersby Gate junction western dumbbell roundabout and across the proposed site access."

4.2.2 This is still the HA's position. Paragraph 3.7 of the SOCG provides:

"Non motorised user (NMU) facilities are proposed into the MSA access arm replicating the facilities on the Baldersby roundabout upgrade. The shared walk/cycleway will extend from the roundabout access into the site."

4.2.3 Some consultation has taken place with the NMU users (see 2012 REL/2/12). The Cyclist Touring Club make the point that the A61:

"... is not part of any designated cycle route and neither are they likely to be used to any great extent by cyclists".

There is no substantive evidence to counter this contention.

4.2.4 Mr Webb in 2012/REL/2/10 drew attention to the NMU Audit Report of January 2010. In the context of the equestrian use, a number of points are noted. At Appendix E is a meeting note of the BHS relating to Baldersby Junction. It states in terms:

- The BHS question the wisdom behind any equestrian provision at this location.
- The A61 is not an attractive route due to the high traffic and speeds on the existing road.
- There are also no bridleway routes in close proximity to the proposed crossing.
- The existing nearby Rainton Bridge with an existing Pegasus crossing was far more likely to be used. A Pegasus crossing was vetoed at the Baldersby Gate roundabout because the green light would be on for such long periods (i.e absence of use) that motorists would ignore it.
- The key disincentive is the speed and traffic volumes on the A61 and the absence of any bridleways.

4.2.5 Mr Wright accepted these factors. However the issue seemed to turn on visibility. Mr Webb maintains that a horse rider would be able to see the roundabout and would wait for a break in traffic and then cross. That is correct in practice and common sense. The intervisibility is enormous. When the break in traffic occurs, the issue of 9 seconds from a point near to the entrance is irrelevant.

4.2.6 The flaw in Mr Wright's stance is that he says 'You wait for the car to arrive at the entrance of the MSA'. Mr Webb says 'You wait for a break in traffic' i.e no car. Mr Wright indicated that the only route likely to be used was the A61 going north from Ripon. He maintained that the A61 had a wide verge along the entire length from Ripon. Mr Webb rejects this. There are long stretches where the verge is insufficient, and many overhanging trees.

4.2.7 The evidence shows that NMUs are likely to be very few. Heavy traffic, travelling quickly and no bridleways to go to are massive disincentives.

However the visibility is so good on the roundabout that natural breaks in traffic will provide ample time. Even if that were not accepted, Mr Wright accepted that at the detailed design stage, a solution could be found. That must be right, otherwise the HA would not have entered into the SOCG in these terms.

- 4.2.8 There was no assessment of NMUs by the HA relating to the JT site. There was no assessment by NYCC of NMUs in relation to the JT Site. It follows that the JT site was not assessed despite the SoS's request that sites should be.

4.3 The case for JT (Rainton)

- 4.3.1 This is not an issue for JT and the Secretary of State appears to have misunderstood that the NMU facilities being provided by the HA as part of the A1(M) upgrade scheme are not nor intended to become public rights of way which would require a diversion order to be made if Ripon Services was granted planning permission. Those facilities (essentially a 3m hardened verge) are simply part of the public highway and therefore carry ordinary highway rights.

- 4.3.2 It is correct that if Ripon Services is granted planning permission the NMU facilities would be altered as explained in detail by Mr Wilkins in section 4 of 2012/JT/2/7. That was the position at the last Inquiry and has not changed. Moreover, there has been no objection by either the HA, NYCC or any of the likely user groups (CTC, Ramblers Association and BHS) to JT's proposals notwithstanding that they have been consulted on 3 occasions now (see section 1 of 2012/JT/2/8). JT's proposals re-provide the existing arrangements for equestrian riders who wish to ride up the A61 from Ripon and take the Local Access Road north (the only likely movement equestrians are going to want to take).

- 4.3.3 The lack of objection to Ripon Services on this issue is in contrast to the objections that the addition by REL of a 6th arm to the western dumbbell roundabout for access into its site has provoked from the HA (amongst others).

4.4 The case for MOTO

- 4.4.1 As a result of proposals made at the time that the Side Road and other Orders for the new section of the A1(M) were made, the HA scheme included provision for cyclists, pedestrians and equestrians. These were to be segregated facilities outside the carriageway.
- 4.4.2 At Baldersby Junction these are currently in place and can be seen on an unaccompanied site visit. Hard surfaced paths have been laid out, segregated from the carriageway. They have demarcated crossings of the carriageway where necessary. They are clearly signed with elevated roundels depicting the users entitled to use them. In answer to a question by the Inspector, the unequivocal answer by Mr Wright for the HA was that these new paths or ways had been "dedicated".
- 4.4.3 There is no reason at law why this should be any surprise. A highway may include vehicular, horse and pedestrian rights within the carriageway. However, a separate path or way for horses or pedestrians or both may be laid out beside the carriageway. Vehicles would have no rights over such a way or ways.

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- 4.4.4 Dedication following construction by a Highway Authority can amount to evidence of acceptance by that authority which itself amounts to proof of acceptance by the public of a way. Dedication as a footway or bridleway cannot amount to dedication as a carriageway.
- 4.4.5 The capacity for independent status of a footpath or bridleway alongside a carriageway is confirmed by the terms of section 119 of the Highways Act 1980:
- ‘(1) Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of should be diverted...’
- This provision recognises that an independent footpath or bridleway could be comprised within a classified road, special road or trunk road.
- 4.4.6 The proposition that a bridleway/footpath has been created is, therefore, not surprising. What is surprising is that an officer of NYCC should write stating that if the County has not updated its ‘definitive map’ then no public right of way can exist and therefore no diversion order would be necessary. That is a novel proposition which is wholly erroneous. The creation of new public rights of way at common law are not dependent upon administrative actions by a rights of way officer.
- 4.4.7 The question is not whether the footpath and bridleway dedicated at the Baldersby Junction is capable of being a footpath or bridleway as well as within or alongside the carriageway of a classified road. It is what are the powers of a Highway Authority where a footpath or bridleway is a classified road.
- 4.4.8 Where they are special roads section 18 of the 1980 Act makes provision for alteration etc. For classified roads, such as the A61, section 119 makes provision. Section 119(1) provides for public path diversion orders to be made. Unopposed orders may be confirmed by the Council; opposed orders by the Secretary of State. In either case, the diverted path must not be substantially less convenient to the public in consequence of the diversion and the confirming body must have regard to the effect which the diversion would have on public enjoyment of the path or way as a whole (s.119(6)).
- 4.4.9 Both sites at Baldersby Gate will require diversions of the newly constructed and dedicated footpath/bridleways around the junction. At Baldersby Gate (N) there will be a diversion into the site to which the HA object. For Ripon Services (S) the existing crossing of the A61 will be extended and interrupted with a restricted central reservation ‘refuge’. Each side approach will be re-routed. Applying the appropriate statutory test, it can only be that the new routes will:
- be substantially less convenient to the public in consequence of the diversion; and
- substantially impair the public enjoyment of the path or way as a whole.
- 4.4.10 Mr Wright has given the decision times at the proposed Baldersby Gate (N) entrance (2012/HA/3/1 para. 9). On the A 61, at the proposed crossing south of the dumbbell roundabout, the combination of through traffic on A61

itself and traffic entering and leaving the MSA would amount on the average day to one vehicle passing every 2 seconds⁴. No one has given any thought to how a cyclist, let alone a pedestrian or a horse could cross the road. If the average annual peak hour or the peak hour flows were taken the gap in traffic would be far worse. NYCC have given no thought to this and could only suggest that they might stop up the crossing or require a substantial diversion to the south across the entrance to the Ripon Services (S) MSA, a suggestion that would merely equalise the flows and harm at that entry roundabout to those at the Baldersby Gate (N) entrance, a layout that is so strongly opposed by the HA. NYCC have not explained the powers they would use to stop up the new footpath/bridleway.

- 4.4.11 MOTO ask that the Secretary of State be informed that the answer to his question 4(b) is that there is a need to divert public rights of way for both Baldersby Gate proposals and that the means for doing so is unresolved in each case. At Baldersby Gate (N) there is an objection by the HA. At Ripon Services (S) the means for diverting the public paths and the harm that would be caused have neither been considered nor resolved by NYCC despite the harm to NMUs arising from Ripon Services (S) being far greater than that arising at Baldersby Gate (N).

4.5 Inspector's conclusions – Non-Motorised Users (NMUs)

- 4.5.1 The 8th November letter (2012/MSA/1) sets out the Secretary of State's requirement to be satisfied that, in respect of each case, it can be fully demonstrated that any need to divert any public rights of way have been resolved in principle with the relevant parties and would be capable of securing the necessary consents within the lifetime of any permission which might be granted.
- 4.5.2 No issue arises in respect of Kirby Hill, Motel Leeming or XLB Truckstop. There are no rights of way which would need to be diverted to accommodate any of these proposals. While there are public rights of way across the Motel Leeming site it is a matter of agreement between the promoter, HA and NYCC that they would lie outside the security fence of the proposed MSA, and would not require to be diverted (CD/14.7, CD/14.7.1 and 2012/14/7/2 refer).
- 4.5.3 The Secretary of State's concern in this regard may therefore be taken to be limited to the two proposals at Baldersby Gate. As part of the upgrade to the A1(M) the Highways Agency has provided segregated facilities for non-motorised users of the junction. Hard surfaced paths have been laid out, segregated from the carriageway, with demarcated crossings of the carriageway and appropriate signage.
- 4.5.4 It was submitted on behalf of MOTO that these facilities have been dedicated by the Highways Agency as rights of way, and that as such, any alteration to the provision consequent upon granting permission for either proposal would require formal diversion procedures to be undertaken. These submissions were unsupported by any evidence of dedication as separate rights of way. While Mr Wright of the HA referred to the NMU

provision as 'dedicated', it is not clear that he was referring to them being dedicated as rights of way, as opposed to being specifically provided for use by NMUs. In my view any rights of way over the segregated provision which has been made do not exist independently of the rights of NMUs to use the associated all purpose highway, but are part of the main highway. Any alteration to the existing provision within existing highway land would not require a right of way to be diverted. [4.1.1, 4.3.1, 4.4.2 - 9]

- 4.5.5 The HA's position is clearly set out in paragraph 2.17 of 2012/HA/2/2 as follows:

'as part of the A1(M) upgrade the HA has provided facilities for vulnerable road users (or NMUs) by way of pedestrian, cyclist and equestrian routes round the A61/A1(M) Baldersby gate junction. Strictly speaking these are not definitive PRowS, they are just part of the local highway infrastructure. There is no legal process required to divert these facilities if they are to be retained within the adopted highway. Therefore any modifications would be undertaken as part of a s.278 Agreement with the highway authority'. [4.1.1]

- 4.5.6 The HA witness set out the history of the crossing provision at Baldersby Gate at paragraph 8 of his proof of evidence (2012/HA/3/1), as follows:

'Comprehensive crossing facilities were proposed through this junction with dedicated equestrian crossings (traffic-light controlled Pegasus crossings), corrals and tracks, and also crossings for cyclists and pedestrians. The crossings were intended to facilitate movement on the A61 and the LAR and were under construction when the Stage 2 Road Safety Audit raised concerns about the traffic lights and potential 'green light syndrome', when traffic lights remain in green for long periods. Consequently, it was necessary to reconsider NMU use at uncontrolled crossings. The crossing locations were retained, but do not meet preferred minimum geometry and should not be considered as a precedent for other crossings.' [4.1.4]

- 4.5.7 The HA's stated position is that the construction of an access to an MSA with uncontrolled crossings would be seriously detrimental. The HA has limited its consideration to the REL proposal, giving as its reason that the impacts of the JT proposal would not affect roads under HA's control. [4.1.1, 4.2.8, 4.3.3]

Baldersby Gate Services (REL) proposal

- 4.5.8 The proposed arrangements involve the addition of a further arm to the western dumbbell roundabout. The application details are set out in Drawing 22280_6F and shows a pedestrian/cycle crossing at the point where the access road leaves the junction, with an equestrian crossing further down the access road, i.e within the site.
- 4.5.9 Further consultations on this drawing have been carried out with user groups. CTC made no comment as there are no cycle routes affected in the area. The Rambler's Association (RA) stated they would require a marked crossing point with warning signs for motorists. Both BHS and BBT objected to the arrangements as they considered the proposals to be inadequate and would require segregated facilities to be provided along the bottom of the embankment to address the objection. [4.2.3 - 4]

- 4.5.10 The HA Asset Development Manager responded that the equestrian crossing facility would be a departure from policy.
- 4.5.11 A revised site access drawing was prepared in an attempt to progress the matter - Drawing 22280_6G (2012/REL/2/12 Appendix JWS 1). The only difference to the previously agreed access design was the position of the equestrian crossing being moved closer to the roundabout so that if there was any equestrian use of the crossing it would be more visible to drivers of vehicles. The geometric design of the access remained unchanged.
- 4.5.12 Mr Wright stated that the current proposal from REL would only allow riders 15 metres notice of vehicles entering the MSA access, which equates to a combined thinking and crossing time of one second at vehicle speeds of 50 kph. Ideally an equestrian crossing requires nine seconds (DMRB TA 90/05) and a pedestrian or cycle crossing 5 seconds (DMRB HD42/06), implying a visibility requirement of 135 metres. Mr Wright considered it possible that drivers may hit a horse just setting off onto the crossing. Equestrians require significantly greater crossing times, because the rider must decide on the optimum time to cross, and communicate that decision to the horse. [4.1.4, 4.2.5, 4.2.7]
- 4.5.13 Mr Webb on behalf of REL argued that it is unrealistic to apply DMRB standards at roundabouts, and that the key determinant of safety is intervisibility. The standards which Mr Wright relies on to calculate crossing times appear to derive from Table 3.4 of DMRB TA 90/05 (Geometric design of pedestrian, cycle and equestrian routes). It is unclear, as Mr Webb pointed out, that they are intended to apply to road crossings at roundabout junctions. He considered that visibility requirements relating to roundabouts as set out in paragraph 8.12 and Figure 8.6 of DMRB TD16/07 (Geometric design of roundabouts) have been complied with in the design of the access and would allow satisfactory intervisibility between drivers of vehicles and NMUs. This is illustrated in Drawing 22280 _15 in 2012/REL/2/12 Appendix JWS 3. [4.1.8, 4.2.6]

JT Proposal

- 4.5.14 The JT proposal would involve the dualling of the A61 and provision of a new four-arm roundabout approximately 210 metres to the south of the western dumbbell roundabout to serve the proposed MSA. The proposed changes to the facilities which have been provided by the HA are shown in drawing no 11-349-TR-008 (2012/JT/2/7 Appendix SCW B). Equestrian crossing facilities would be provided on the three single carriageway arms of the site access roundabout to facilitate movement across the A61, which avoids the section to be dualled. At crossing points the verges would be extended to provide a holding area for horses. Shared use pedestrian and cycle crossings would be provided at each of the site access entry points. Separate crossing points would be provided for pedestrians/cyclists and equestrians to ensure segregation at the site access crossing points and the replacement crossing facility on the A61 at the western dumbbell roundabout.
- 4.5.15 Neither the HA nor NYCC had any objection to the proposed arrangements for NMUs in the JT scheme. It was suggested that in view of the altered crossing facility to be provided on the dual carriageway section of the A61 close to the A1 (M) junction, HA should have given consideration to the

safety and acceptability of the proposals. Nevertheless HA took the view that this came within the purview of NYCC. [4.2.8, 4.3.3]

- 4.5.16 No objections were received from the Ramblers Association, and no comments were made by the BHS or the Cyclists' Touring Club (CTC). Since the original Inquiry a meeting has been held with a representative of the CTC. His view was that cyclists on the A61 or LAR, even recreational users, were likely to be confident enough to negotiate the roundabouts on carriageway, and cyclists would in any event have to be on carriageway as they approach the junction from most directions. [4.3.2]

Overall Conclusion on NMUs

- 4.5.17 There would be a significant increase in the number of vehicles using the junction if either MSA proposal is implemented. Mr Wright (for the HA) accepts that the existing arrangements are less than optimal, and was concerned that they should not be viewed as a precedent.
- 4.5.18 He also acknowledged that actual levels of usage by horseriders are likely to be very limited. While horse-riding is possible along the verges of the A61 to and from the Ripon direction, I saw on my site visits that they are not continuous, vary in width and in places are obstructed by planting and signage. It is accepted that there is a preferable east-west route via Rainton which means that it is unlikely that horse-riders would cross the A1 at Baldersby Gate. Mr Wright's judgment was that there may be more demand for a south-north route from the A61, taking advantage of the new LAR verge. Even though he considered usage is likely to be low, he had experienced other situations where latent demand had emerged following the provision of new routes. [4.1.7, 4.2.7, 4.2.4]
- 4.5.19 There are disadvantages in both proposals from a safety point of view in comparison with the current situation. Both proposals would give rise to an increase in traffic. The REL proposal would introduce a new arm to the western dumbbell roundabout, raising concerns about intervisibility between drivers of vehicles and NMUs, and associated decision and reaction times, particularly as regards horseriders. Although broadly similar to what is there now, the JT proposal would introduce a longer stretch of dual carriageway between the crossing and the site access roundabout. MOTO raised concerns as to the adequacy of width of the central refuge, limited intervisibility for riders and vehicles approaching the MSA from the junction and whether the embankment at the western dumbbell roundabout could accommodate the width of the amended NMU route. [4.2.5, 4.4.10]
- 4.5.20 It cannot be said that either proposal would enhance the attractiveness or safety of the junction for NMUs. Nevertheless, it has also to be acknowledged that the existing arrangements are of limited attractiveness and are sub-optimal from a safety point of view. They provide what are to my mind somewhat hostile conditions for horse-riders, as reflected in the views expressed by the British Horse Society at the time of the safety audit. [4.19, 4.2.4, 4.2.6, 4.3.2, 4.4.10]
- 4.5.21 To my mind, these routes through the junction are unlikely to be made use of by any but the most confident and experienced horserider. Experienced cyclists are, in any event, likely to make use of the main carriageways rather than the crossing points provided, and to be well aware of any risks involved. This view was supported by consultations with the CTC. It is hard

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- to imagine that the route would be in any way attractive or likely to be used by other cyclists or pedestrians with any degree of regularity. [4.1.7, 4.2.3]
- 4.5.22 It seems reasonable to assume that the crossings would only be used rarely, and then only by the most confident and experienced riders. In such circumstances it could further be assumed that they would wait for a lull in the traffic before committing, giving drivers an adequate opportunity to avoid collisions. [4.1.8, 4.2.5, 4.2.7, 4.4.10]
- 4.5.23 It is accepted, however, that satisfactory provision for NMUs must be made at the Baldersby Gate junction, which will inevitably involve alteration of the existing provision made in connection with the A1(M) upgrade. Potential users, though they are likely to be few in number, have a right to expect a reasonable standard of safety. The position of both the HA and NYCC is that these matters can be addressed in the detailed design of the junction arrangements. [4.1.6, 4.1.10]
- 4.5.24 Mr Wright's position (in respect of the REL proposal) that only controlled crossings would be acceptable appears to be at odds with the conclusions of the safety audit carried out in 2010, when it was decided to omit controlled crossings as being inappropriate for the location. I acknowledge that the safety of users should not be compromised, but there is also a requirement for consistency of approach on the part of the regulatory authorities. In view of Mr Wright's acceptance that usage would be light, it appears to me that a requirement to provide controlled crossings cannot be justified on safety grounds. I note that an uncontrolled crossing across a slip road was also found to be acceptable and has been implemented on the A1(M) junction at Wetherby Services. [4.1.9]
- 4.5.25 In respect of the REL proposal, BBT and BHS have put forward an alternative suggestion of a dedicated route along the bottom of the embankment. There may be safety advantages in taking horseriders well away from the main carriageway, as well as providing a better general environment for users. It would appear to have the support of user groups. It would be possible for such a route to be dedicated without requiring a diversion order, as potential users would retain the right to use the highway, however unlikely they would be to do so. However the HA considers that such an arrangement would be a departure from policy, and would give rise to public liability concerns.
- 4.5.26 In my judgement the detailed arrangements for alteration to NMu provision will require further consideration if planning permission were to be granted for either scheme at Baldersby Gate. The position of the HA and NYCC at the close of the original Inquiry was that this could be resolved at the detailed design stage, and that remains the position at the re-opened Inquiry.
- 4.5.27 I agree that these matters are capable of being addressed in the detailed engineering design of the respective schemes, and need not inhibit the grant of planning permission for either scheme if the Secretary of State is so minded. In view of the degree of consultation that has already been carried out, any amendments are likely to be minor in nature and not such as to affect the geometry and functioning of the proposed access designs in a material way. [4.1.10, 4.1.6]

- 4.5.28 I have concluded above that there is no evidence that the existing NMU facilities have been dedicated as rights of way which exist independently of the rights of NMUs to use the all-purpose roads. Accordingly, it would not be necessary for diversion orders to be made in respect of the NMU facilities.

5.0 Land Ownership Issues

5.1 Motel Leeming, Baldersby Gate North and Exelby Truckstop

- 5.1.1 No land ownership issues were raised in connection with the Motel Leeming, XLB Truckstop and REL proposals. MOTO raised the question of whether the HIA proposal (Kirby Hill) was deliverable, in view of the fact that the red line did not include all of the land needed for the access arrangements. In an E-mail response dated 1 December 2012, it was confirmed on behalf of the SoS stated that 'the only information required in relation to [HIA's] scheme is clarification, based on up-to-date consultations with the Highways Agency, as to whether or not your clients' scheme would require any Departures from that Agency's standards.' Accordingly, I ruled it outside the scope of the Inquiry in response to a request from HIA to do so. MOTO has submitted written representations on this matter directly for the Secretary of State's consideration.
- 5.1.2 It was agreed by the parties that evidence on this matter in respect of the Ripon Services proposal would be dealt as written representations, though it was a matter for the Inspector to consider and report to the Secretary of State.

5.2 The case for REL

- 5.2.1 JT do not own or control all the land required to construct the new roundabout on the A61 which provides access to their site. Mr Smith in his document 2012/REL/6/1 and 2012/REL/6/2 makes the following points:
- i. He has been retained by REL to advise on land acquisition matters.
 - ii. Part of the land required for the JT access was CPO'd from REL's vendor Mr Potter in 1989 ("the Potter land").
 - iii. That land is no longer being used for highway purposes. This is self-evident from inspection.
 - iv. Mr Peter Rhodes is the District Valuer for the area in which the Potter land is situated.
 - v. Mr Rhodes has been appointed by the HA in connection with the Potter land (see CS/10/REL/6/2) and has had a meeting with the Agency concerning it.
 - vi. The remaining issue is that the quantification of the 'surplus' land: "The Scheme Engineer will have to confirm the extent of surplus land available" not whether there is surplus land available.
 - vii. Mr Rhodes continues:
"The process will be to declare the land surplus and offered back under the Crichell Down Rules to the former owner subject to the operational needs of the Agency to retain access for the balancing period and to allow BT to access and maintain their trunking that remains in the verge. The exact areas will still have to be ratified and subject I think to agreement with you and your clients."

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- viii. The Potters are making arrangements to quantify the exact area of land. There is no doubt that the area required by JT is part of that land. This has implicitly been agreed with the Agency (see App CS/7/ REL/6/2).
 - ix. REL have entered into an option agreement with the Potter family who are entitled to the land. The effect of the option is that the land to be returned can only be disposed to REL for a period of 12 years. REL will take all necessary legal steps to protect the Potters' claim for the return of their land, or any attempt to use the "Potter land" for the construction of the JT access or other associated works.
 - x. Mr Cawthorne of the HA has indicated that the land in question is subject to an ongoing maintenance agreement which will run for 5 years once the A1(M) upgrade has been completed. It remains to be completed. This does not defeat the entitlement to the return of the land, as is clearly implicit in Mr Rhodes' letter. The land can be returned with full maintenance rights being kept. However it is quite clear on the face of the facts that the maintenance period of 5 years means the land will not be available to JT, quite apart from Mr Potter's entitlement to have it returned.
 - xi. Mr Beswick on behalf of JT has indicated that in addition, the land in question is part of the landscaping scheme for the current A1(M) scheme. If it is, this does not stop the return of the land to the Potters, since a covenant to allow the HA to maintain its scheme could be granted. However, it clearly would not be available to JT because it would remain in highway use. The above factors are terminal to JT's case that there is even any real prospect of the land being available. It is beyond doubt that these impediments mean that access cannot be secured. JT have committed the cardinal sin of coming to an inquiry without having secured access.
- 5.2.2 The Secretary of State clearly regards prompt deliverability as a material consideration, in this case. The REL site is deliverable without any impediment or delay. JT have not secured the land to construct its access. The HA have not indicated any willingness to permit any alternative highway use. In fact, to the contrary, Mr. Beswick has indicated the Agency wish to retain the Potter land as part of a landscaping scheme. There may well be legal procedures to secure its removal. To date the Agency has not indicated its wishes to release this land. It is important that the acknowledged need for the MSA is met promptly not only in road safety terms, but to trigger the economic benefits such development promotes.

5.3 The case for JT

- 5.3.1 As JT submitted to Mr Lyon, the evidence at the original Inquiry was to the effect that if there was a real issue as regards the ownership of the land required for JT's access and Mr Potter was entitled to have the land offered back to him then a deal would be done because the issue was simply one of money – see paragraph 185 of JT's Closing Submissions. That appears to have been accepted by Mr Lyon and the Secretary of State who, when asked to clarify what matters JT needed to address in its evidence to the Inquiry, only asked JT to address paragraphs 4(b) and (c) of the 8 November letter. There is no reason for the Inspector to take a different view.

5.3.2 If it is necessary to consider the matter further then it is submitted that JT's evidence on the issue is compelling and decisive. In essence, REL claims that Mr Potter is entitled to have part of the land needed for JT's access offered back to him under the non-statutory Crichel Down Rules which are applied to land acquired by public authorities by or under the threat of compulsion but which is no longer required. The Rules apply typically to former military sites. That argument has little or no merit for the reasons set out by Mr Morshead QC (supported by Mr Lomax) who was specifically instructed to advise on the legal merits of Mr Potter's claims [see Appendix 5 of 2012/JT/7/12]. The advice Mr Morshead QC gives is not repeated here. It is relied on by Mr Lane in his sections 4 to 6 [2012/JT/7/11] which responds to the assertions made by Mr Smith in support of REL's case that Mr Potter will be entitled to have the land offered back to him. It is worth noting that Mr Potter's claim that the land will be offered back to him assumes that the land will be declared surplus. If it is not and remains operational land and part of the highway (whether under the responsibility of the HA or NYCC) REL does not suggest that there would be any impediment to JT being able to construct its access to Ripon Services. In other words, REL's claim is crucially dependent on an assumption that the land will be declared surplus. In that regard Mr Smith attaches much weight to the District Valuer's letter dated 22 December 2011 (Appendix 10 of 2012/REL/6/2). However, it is plain both from that letter and the HA's position as represented by the Treasury Solicitor that REL's assumption that the land will be declared surplus to the operational needs of the highway is not well founded. The HA has made it clear that it is not in a position to decide what land is surplus until the A1(M) upgrade scheme has been completed and the defects period has expired (see 2012/JT/122). There is no evidence to suggest that a decision will not be reached by the Secretary of State on the appeals and applications before the HA decides what land if any is surplus. In the meantime, the land required for JT's access forms part of the highway and if planning permission was granted for Ripon Services before the HA decided what land was surplus (a) there would be no impediment to Ripon Services proceeding because the land would still be part of the highway; (b) any subsequent decision taken by the HA to declare land surplus would have to reflect the grant of the permission for Ripon Services as a MSA intended to serve the users of the highway; and (c) there is no reason to think that in those circumstances the HA would declare the land to be surplus even if it might have been surplus (which is disputed) if permission was not granted.

5.3.3 Consequently, although REL has sought to make an issue out of the fact that Mr Potter purports to have a claim to some of the access land, there is on a proper analysis of that claim no impediment to JT's scheme being delivered if planning permission is granted for it.

5.4 The position of the Highways Agency

5.4.1 The HA does not seek to enter the debate in respect of the Crichel Down Rules. Its factual position remains as set out in paragraph 1.5 of its statement of 14 February 2012 that it will not be in a position to confirm if any land is surplus to requirements until after the A1(M) upgrade is open to traffic, the maintenance defect period and Stage 4 safety audits are complete and any necessary remedial action has been satisfactorily completed.

5.5 Inspector's conclusions

- 5.5.1 There have been previous land acquisitions at Baldersby Gate to facilitate improvements to the junction and approaches. Briefly, the history is as follows.
- 5.5.2 In October 1989 land (as shown coloured green on the plan included as Appendix CS2 of 2012/REL6/2) was compulsorily acquired from the Potter family by the Secretary of State for Transport for the purposes of the re-alignment of the A61 in the vicinity of Baldersby Gate and adjoining the A1. Since then, the A1 has been re-aligned twice, including the current re-alignment as part of the A1(M) improvement scheme. The old line of the A61 has been stopped up and grubbed up in part.
- 5.5.3 REL's position is that, as a result of the line of the A61 moving again, the land formerly owned by the Potters, which includes land required by JT for the formation of the access to Baldersby Gate South, has become surplus to highway requirements, and will be offered back to the Potters by the HA in accordance with the Crichel Down Rules. REL say that the required land will not be available to JT as it is the subject of an option agreement between the Potter family and REL. [5.2.1]
- 5.5.4 The matter has been raised with the District Valuer. Documentation including a conveyance dated 18 October 1989 (2012/REL/6/2 Appendix CS/8) and a copy of Land Registry entry of title NYK821236 (2012/REL/6/2 Appendix CS/9) was sent to the District Valuer with a letter from Mr Squire (acting for REL) dated 15 December 2011 setting out the Potter family claims (2012/REL/6/2 Appendix CS/7). The DV's response is dated 22 December 2011 (2012/REL/6/2 Appendix CS/10). He states that he has met with the Agency which acknowledges ownership of the Highway by the Secretary of State 'as per your enclosures'. He goes on to say:
- 'The scheme engineer will have to confirm the extent of surplus land available.'*
- The process will be to declare the land surplus and offered back under the Crichel Down rules to the former owners, subject to the operational needs of the agency to retain access for the balancing pond and to allow BT to access their trunking that remains. The exact area will still have to be ratified and subject I think to agreement with you and your clients.'* [5.2.1 vii]
- 5.5.5 REL's option agreement with the Potter family is dated 13 October 2010. Amongst other things the Agreement obliges the owners to actively pursue an approach to the HA to purchase land formerly in their ownership and to take action to pursue the acquisition of any land formerly in the ownership which may be identified as surplus by the HA. The obligation remains in force until the owners have acquired the land, or (if earlier) 12 years from the date of the agreement. [5.2.1 ix]
- 5.5.6 There is no certainty at this stage that any land will be declared surplus. That is a matter for the Highways Agency. Nevertheless, given the terms of the obligation, I consider it more likely than not that the former landowners would pursue an action seeking to purchase land formerly in their ownership, particular if there was any question of it being needed to achieve access to a rival scheme. [5.3.2, 5.4.1]

- 5.5.7 JT's position at the original inquiry was that the land required to construct the Ripon Services scheme was either in the control of JT or the Secretary of State for Transport. There was no objection by the Potter family to JT's proposal, and if the ownership dispute was to be resolved in their favour, no suggestion that a land deal would not be done. They remain of the view that the land required to construct the Ripon Services scheme is either in the control of JT or the SoS, but if it is shown that the Potter family do control part of the land then this is simply a monetary issue and this factor should not get in the way of determining the best site for the MSA. [5.3.2]
- 5.5.8 I acknowledge (as pointed out by Mr Lane in paras 6.6 – 6.13 of 2012/JT/7/11) that there are some apparent discrepancies between the land areas shown in Mr Smith's various Appendices (2102/RE/6/2). It is likely, as Mr Lane argues on behalf of JT, that not all of the 'green land' identified in 2102/RE/6/2 Appendix CS2 would be declared surplus, and offered back to the Potter family. Some of the land is likely to be needed for operational requirements. Other land forms part of the landscaping, though this could still be returned to the original landowner subject to appropriate arrangements for continuing maintenance of the landscaping. The question of what land may ultimately be considered surplus is a matter for the HA, though there could be recourse to litigation in the event of an unresolved dispute. However, Mr Lane fairly acknowledges the possibility that some surplus land may exist. [5.2.1, 5.3.2]
- 5.5.9 JT questions whether REL have identified the original landowners or their appropriate successors. However, on the evidence of the documentation submitted with Mr Smith's evidence, it appears to me that the relevant owners/successors in title have been identified. It is also suggested that part of the relevant land would have been in the ownership of Mr and Mrs Webster. However, although now physically divorced from other Potter land, the extent of land acquired from the Potters by CPO in 1989 is shown in 2012/REL/6/2 Appendix CS/8. [5.3.2]
- 5.5.10 JT argue that the Crichel Down Rules are not necessarily applicable, and have submitted a legal opinion to that effect (2012/JT/7/11 Appendix 5). They further contend that, even if the land were to be declared surplus, the HA would be under an obligation to achieve the best value for any land sale; that in any event, the land, which had been acquired for one highway purpose, would simply be being used for another highway purpose i.e to provide access to an MSA; and finally, that it would simply be a question of money changing hands. [5.3.2]
- 5.5.11 The simple point is that the HA say that they will not determine whether or not the land is surplus until the works are completed and upon expiry of the defects period. To my mind any agreement between HA and JT in respect of providing access to REL's site would, in these circumstances, more likely than not be subject to a legal challenge by the former landowners, seeking the return of the land. There is an arguable case to be made that land acquired for the purpose of securing the upgrade to the A1(M) and associated junction improvements could not be applied to a different purpose i.e the provision of access to a privately owned MSA, particularly in circumstances where an original landowner was pursuing a reasonable expectation of the return of any land declared surplus to highway requirements following completion of a scheme. Ultimately that is a matter

for the courts, but there is scope for considerable delay while the issue is resolved. [5.4.1]

- 5.5.12 At the very least, the DV's letter of 22 December 2011 indicates recognition that the circumstances described by REL need to be addressed and resolved. While it may be that payment of enough money would overcome any ownership obstacle in the event of the original landowners establishing a preferential right to buy any surplus land back, it appears to me highly unlikely that they would wish to facilitate implementation of a rival scheme. [5.2.1 vii, 5.3.2]
- 5.5.13 JT have also argued that the land-ownership issue should be accorded little weight in the decision making process. I have concluded, for reasons set out above, that there would be likely to be considerable delays in implementation of the JT scheme while the land-ownership issue is resolved. The implications of this for the decision making process would then be dependent on the weight attached to this factor as a material consideration by the SoS. [5.2.2, 5.3.3]

6. Other representations

6.1 Appearances

- 6.1.1 **Mr Chris Brown MBE** (see also Paragraph 2.4.1 above) was concerned that the additional exit and entry points on the western roundabout will cause even further confusion for motorists. With the five existing exits motorists are frequently taking the wrong turnings. He witnessed an example on his way to attend the Inquiry. He had to wait while one car reversed back up the slip road onto the roundabout. The route leading onto the A1 north in particular is causing confusion and dangerous manoeuvres.
- 6.1.2 The JT (Ripon Services) application will require another roundabout off the A61 causing ever more traffic congestion for road users, who will now have to negotiate three roundabouts and a bridge with a total of eleven exits to choose from. Traffic accessing the proposed MSA will face the same complexity when they leave the MSA to travel south along the A1. It is questionable whether the existing bridge is built to motorway standard.
- 6.1.3 The upgraded motorway will be opened in May 2012 after 2 years of road disruption to road users and to face another long period of disruption while either of these sites are being built would be unacceptable, especially when there are other MSAs that could be used and expanded if necessary.
- 6.1.4 **Mr Peter West MBE** spoke on behalf of Melmerby and Middleton Quernhow Parish Council. He said that the overwhelming majority of the local community was opposed to the siting of an MSA at the A1/A61 junction. He had been hopeful that the Localism Bill would give local people a greater say in determining planning proposals. He was particularly concerned with the heavy traffic congestion especially during the holiday period, especially if a third roundabout is constructed; disturbance to aquifers providing irrigation for farms; the effects of light pollution; the recent identification of a site of international importance for archaeology around Catterick and Boroughbridge; and the potential for major windfarm development to the north-west of the junction.

6.2 Written representations

- 6.2.1 A number of written representations were received, for the most part reiterating matters which were before the main Inquiry. Mr Julian Hodges, Mrs A Cheeseman, A P Ormshaw, S C A Ormshaw, R A Ormshaw and Jane Mosley objected to the Kirby Hill MSA proposal on a number of grounds, including lack of need, effect on village character of Kirby Hill and surrounding countryside, loss of agricultural land, odour from use of an on-site waste treatment facility, traffic noise, light pollution, effect on the local economy, and effect on the Army Airfield. Mr J F Longbottom re-submitted a letter dated 4 October 2010 in respect of objections to the Kirby Hill MSA which was before the main Inquiry.
- 6.2.2 A Ripon resident objected to both schemes at Baldersby Gate, on grounds of lack of need and countryside impact. Baldersby and Baldersby St James Parish Council restated their opposition to the development of an MSA at Baldersby Junction, for reasons that include countryside and landscape impact, traffic and light pollution, commenting that the Regulation 19 Statement did not lessen the previously identified impacts. Ripon City Council confirmed that they did not have any additional views in response to

the consultation on the re-opened Inquiry. Lesley Blackie also objected to both schemes at Baldersby Gate, citing an increase in light pollution, crime rates and noise, together with archaeological impacts, lack of need and widespread local opposition.

- 6.2.3 Mr T P G Helps questioned the need for any of the MSA proposals at Kirby Hill and Baldersby Gate. He considers that there is adequate existing provision and that all proposals would lead to loss of agricultural land and countryside harm.

6.3 Inspector's conclusions

- 6.3.1 These representations did not raise any significant new issues, or new points which were within the remit of the re-opened Inquiry. Matters of need, landscape, traffic, noise, loss of agricultural land, archaeology and drainage were before the main Inquiry. In so far as they raise any points which are relevant to the reopened Inquiry, these have been addressed in the foregoing sections of the report, and it is unnecessary for me to comment on them further here.

7. Conditions

- 7.1.1 A round table session was held on 29 March 2012 to discuss any implications for previously agreed conditions arising from matters raised at the re-opened Inquiry.

Baldersby Gate North

- 7.1.2 REL proposed an amendment to draft condition 7 (page 338, Annex 3C of Inspector Lyon's report), to ensure that the reserved matters to be addressed in respect of landscaping reflected the details set out in the Regulation 19 Statement. The amended condition would read (additional wording in bold):

*The details of the landscaping to be submitted under condition 1 above shall include full details of excavations; ground modelling (including existing and proposed contours); retaining walls and structures; means of enclosure; all hard landscaping; minor artefacts and structures; the extent of the existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection and soft landscaping, including the written specifications, planting plans and cultivation proposals. **The submitted details shall be in general accordance with the plans and sections contained in figures 3.5 and 3.6 and Appendices 3.7, 3.8 and 3.9 of the Regulation 19 statement of January 2012.** Thereafter the development shall be carried out in accordance with the approved details.*

- 7.1.3 I consider that the proposed amendment would be necessary and reasonable, and would not involve any material change to the nature of the scheme.
- 7.1.4 An amendment to draft condition 12 (page 338, Annex 3C of Inspector Lyon's report) was agreed by NYCC and REL (2012/CD/14.23) to deal with the potential for increased HGV movements consequent upon any need for additional cut material to be exported from the Baldersby Gate (N) site. The condition would remain as previously agreed, but with the addition of a new sub-clause as follows:

IX. Details of times for HGVs entering and leaving the site and measures to control the maximum numbers of HGVs entering and leaving the site on any day including provisions to deal with nearby special events and incidents on the surrounding highway network.

- 7.1.5 In the event of the SoS granting permission for the Baldersby Gate (N) site I consider that condition, as proposed to be amended, would satisfactorily address any issues arising from the need to export additional materials from the site, would be necessary, reasonable, and meet all of the tests set out in Circular 11/95.

Motel Leeming

- 7.1.6 NYCC also proposed an addition to draft Condition 18 (page 348, Annex 3D of Inspector Lyon's report) in the event of the SoS proposing to grant permission for the Motel Leeming MSA proposal, raising the possibility that the priority junction provided by the HA would need to be upgraded to a signal controlled junction. (The condition appears in a slightly different form

in the Inspector's report to the draft submitted to the original Inquiry in LES 200)

7.1.7 The suggested wording was to add a new clause as follows:

Add after '... the agreed works to the link road outside the site ...' the following wording: '... any amendments to the A684 link road junction, the requirement for which shall have been established by an approved analysis of the junction capacity...'.

7.1.8 While the applicant indicated agreement to this approach in principle in written representations, no representative of the applicant was present at the round table session to discuss the wording proposed by NYCC.

7.1.9 In the event of the SoS deciding to grant planning permission for the Motel Leeming scheme, I recommend that the above wording is included within sub-clause (i) of draft condition 18, so that it would read as follows:

(i) The details of the required highway improvement works, including the agreed works to the link road outside the site (or any amendments to the A48 link road junction, the requirement for which shall have been established by and approved analysis of the junction capacity) have been submitted to and approved in writing by the local planning authority.

8. Matters outside the scope of the re-opened Inquiry

- 8.1.1 A number of matters of concern to the parties were outside the scope of the re-opened Inquiry. These have been addressed in written representations, in some case sent directly to the Secretary of State, in others submitted during the Inquiry, with a request that they be passed on to the Secretary of State for his consideration.
- 8.1.2 The following table sets out the references for those matters which have been submitted for the Secretary of State's consideration.

	Document No.	Subject matter
JT	2012/JT/301	Part 2 Closing submissions addressed directly to SoS
JT	2012/JT/7/8 (paragraph 2.13 and Appendix 4)	Changes in planning policy since closure of main Inquiry
JT	2012/JT/7/9 (paragraphs 3.9 – 3.61)	Comparative analysis of planning merits of REL and JT schemes
JT	2012/JT/121	Response to Section 4 of Mr Green's Rebuttal Evidence (2012/ REL/7/1)
REL	2012/REL/1/15 Rebuttal proof of evidence/Appendices of Christopher Simkins	Rebuttal of 2012/JT/7/9
REL	2012/REL/7/1 Rebuttal evidence of Thomas Green (SLR) paras 1.3.5; 3.4.6; 4.1.2 – 4.3.3; and 5.1.1(vi)	Earthworks required for Ripon Services (JT) scheme
REL	2012/REL/3/4 Rebuttal evidence of Brian Denney, paragraph 3.23	Comparison between Baldersby Gate and Ripon Services
HIA	2012/HIA/301 Closing submissions paras 19 – 25 and Annex.	Overall comparison between competing sites
JT	2012/JT/123	Signing of Leeming Bar from A1(T) Southbound
HA	2012/HA/108	Direction Signing to Motel Leeming
MOT	Written submissions dated 2 March 2012	Kirby Hill - impediments to securing access outside the red line (Response to 2012/HIA/3/7, section 4.1)
MOT	2012/MOTO/116	Written representations on need arising from HA/2012/108)

9. Overall conclusion on matters relevant to the re-opened Inquiry

- 9.1.1 I have concluded that there is nothing in the January 2012 Regulation 19 Statement submitted by REL in respect of the Baldersby Gate Services scheme which would alter the previous Inspector's assessment of the long term landscape impacts of the scheme. While I acknowledge that there may be increased impacts during the construction period due to a potential for the export of surplus cut material from the site, these would be temporary, and can be satisfactorily mitigated by a condition requiring an HGV movement plan to be approved as part of a Construction Method Statement. [2.6.35]
- 9.1.2 With regard to departures from DMRB standards, I have concluded that there is no need for any departures in respect of the schemes which would take access directly from the strategic road network (Kirby Hill and Baldersby Gate Services). While the DMRB is not mandatory on the local highway network, the access proposals in respect of the relevant schemes (Motel Leeming, Exelby Truckstop and Ripon Services) are generally compliant, and where they would involve any variance from the standards, these have been approved by NYCC. However there is no formal departure procedure in respect of schemes which would derive access from the local highway network. [3.10.44 - 46]
- 9.1.3 No existing public right of way would need to be diverted if either of the schemes at Baldersby Gate were to be granted permission. There are safety concerns outstanding in respect of the current proposals to address the needs of non-motorised users in both schemes. However, these matters could be resolved at the detailed design stage without altering the fundamental principles or geometry of the proposed accesses. [4.5.26 - 28]
- 9.1.4 The only land ownership issue before the re-opened Inquiry was that in respect of the JT Ripon Services scheme. I have concluded that this is likely to delay implementation of the Ripon Services scheme. The weight to be attached to this in the final decision is a matter for the Secretary of State. [5.5.13]
- 9.1.5 In the event of the Secretary of State concluding that permission should be granted for the Motel Leeming or Baldersby Gate North schemes, the further discussion of conditions in section 7 above should be taken into account.

David Richards

INSPECTOR

Appearances

FOR NORTH YORKSHIRE COUNTY COUNCIL:

Ms Laura Renaudon	Solicitor
She called	
Ms P Johnson BSc(Hons)	Team Leader Transport and Development, NYCC
CEng MICE	

FOR HEATHER IVE ASSOCIATES (APPELLANT):

Mr Charles Banner of Counsel	Instructed by Marrons
He called	
Mr B Plumb BSc(Hons)	Executive Director Waterman, Boreham Ltd
CEng MICE MCIHT	

FOR REFINED ESTATES LIMITED (APPLICANT):

Mr Clive Newberry QC	Instructed by Manches LLP
He called	
Mr J Webb BEng (Hons)	Associate, Transportation Planning
MCIHT	(International) Ltd
Mr Richard Graham	RPS, Planning and Development Division
BSc (Hons) MSc	
Mr B Denney BA(Hons)	Director, Pegasus Environmental
DIPLA CMLI CENV MIEMA	

FOR JAYTEE (RAINTON) LLP (APPLICANT):

Mr John Litton QC	Instructed by Walton and Co.
He called	
Mr Allan Poyser	ARP Associates and ARP Geotechnical Ltd
Mr P Beswick BA(Hons)	Technical Director, Enzygo Ltd
DipLA	
Mr S Wilkins IEng MICE	Associate, Brian G Hall, Consulting Civil and
MCIHT	Transportation Planning Engineers

FOR THE HIGHWAYS AGENCY:

Mr Alan Evans of Counsel	Instructed by the Highways Agency
He called	
Mr M L Buckley BEng	Senior Technical Adviser - Safe Roads Team
MCIHT	Design Team (Geometric), HA
Mr R C Wright	Principal Accessibility Adviser, HA

FOR MOTO HOSPITALITY LIMITED:

Mr Robert Fookes of Counsel	Instructed by Savills
He called	
Mr P Finlayson BSc CEng	Managing Director, PFA Consulting
MICE MCIHT MCIWEM	

FOR KIRBY HILL RESIDENTS AGAINST MOTORWAY SERVICES:

Mr Gareth Owens	Chairman
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INTERESTED PERSONS:

Mr Peter West MBE	Chairman of Melmerby and Middleton Quernhow Parish Council
Cllr Chris Brown MBE	District Councillor and Local resident

Proofs of Evidence and Inquiry Documents

(Re-opened Inquiry – for Main Inquiry Documents see Inspector's Report, Annexes 6 and 7)

Core Documents	
2012/CD/1.54	Draft National Planning Policy Framework (REL)(24/1/2012)
2012/CD/6.37	Further information to the ES (REL)
2012/CD/14.7.2	Second Addendum to the Supplementary SOCG between Carl Les & NY (LES)
2012/CD/14.23	SOCG between NY & REL (NY)
2012/CD/17.1	Extracts from CD1.17, 1.18 & 1.19
Other Documents	
Highways Agency (HA)	
2012/HA/2/2	Proof of Evidence and Position Statement by the Highways Authority by Paul Cawthorne
2012/HA/2/3	Written statement by Paul Hawthorne on behalf of the HA.
2012/HA/3/1	Rebuttal Proof of Evidence by RC Wright on non-motorised provision on local access road
2012/HA/4/1	Supplementary Proof of Evidence from Michael Buckley
2012/HA/108	Direction Signing to Motel Leeming Services
2012/HA/301	Closing submissions by the Highways Agency
Harrogate Borough Council (HBC)	
2012/HBC/1/5	Written statement by David Allenby in response to the additional information required for the resumed inquiry
2012/HBC/2/4	Supplementary statement by Jon Etchells in response to the R19 statement
2012/HBC/107	Email from EA dated 16 February 2012 regarding surface water drainage issues
Heather Ive Associates (HIA)	
2012/HIA/3/4	Supplementary Proof of Evidence on behalf of Brian Plumb
2012/HIA/3/5	Appendices to the Supplementary Proof of Evidence on behalf of Brian Plumb
2012/HIA/3/6	Rebuttal Proof to the addendum to the SOCG between LES & NY (CD14.7.2)
2012/HIA/3/7	Second Rebuttal Proof of Evidence of Brian Plumb
2012/HIA/3/8	Appendices to Second Rebuttal Proof of Evidence of Brian Plumb
2012/HIA/121	Response to KH's letter of 23 January 2012 – email dated 24 January 2012
2012/HIA/122	Opening submissions by HIA to resumed Inquiry
2012/HIA/123	Costs Application on behalf of HIA against REL
2012/HIA/124	Extracts of 208006/63B
2012/HIA/301	Closing submissions by HIA
Jaytee (Rainton) LLP (JT)	
2012/JT/2/7	Proof of Evidence AND Appendices on behalf of Jaytee (Rainton) LLP by Stuart Wilkins
2012/JT/2/8	Response to 2012/MOT/3/5
2012/JT/2/9	Further response to 2012/MOT/3/5
2012/JT/3/5	Proof of Evidence on behalf of Paul Beswick – response to the R19 submitted by REL – Landscape & visual

2012/JT/3/6	Appendices to (2012/JT/3/5) Proof of Evidence on behalf of Paul Beswick – response to the R19 submitted by REL
2012/JT/3/7	Summary Proof of Evidence on behalf of Paul Beswick – response to the R19 submitted by REL
2012/JT/3/8	Rebuttal Proof of Evidence of Paul Beswick
2012/JT/7/8	Proof of Evidence AND Appendices by Mark Lane
2012/JT/7/9	Proof of Evidence AND appendices by Mark Lane – in relation to the resumed inquiry
2012/JT/7/10	Summary Proof of Evidence by Mark Lane – in relation to the resumed inquiry
2012/JT/7/11	Rebuttal Proof of Evidence from Mark Lane
2012/JT/7/12	Appendices to 2012/JT/7/11 (within the proof)
2012/JT/7/13	Summary Proof of Evidence to 2012/JT/7/11
2012/JT/7/14	Second Rebuttal Proof of Evidence of Mark Lane
2012/JT/7/15	Appendices to Second Rebuttal Proof of Evidence of Mark Lane
2012/JT/8/1	Proof of Evidence by Allan Poyser – Earthworks and drainage
2012/JT/8/2	Appendices to (2012/JT/8/1) – Allan Poyser - Earthworks and drainage
2012/JT/8/3	Summary Proof of Evidence by Allan Poyser - Earthworks and drainage
2012/JT/8/4	Rebuttal Proof of Evidence of Allan Poyser in response to Proof of Thomas Green
2012/JT/8/5	Rebuttal Proof of Evidence of Allan Poyser in response to Proof of Richard Graham
2012/JT/119	Opening submissions for resumed inquiry
2012/JT/120	Submissions to the Inspector for resumed inquiry
2012/JT/121	Written evidence by Mark Lane on the rebuttal evidence of Tom Green (2012/REL/7/1)
2012/JT/122	Written evidence by Mark Lane on the rebuttal evidence of Colin Smith (2012/REL/6/4)
2012/JT/123	Written evidence by Mark Lane on the rebuttal evidence of Colin Smith (2012/REL/6/4)
2012/JT/124	Costs Application
2012/JT/301	Closing submissions by JT
Kirby Hill RAMS (KH)	
2012/KH/1/6	Written rebuttal statement in response to HIA (2012/HIA/3/4) and the HA (2012/HA/2/2)
2012/KH/112	Letter to HIA dated 23 January 2012
Carl Les (LES)	
2012/LES/1/8	Rebuttal statement on behalf of Carl Les
2012/LES/2/5	Rebuttal Proof of Evidence of Allan Short in relation to highways
2012/LES/2/5A	Addendum to Rebuttal Proof of Evidence of Allan Short in relation to Highways
MOTO Hospitality Ltd (MOT)	
2012/MOT/2/8	Rebuttal Proof of Evidence by Peter Dixon
2012/MOT/2/8A	Addendum to Rebuttal Proof of Evidence by Peter Dixon
2012/MOT/2/9	Appendices to Rebuttal Proof of Evidence by Peter Dixon (2012/MOT/2/8)
2012/MOT/3/5	Supplementary Proof of Evidence – highways and traffic matters
2012/MOT/116	Written submission regarding the R19 dated 7 Feb 2012
2012/MOT/117	Letter dated 1 March clarifying exact status of all submissions

2012/MOT/301	Closing submissions by MOTO
North Yorkshire County Council (NYCC)	
2012/NY/1/7	Supplementary Proof of Evidence by Pam Johnson regarding matters raised by the SOS
2012/NY/1/8	Appendices for the Supplementary Proof of Evidence by Pam Johnson regarding matters raised by the SOS
2012/NY/1/9	Supplementary Proof of Evidence by Pam Johnson regarding the R19 submitted by REL
2012/NY/1/10	Appendices for the Supplementary Proof of Evidence by Pam Johnson regarding the R19 submitted by REL
2012/NY/105	Note on departures from DMRB standards on the Local Highway Network
2012/NY/106	Note on Departures
2012/NY/301	Closing submissions by NY
Refined Estates Ltd (REL)	
2012/REL/1/13	Written Statement on Matter 4(a) in the SOS's letter of 8 November on planning policy changes since February 2011
2012/REL/1/14	Appendices to the Written Statement on Matter 4(a) in the SOS's letter of 8 November on planning policy changes since February 2011
2012/REL/1/15	Rebuttal Proof of Evidence by Chris Simkins – rebutting Mark Lane's 2012/JT/7/9
2012/REL/2/9	Highways Statement of J Webb
2012/REL/2/10	Appendices to the Highways Statement of J Webb
2012/REL/2/11	Rebuttal Highways Statement of J Webb
2012/REL/2/12	Appendix to Rebuttal Highways Statement of J Webb
2012/REL/2/13	Geometric compliance to DMRB standards for MSA Access Proposal.
2012/REL/3/4	Rebuttal proof of evidence of Brian Denney
2012/REL/6/1	Written Statement by Colin Smith on MATTER 4(a) In the Secretary of State's letter of 7th November 2011 and Planning Policy changes since February 2011.
2012/REL/6/2	Appendices to the Written Statement by Colin Smith on MATTER 4(a) In the Secretary of State's letter of 7th November 2011 and Planning Policy changes since February 2011.
2012/REL/6/3	Updated and omitted plans from 2012/REL/6/2
2012/REL/6/4	Rebuttal Statement of Colin Smith
2012/REL/7/1	Rebuttal Proof of Evidence of Thomas Green on site earthworks
2012/REL/7/2	Appendices to the Rebuttal Proof of Evidence of Thomas Green on site earthworks (2012/REL/7/1)
2012/REL/7/3	Supplementary Evidence of Thomas Green on site earthworks
2012/REL/7/4	Appendices to the supplementary evidence of Thomas Green on site earthworks (2012/REL/7/3)
2012/REL/8/1	Proof of Evidence by Richard Graham – rebutting Mr Poyser's (2012/JT/8/2)
2012/REL/8/2	Appendices to Rebuttal Proof of Evidence by Richard Graham – rebutting Mr Poyser's (2012/JT/8/2)
2012/REL/126	Response to Savills letter dated 7th February
2012/REL/127	Note in relation to storm water drainage
2012/REL/128	Plan in relation to Mr Denney's proof
2012/REL/129	Replacement Plan – Fig 3.2 (2012/CD6.37)
2012/REL/130	Note clarifying status of all documents.

2012/REL/131	REL's response to HIA regarding their Costs Application	
2012/REL/132	REL's response to JT regarding their Costs Application	
2012/REL/133	Letter to SOS regarding matters outside of the inquiry remit.	
2012/REL/205	Suggested amendments to Conditions in REL/204	
2012/REL/301	Closing submissions by REL	
Exelby (XLB)		
2012/XLB/2/4	Technical Note 18 AND APPENDICES prepared by John Phillip on technical Highway issues	
2012/XLB/2/5	Technical Note 19 AND APPENDICES prepared by John Phillip on technical Highway issues	
Letters from DCLG		
2012/MSA/1	Letter to the rule 6 parties dated 8 November 2011 advising of the re-opening of the inquiry	
2012/MSA/2	Letter to Savills dated 28 November regarding the disclosure of the inspector's report	
2012/MSA/3	Letter to Marron's dated 28 November regarding the parameters of the resumed inquiry	
2012/MSA/4	Letter to Savill's dated 10 February 2012 from DCLG.	
Third party letters		
Ref	Name	Date
2012/001	Melmerby & Middleton Quernhow Parish Council	19 January 2012
2012/002	Julian Hodges	20 January 2012
2012/003	Mrs A Cheeseman	22 January 2012
2012/004		22 January 2012
2012/005	AP Ormshaw	23 January 2012
2012/006	SCA Ormshaw	27 January 2012
2012/007	JF Longbottom	31 January 2012
2012/008	RA Ormshaw	23 January 2012
2012/009	Yvonne Wainwright – Baldersby & Baldersby St James Parish	6 February 2012
2012/010	Ripon City Council	1 February 2012
2012/011	Jane Mosley	7 February 2012
2012/012	Lesley Blackie	10 February 2012
2012/013	T P G Helps	14 February 2012

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

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