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Our Ref: APP/X4725/V/11/2144563

20 June 2012

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 77)  
APPLICATION BY YORKCOURT PROPERTIES LIMITED  
APPLICATION REF: 10/00225/OUT. LAND ADJACENT TO NEWMARKET LANE,  
ROTHWELL, WAKEFIELD, LS26 9DR**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Harold Stephens BA MPhil DipTP MRTPI FRSA, who held a public local inquiry which opened on 6 December 2011, into your client's application to Wakefield Metropolitan District Council (WDC) for outline planning permission for a mixed use development comprising a community stadium (with details of the access, landscaping, layout and scale of the stadium submitted for approval), multiuse games area, B8 warehousing and distribution units, B1b and B1c business units, an hotel, an A3 unit, roads, infrastructure and landscaping in accordance with planning application ref 10/00225/OUT.

2. The application was called in for the Secretary of State's determination on 13 December 2010.

**Inspector's recommendation and summary of the decision**

3. The Inspector, whose report is enclosed with this letter, recommended that planning permission be granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusions and is minded to agree with his recommendation, subject to the submission of a completed planning obligation and answers to his queries in paragraph 24 below. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Procedural matters**

4. Following the close of the Inquiry, the Secretary of State received a written representation, from Alec Shelbrooke MP dated 23 February, which he has carefully considered. This related to the absence of a signed s106 agreement, and is dealt with later on in this letter. He received a letter from Mary Creagh MP, dated 14 June, which he has carefully considered, drawing his attention to the Inspector's Report on the Site Specific Proposals Development Plan Document, and this is also dealt with

later on in this letter. The Secretary of State also received a written representation from your company dated 8 February requesting that a decision on the application be delayed until after receipt of the Inspector's report into the Wakefield Local Development Framework Site Specific Proposals Development Plan Document (SSDPD). That report has now been published by WDC, but the SSDPD has not been formally adopted yet. On 28 May a letter was sent to your company requesting the signed planning obligation in order to assist the Secretary of State in his determination of the application. You replied by letter dated 31 May that the planning obligation put forward at the inquiry was in the same form as that presented to the Inspector and suggesting options for the Secretary of State to consider in the absence of the signed planning obligation. Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

5. Following the close of the inquiry, the Government published the National Planning Policy Framework (March 2012) (the Framework). This document replaces those Planning Policy Guidance and Statements, Minerals Planning Guidance notes, Circulars and Letters to Chief Planning Officers set out in its Annex 3. Following the publication of this document the Secretary of State wrote to interested parties on 19 April seeking their views on its implications, if any, on the proposal before him. On 9 May the Secretary of State circulated the responses, inviting further comments, and stating that he would then proceed to a decision. A list of those responding is set out in Annex A below.

6. The Secretary of State has carefully considered all of the representations received in his determination of this case. He considers that for the most part the issues raised cover those already rehearsed at the inquiry. In considering these further representations the Secretary of State also wishes to make it clear that he has not revisited issues which are carried forward in the Framework and which have therefore already been addressed in the IR. In this case he also has the benefit of being able to rely on an up to date Core Strategy to which full weight can be afforded. Notwithstanding that the majority of former national planning guidance has been replaced by the Framework, the Secretary of State considers that the main issues identified by the Inspector essentially remain the same.

7. The Secretary of State notes those changes made to the proposal, as detailed at IR1.9, and has determined the application on that basis. He does not consider that there has been prejudice to any party in doing so.

8. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and addenda submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR1.19-1.24). Like the Inspector (IR7.8), he considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

### **Policy considerations**

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises: The Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 (RSS) (2008);

Saved Policies and Proposals of the Wakefield Unitary Development Plan First Alteration (2003) ; Wakefield Local Development Framework Development Policies (2009); The Wakefield Local Development Framework Core Strategy (2009); Central Wakefield Area Action Plan Development Plan Document (2009); and, the Waste Development Plan Document (2009). The Secretary of State considers that the development plan policies most relevant to the application are those set out in IR1.26-1.44.

10. Material considerations which the Secretary of State has taken into account include the emerging SSDPD (IR1.45-1.49). Other material considerations include: The Planning System: *General Principles*; Circular 11/95: *Use of Conditions in Planning Permission*; the Community Infrastructure Levy (CIL) Regulations (2010 and 2011); the supplementary planning guidance referred to at IR1.50; and, the Ministerial Statement "Planning for Growth" (2011).

11. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the Yorkshire and Humber Plan is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining this application.

## **Main Issues**

### **Development plan**

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on the extent to which the proposal accords with the development plan for the area, as set out in IR7.10-7.35. He agrees that the proposal would accord with a very wide range of development plan policies and objectives, but that it would not be in accordance with important policies in the Core Strategy and, interpreting the development plan as a whole, the proposal would therefore not be in accordance with it (IR7.35). The Inspector's Report of the SSDPD has recently been published (June 1012) and the Secretary of State notes that it endorses the allocation of part of the application site for B8 uses. However, this application is for a mixed use scheme covering a larger area than the allocation and he has considered it accordingly.

### **Sustainable development**

13. At the heart of Framework is the presumption in favour of sustainable development. The Inspector explicitly addressed sustainability issues in respect of the environmental considerations. For the reasons given in IR7.36-7.45 the Secretary of State agrees with the Inspector that overall the scheme has taken significant steps to protect and enhance the environment and use land which is of the least ecological value, and that the proposal would be broadly sustainable (IR7.45). In the context of the dimensions of sustainable development in the Framework, he considers below the economic and social aspects of the proposed development.

### **Green Belt**

14. The Secretary of State agrees with the Inspector's assessment of the extent to which the proposal is consistent with protecting Green Belt land, as set out in

IR7.46-7.85. He agrees that there would be a significant amount of additional harm to the Green Belt which should be added to the harm caused by way of inappropriateness, and that it is this combined harm that must be clearly outweighed by other considerations (IR7.63). He also agrees that very considerable weight should be given to the need for a new community stadium (IR7.75); considerable weight should be attached to the wider sporting, health and lifestyle opportunities that would be delivered (IR7.76); and, that very significant weight should be attached to the contribution the proposal would make to supporting economic growth (IR7.79). He notes that the Inspector's report for the SSDPD, published in June 2012, allocates part of this site for B8 uses, which will remove this part of the site from the Green Belt.

#### Economic growth

15. For the reasons given in IR7.86-7.98 the Secretary of State agrees with the Inspector that the proposal would not be in strict compliance with policies for sustainable economic growth, particularly in terms of the requirements of the sequential approach to main town centre uses, but that an exception should be made to policies for ensuring the vitality of town centres on the basis that the hotel and A3 unit are necessary components of a wider scheme, all elements of which must be provided in order to enable the funding of the stadium and community elements (IR7.98).

#### Protected species and biodiversity interests

16. For the reasons given in IR7.99-7.102 the Secretary of State agrees with the Inspector that the proposed development, together with the proposed ecological mitigation, would comply with Government policies on conserving and enhancing the natural environment particularly in relation to protected species and to biodiversity interests within the wider environment (IR7.102).

#### Accessibility and sustainable transport

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on the extent to which the proposal accords with promoting sustainable transport, as set out in IR7.103-7.120. He agrees that the site as a whole is not as accessible as one would normally expect but that this is mitigated by reference to the policy balance between the very specific locational requirements of the largest element of the proposal (B8) and the general objective of encouraging non-car modes of travel (IR7.120).

#### Promoting healthy communities

18. For the reasons given in IR7.121-7.124 the Secretary of State agrees with the Inspector that the site as a whole is not as accessible as one would normally expect, but that it is entirely appropriate to locate the stadium with the enabling development (IR7.124).

#### Conditions and Obligations

19. The Secretary of State agrees with the Inspector's assessment of the planning conditions as set out in IR7.125-7.128, and considers that these meet the tests in Circular 11/95, with the reservations noted in paragraph 24 below. The Secretary of

State is satisfied that the provisions of the planning obligation comply with policy in the Framework and meet the tests set out in the CIL Regulations 2010 as amended (IR7.133), but he has a query on the operation of the undertaking as noted in paragraph 24 below.

### **Conclusion**

20. The Secretary of State agrees with the Inspector's overall conclusions as set out in IR7.135-7.147.

21. The Secretary of State considers that the proposal constitutes inappropriate development in the Green Belt and would also be harmful to the Green Belt in other ways. He attaches substantial weight to this harm and has gone on to consider whether the harm identified can be clearly outweighed by other considerations amounting to very special circumstances.

22. Having taken into account all of the considerations above, the Secretary of State concludes, like the Inspector, that the beneficial effects of the proposal amount to very special circumstances, and are of sufficient weight to clearly outweigh the harm to the Green Belt, and other harm. In reaching this conclusion he has attached significant weight to the need for a community stadium but considers that without a signed planning obligation that covers the construction of the stadium and traffic regulation order, as proposed by the applicant, the very special circumstances that weigh in favour of this application as a mixed use development in support of the stadium would be diminished.

23. The Secretary of State is minded to approve your client's application, but he proposes to defer his final decision on the proposed development to enable parties to provide him with a planning obligation under section 106 of the Town and Country Planning Act 1990 in respect of the construction of the community stadium and traffic regulation order. The Secretary of State considers that it would be preferable for the planning obligation to be made by agreement between the applicant and the Council. Nevertheless, he is prepared to consider a planning obligation given by unilateral undertaking. If a duly certified, signed and dated planning obligation is made and submitted in accordance with the relevant statutory provisions, the Secretary of State draws the applicant's attention to the need to ensure that it complies with the provisions of sections 106 and 106A of the Town and Country Planning Act 1990 and the CIL Regulations 2010 as amended.

24. The Secretary of State has carefully considered the draft unilateral undertaking supplied by the applicant on 20 January 2012, as well as the Inspector's suggested planning conditions and the proposed supplement to these in your letter of 31 May 2012. He has a number of queries which he would like your client to address when responding to this letter:

(a) The Secretary of State would like clarification about the relationship between the letting of the stadium construction contract, as provided for in the draft unilateral undertaking, and the commencement of work on the stadium.

(b) The Inspector's suggested condition 6 provides for the application for approval of reserved matters for the B8, B1b and B1c elements of the development to be made within 5 years of the date of the planning

permission. The usual period for such applications is 3 years and the Secretary of State would like clarification for the proposal that 5 years is required for this element of the scheme.

(c) The Inspector's suggested condition 49 requires the developer to produce a full tender construction pack and draft of the proposed lease of the stadium to the local planning authority. The Secretary of State considers that this condition would be more relevant and precise if the documents were to be produced to the local planning authority "for approval".

(d) The Secretary of State accepts your proposed supplement to the wording of the Inspector's suggested condition 51, in your letter of 31 May 2012, which he notes has been agreed with WDC, and provides more certainty about the details of the stadium finish. He invites you to incorporate your proposed wording into a revised condition 51.

25. The Secretary of State proposes to allow 8 weeks from the date of this letter ie to 15 August 2012 for the submission of the planning obligation and responses to the points in paragraph 24 above. If the Secretary of State does not receive a satisfactory and duly signed planning obligation by 15 August 2012 he will reconsider his minded to approve position.

### **Other Matters**

26. The Secretary of State has been unable to reach a decision on this application by the target date of 19 June 2012, as previously notified. Because of the need to allow parties time to deal with the matters set out above, he will require more time to reach a decision. He now expects to make a decision on or before 13 September 2012.

27. A copy of this letter has been sent to Wakefield Metropolitan District Council. All other parties who appeared at the inquiry have been notified of the position and have been advised that, if they so request, they will be sent copies of this letter and any representations received in response to it.

Yours sincerely

Pamela Roberts

Authorised by the Secretary of State to sign in that behalf

## **ANNEX A Post Inquiry correspondence following the publication of the National Planning Policy Framework**

### **First comments**

<b>Name / Organisation</b>	<b>Date</b>
Wakefield MDC	2/5/12
Yorkcroft Properties Ltd	2/5/12
Methley and Mickletown Residents Association and Wakefield Community Conservation Group	4/5/12
Wakefield Residents Interest Group	4/5/12

### **Second comments**

<b>Name / Organisation</b>	<b>Date</b>
Wakefield MDC	23/5/12
Yorkcroft Properties Ltd	16/5/12
Methley and Mickletown Residents Association and Wakefield Community Conservation Group	18/5/12
Leeds City Council	15/5/12
Methley Residents Association and Wakefield District Biodiversity Group	22/5/12
Stadium Wakefield Action Group (SWAG)	16/5/12
Residents for Newmarket	17/5/12

## **ANNEX B Proposed Conditions**

### **All Elements**

1. The development hereby permitted shall be carried out in accordance with the following plans:
  - 2009-039/200B – Proposed plan, ground floor
  - 2009-039/201B – Proposed plan, first floor
  - 2009-039/202B – Proposed plan, second floor
  - 2009-039/203A – Proposed plan, third floor gantry
  - 2009-039/204A – Proposed sections – Sections A & B
  - Developable plot areas
  - 2009-039/834B – Stadium Site Plan
2. The development hereby permitted shall be begun before the expiration of three years from the date of the last of the reserved matters to be approved.
3. Development shall not commence until a delivery strategy and phasing plan has been submitted to and approved in writing by the Local Planning Authority for the overall development. The development shall be carried out in strict accordance with the approved delivery strategy and phasing plan.
4. Application for approval of all the reserved matter(s) for the Stadium shall be made before the expiration of four months from the date of this permission.
5. Development shall not commence on the Stadium hereby permitted until details of the following reserved matter(s) have been submitted to and approved in writing by the Local Planning Authority: External appearance.
6. Application for approval of all the reserved matter(s) for the B8 and B1b and B1c elements of the scheme shall be made before the expiration of five years from the date of this permission.
7. Application for approval of all the reserved matter(s) for the Hotel and A3 unit elements of the scheme shall be made before the expiration of three years from the date of this permission.
8. All reserved matters and other schemes and details are required to be submitted pursuant to the conditions attached to this planning permission and shall accord substantially with the submitted Environmental Impact Assessment submitted 22.02.2010, addendum 16.09.2010 and addendum 19.07.2011, amended Design and Access Statement dated August 2010, Indicative Landscape Master Plan D2232.003C, Parameters Plan 2009-039/828 Rev E, Developable Plots Area 2009-039/808K and Outline Foul and Drainage Strategy LDS/435/SK07/P4

### **Boundary Treatment**

9. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for the boundary treatment for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme for each phase of the development as approved under condition 3 of this permission shall be completed in accordance with the approved plans for that phase before any building within that phase is occupied.



## **Drainage**

10. Development shall not commence on any phase approved under condition 3 of this permission until a detailed scheme of foul drainage for that phase, including an analysis of the off site sewerage and treatment capacity, details of balancing works and off site works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that there is capacity in the local sewerage and waste water treatment system to properly dispose of and treat the foul water arising from that phase of the development to the required standard. No phase approved under condition 3 of this permission shall be brought into use until the scheme for that phase has been implemented and shall be retained for the lifetime of the development.
11. Development shall not commence until a scheme to divert or otherwise formally close the sewer that is laid within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented before any construction of buildings or other structures at the site takes place.
12. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
13. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for the outfall for surface water for that phase has been submitted to and approved in writing by the Local Planning Authority. No piped discharge of surface water from any phase approved under condition 3 of this permission shall take place until the scheme for that phase has been implemented. Each scheme shall be retained for the lifetime of the development.
14. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor with capacity prior to discharge. Roof drainage shall not be passed through any interceptor.

## **Ecology**

15. Development shall not commence on any phase approved under condition 3 of this permission until a landscape and ecological management plan has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall include details of the long-term design objective, management responsibilities, maintenance schedules for all landscape areas and the following elements:
  - Plans showing the extent and layout of the buffer zones around water bodies
  - Details of the full extent and type of new planting (using native species)
  - Details of maintenance regimes
  - Plans showing areas of new habitats created on site and enhancements of existing habitats
  - Details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term (including enhancements).
  - Details of any treatment of site boundaries and /or buffers around water bodies

The scheme for each phase shall be implemented in accordance with the approved scheme.

16. The development hereby approved shall be carried out in accordance with the Water Vole and Conservation Strategy and Avoidance of Otter Conflicts document 1998.006 submitted 19.07.2011 for each of the phases approved under condition 3 of this permission.

## **Flood Risk Assessment**

17. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) LDS435/FRA Revision C dated 21 January 2010 and FRA Addendum DH/LW/LDS435/FRA-RevC- Addendum, prepared by BWB Consulting and the following mitigation measures detailed within the FRA and Addendum:
- (i) Finished ground floor levels of any development to be set a minimum of 600mm above the 100-year plus climate change flood levels for the watercourse at its nearest location. The 100-year plus climate change flood levels shall be determined by detailed unsteady state modelling of the existing and proposed watercourses.
  - (ii) All building footprints to be sited outside the 100-year plus climate change floodplain.
  - (iii) Installation of storm water flow attenuation limiting surface water run-off to a rate of 2.5 litres/second/hectare with an "on site" storm water storage facility designed to accommodate the calculated flows for a 1 in 100 year return period plus an allowance of 20% for climate change.

## **Highways**

18. No development shall take place on any phase as approved under condition 3 of this permission until a scheme detailing new access, speed reducing features and arrangements and specification for layout and parking that are to be carried out on that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all aspects of temporary traffic management, schedule of works, signing and lighting, temporary bus stop arrangements (if any), access to adjacent properties, street cleaning and safety arrangements for all users of the public highway. Before any building on any phase approved under condition 3 of this permission is occupied the scheme shall be completed in accordance with the details shown on the approved plans and retained thereafter.
19. No building on any phase as approved under condition 3 of this permission shall be occupied until the areas to be used by vehicles and/or pedestrians for that phase have been surfaced, sealed and drained in accordance with details that have previously been approved in writing by the Local Planning Authority.
20. Development shall not commence until a scheme detailing arrangements and specification for the improvements to the existing junction at Newmarket Lane and Aberford Road, including the installation of traffic signals (which shall include the system MOVA), a CCTV camera, all ducting, kerbing, ancillary lining and cycling facilities have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, surfacing details, kerbing details, ducting details and white lining works on that phase. Before the development is brought into use, the proposed works shall be constructed in accordance with the layout shown on the approved scheme and retained thereafter.
21. Development shall not commence on any phase approved under condition 3 of this permission until cycle storage facilities for that phase have been provided in accordance with details that have been previously approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained for that phase.
22. Development shall not commence on any phase approved under condition 3 of this permission until a detailed scheme for the improvement and relocation of bus stops 14664 and 14666 on Newmarket Lane and the improvement of bus stops 29053 and

14680 Aberford Road, has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall include a new bus shelter which shall include seating, lighting and bus information. All of the approved works shall be implemented in accordance with the approved scheme before the development is first brought into use and retained and maintained for the lifetime of the development.

23. Development shall not commence until details of measures to restrict HGV's using Newmarket Lane have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained in accordance with any approved timescales.

24. The development hereby approved shall be carried out in accordance with the Freight Management Plan reference 9V1992/R0001B/304187/Man submitted 16.12.2011.

### **Construction**

25. No development shall take place on any phase approved under condition 3 of this permission, including any works of demolition, 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 phase on any phase approved under condition 3 of this permission. The statement shall provide for:

- (a) The parking of site operatives and visitors vehicles
- (b) Loading and unloading of plant and materials
- (c) Management of construction traffic and access/haul routes
- (d) Condition surveys and maintenance of all access/haul routes
- (e) Storage of plant and materials used in constructing the development
- (f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (g) Wheel cleaning facilities
- (h) Measures to control the emission of dust and dirt during construction
- (i) A scheme for recycling/ disposing of waste from demolition and construction works
- (j) a signage strategy for construction traffic

26. Development shall not commence on a phase approved under condition 3 of this permission until a noise and vibration management and monitoring plan relating to the control of noise and vibration from construction, including piling operations, of that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The details of the plan shall include:

(i) all construction plant items to be fitted with effective silencers and comply with EC regulatory noise limits where relevant;

(ii) plant to be located so as to minimise impact on sensitive properties;

(iii) definition of the responsibilities for managing noise and vibration emissions, the mitigation measures proposed, the methodology of specifying and procuring quiet plant and equipment, the methodology for the verification of noise emission levels from plant and equipment and the consultation and reporting process of matters of noise and vibration between the developer and the Local Planning Authority;

(iv) issues such as site notices which advise the general public of contact names and numbers both during and out of hours in the event of noise problems and include information exercises such as leaflet drops;

(v) a Noise Monitoring Protocol detailing the monitoring to be undertaken to show that the LAeq,T levels are not exceeded.

Noise from construction, clearance and site remodeling phases of the development (specified as site noise) (LAeq,T) shall not exceed a noise level of 55dBI Aeq(1hour) at the site boundary at any time on Monday to Friday 0800 to 1800 hours and Saturday 0800 to 1400 hours and L Aeq,T shall not exceed the existing background level (La90T) at anytime on Sundays or Bank Holidays at any point 1 metre from the boundary of any noise sensitive properties, which shall be approved in writing by the Local Planning Authority. The existing background noise levels must be agreed at noise sensitive properties with the Local Planning Authority prior to the commencement of any development works on the site.

All approved measures identified shall be implemented and maintained throughout the duration of the works they mitigate during the construction phase.

## Noise

27. Development shall not commence on any phase approved by condition 3 of this permission until a scheme for the noise control from Road Traffic associated with that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following measures:

- Measurement or calculations of the LAeq 16 hr from road traffic on the site at noise sensitive receptors. Full details of calculation / measurement methodology should be provided
- Proposed mitigation measures to achieve 55dBLAeq at those points
- Details of any proposed mitigation e.g. barrier and bund, should include full details of design and layout height differences and calculations
- A statement regarding proposals for future maintenance of any physical mitigation measures

The scheme shall be implemented before any phase as approved under condition 3 of this permission is brought into use and retained and maintained for the lifetime of the development.

28. No external construction works or related deliveries shall take place outside 0800 to 1800 hours on Mondays to Fridays or 0800 to 1300 hours on Saturdays not at any time on Sundays or Bank and National Holidays except in an emergency.

29. Before development shall commence on any phase of the development approved under condition 3 of this permission a noise management and monitoring plan relating to the control of noise and vibration from the operation of that phase of the development other than highway works shall be submitted to and approved in writing by the Local Planning Authority.

The plan will define:

- (i) the responsibilities for managing noise emissions;
- (ii) the mitigation measures proposed;
- (iii) details of physical measures
- (iv) details of plant and equipment

The noise management plan shall also include matters such as site notices which advise the general public of contact names and number both during and out of hours in the event of noise problems and include information such as leaflet drops.

The plan shall ensure that the noise emitted from site activities shall not cause an increase in the existing L Aeq(1 hour) during the hours of 0700 to 2300 and shall not

cause an increase in the existing L Aeq(5 mins) between the hours of 2300 to 0700 at the nearest noise sensitive properties.

If any noise source has an annoying feature or character (as described in paragraph 8.2 of BS4142:1997 Method for rating industrial noise effecting mixed residential and industrial areas) a notional 5dBA weighting shall be added to the sound level from that source when determining whether the existing L Aeq,T noise level would be exceeded.

The scheme shall include a Noise Monitoring Protocol detailing the monitoring to be undertaken to show that the L Aeq,T levels are not exceeded.

The existing LAeq,T noise levels must be agreed at noise sensitive properties with the Local Planning Authority prior to the commencement of any development works on the site.

All measures shall be implemented before the development is brought into use and retained and maintained for the lifetime of the development.

### **Archaeology**

30. Development shall not take place on any phase approved under condition 3 of this permission until a scheme for the implementation of a programme of archaeological recording has been submitted to and approved in writing by the Local Planning Authority for that phase. The recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation. The scheme shall be implemented before construction commences at the site on any phase approved by condition 3 of this permission.

### **Contaminated Land**

31. Development shall not commence on any phase approved under condition 3 of this permission until that phase has been subject to a detailed scheme for investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings including proposals and a programme for the remediation of any contaminated areas and protective measures to be incorporated into the buildings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for the disposal of surface water during remediation. The remediation works shall be carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. If during the course of the development further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures, approved in writing by the Local Planning Authority have been implemented.

### **Security**

32. Development shall not commence on any phase approved under condition 3 of this permission until a security and crime prevention strategy including details of all physical security measures for that phase has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this shall include all fencing positions, heights, design, materials and colour treatment; provision of CCTV for the Stadium and Multi Use Games Area elements of the scheme; vehicle and pedestrian access gates and barriers; access controls, site management and liaison with the relevant police authorities. The scheme shall be implemented in accordance with the approved details and before any phase approved under condition 3 of this permission is brought into use.

## **Woodland Planting**

33. Development (including any arboricultural or engineering operation carried out in connection with the development) shall not commence on any phase approved under condition 3 of this permission until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include:

- Implementation, supervision and monitoring of a Tree and Woodland Protection Scheme
- Implementation, supervision and monitoring of Tree Works
- Implementation, Supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree and Woodland Protection Scheme
- Timing and phasing of arboricultural works in relation to the approved development.

Development shall take place in accordance with the AMS, or any other revision of it approved by the Local Planning Authority. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within 5 years from the occupation of any building or the development hereby permitted brought into use shall be replaced with trees, shrubs or hedge plants of number, size and species deemed appropriate by the Local Planning Authority. Development shall take place in accordance with the approved AMS.

## **Climate Change**

34. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for incorporation of on site renewable energy generation technology for the development has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall be implemented in accordance with the approved details on any phase approved under condition 3 of this permission and retained thereafter for the lifetime of the development.

35. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for incorporation of energy and water efficiency within the development has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall be implemented in accordance with the approved details on any phase approved under condition 3 of this permission and retained thereafter for the lifetime of the development.

36. Before development is brought into use under any phase approved under condition 3 of this permission a scheme shall be submitted to and approved in writing by the Local Planning Authority for electric vehicle charging points to be incorporated at a number of locations within each phase. The scheme shall be implemented before the phase of development is brought into use and retained for the lifetime of the development.

## **Litter, waste and Recycling**

37. The Stadium and A3 unit hereby approved shall not be brought into use until details of a scheme of litter control has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the extent of the litter management area. The approved scheme shall be implemented before the stadium and A3 unit are brought into use and retained and maintained for the lifetime of the development.

38. No part of the development approved under condition 3 of this permission shall be brought into use until details of a scheme of refuse and recycling storage areas for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before that phase of development is brought into use and retained and maintained for the lifetime of the development.

#### **B8 and B1b and B1c Restrictions**

39. The B8 development hereby approved shall not exceed a maximum floor space of 146,324m<sup>2</sup> and shall be used for no other purpose.
40. The B1b and B1c development hereby approved shall not exceed a maximum floor space of 14,150m<sup>2</sup> and shall be used for no other purpose.
41. The B8 development hereby approved shall not include any ancillary retail space or trade counter.

#### **Stadium**

42. Development shall not commence on the stadium until a detailed landscaping scheme for the Stadium has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the submitted Indicative Landscape Master Plan D2232.003C. The approved landscaping scheme for the Stadium shall be completed not later than the first planting season following occupation of the Stadium. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
43. Development shall not commence on the Stadium until a scheme for the control of noise from the public address system in the Stadium has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the hours of use and noise levels. The scheme shall be implemented before the stadium is brought into use and retained and maintained for the lifetime of the development.
44. Development shall not commence on the Stadium until a scheme for the artificial lighting for the stadium has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the flood lighting and the times and days of use. The flood lighting shall be switched off no later than 30 minutes after the end of any match played at the stadium. The scheme shall be implemented before the stadium is brought into use and retained for the lifetime of the development.
45. Development shall not commence on any of the Stadium, Hotel and A3 unit until a scheme for odour control for that particular building has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented for the particular building before it is brought into use and shall be retained for the lifetime of the development.
46. Notwithstanding the provisions of Article 3, Schedule 2, Part 4, Class A and B of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the stadium, its car parking and servicing area, the bus and coach parks, shall not be used for any festival, concert and open air music events, whether or not incidental to the approved use.
47. The retail sale of goods within the stadium building shall be restricted to the sale of sports related goods and merchandise only.

## **B8, B1b, B1c, Hotel, A3 unit and MUGA (Multi Use Games Area)**

48. Development shall not commence in relation to any of the buildings forming part of the B8 warehousing and distribution units, B1b and B1c units, hotel, A3 unit and multi use games area until a scheme for artificial external lighting of each building and the multi use games area has been submitted to and approved in writing by the Local Planning Authority. The scheme for each unit shall be implemented before the unit is brought into use and retained for the lifetime of the development.

### **Miscellaneous**

49. Within 4 calendar months of the date of the approval of the final reserved matter relating to the proposed stadium, MUGA and related infrastructure the developer shall produce to the LPA:
- (i) a full tender construction pack including a form of construction contract and contract completion period for the proposed stadium, MUGA and related infrastructure within the area shown on drawing 2009-039/834B – Stadium Site Plan; and
  - (ii) a draft of the proposed lease of the stadium and related facilities (as shown on drawing 2009 – 039/834B – Stadium Site Plan) to the Wakefield and District Community Trust.
50. No part of the A3, hotel and no more than 4,716m<sup>2</sup> of the B1b and B1c units shall be occupied prior to the letting of a construction contract for the proposed stadium, MUGA and related infrastructure within the area shown on drawing 2009 – 039/834B – Stadium Site Plan.
51. No more than 60,000m<sup>2</sup> of the B8 development shall be occupied prior to the completion of the stadium, MUGA and related infrastructure within the area shown on drawing 2009 – 039/834B – Stadium Site Plan.
52. The Stadium shall be operated at all times in accordance with the submitted Stadium Travel Plan Framework dated the 31 May 2011 prepared by Royal Haskoning (Reference 04I9V1992).
53. No part of the B8, B1b and B1c development hereby permitted shall be occupied until an Operational Travel Plan for that part of the development has been submitted to and approved in writing by the Local Planning Authority. Any Operational Travel Plan submitted under this condition shall be in accordance with the Newmarket Employment Travel Plan Framework (reference Royal Haskoning – 02Q9VV1992 dated 31 May 2011). No part of the B8, B1b and B1c development shall be operated except in accordance with the approved Operational Travel Plan for that part of the development.

Ends







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# **Report to the Secretary of State for Communities and Local Government**

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

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

**Date: 8 March 2012**

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**Town and Country Planning Act 1990**

**Application by Yorkcourt Properties Ltd**

**Local Planning Authority: Wakefield Metropolitan District Council**

Inquiry held on 6-9, 13-16, 20 and 22 December 2011

Land adjacent to Newmarket Lane, Rothwell, Wakefield

File Ref: APP/X4725/V/11/2144563

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## Inspector's Report

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**File Ref: APP/X4725/V/11/2144563**

**Land adjacent to Newmarket lane, Rothwell, Wakefield LS26 9DR**

- 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 December 2010.
- The application is made by Yorkcourt Properties Ltd to Wakefield Metropolitan District Council.
- The application Ref 10/00225/OUT is dated 5 February 2010.
- The development proposed is for outline planning permission for a mixed use development comprising a community stadium (with details of the access, landscaping, layout and scale of the stadium submitted for approval), multiuse games area, B8 warehousing and distribution units, B1b and B1c business units, an hotel, an A3 unit, roads, infrastructure and landscaping.
- The reason given for making the direction was that the Secretary of State considers that the proposals may conflict with national policies on important matters.

**Summary of Recommendation: That the application be approved and planning permission granted subject to conditions.**

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## **1. BACKGROUND AND PROCEDURAL MATTERS**

1.1 I held an Inquiry at the Town Hall, Wakefield, into an application by Yorkcourt Properties Ltd between 6 and 22 December 2011. I made accompanied site visits on the 19 December 2011 to the Halliwell Jones Stadium, which is the home ground of Warrington Wolves Rugby League Club and to the Leigh Sports Village, a multi-use sports development which is the home ground of Leigh Centurions Rugby League Club. On the 23 December 2011 I visited Belle Vue Stadium which is the home ground of Wakefield Wildcats Rugby League Club; the existing Castleford Tigers Stadium at Wheldon Road, Castleford; the site of the approved Castleford Tigers Stadium at Whistler Drive, Glasshoughton together with the application site at Newmarket Lane and other sites in the vicinity. I held a Pre Inquiry Meeting in connection with this Inquiry to discuss procedural and administrative arrangements. The Pre Inquiry Meeting was held at Wakefield Town Hall on 26 September 2011.<sup>1</sup> The Inquiry was closed in writing on 20 January 2012.

1.2 On the information available at the time of making the direction, the following were the matters on which the Secretary of State (SoS) 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 Wakefield Core Strategy and Development Policies DPD adopted in April 2009, together with any relevant saved policies;*

*(b) the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 1: Delivering Sustainable Development and the accompanying guidance The Planning System: General Principles, with particular regard to the achievement of sustainable development through an integrated approach to social cohesion and inclusion, protection and enhancement of the environment, prudent use of natural resources and economic development;*

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<sup>1</sup> CD45

- (c) the extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note 2: Green Belts, particularly in relation to assisting in safeguarding the countryside from encroachment;*
- (d) the extent to which the proposed development accords with Government policies in Planning Policy Statement 4: Planning for Sustainable Economic Growth, particularly in relation to:*
  - (i) delivering more sustainable patterns of development, reducing the need to travel, especially by car and responding to climate change; and*
  - (ii) promoting the vitality and viability of town and other centres as important places for communities;*
- (e) the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 9: Biodiversity and Geological Conservation, particularly in relation to giving appropriate weight to protected species and to biodiversity interests within the wider environment;*
- (f) the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note 13: Transport, in particular on the need to locate development in a way which helps to:*
  - (i) promote more sustainable transport choices;*
  - (ii) promote accessibility to jobs, leisure facilities and services by public transport, walking and cycling; and*
  - (iii) reduce the need to travel, especially by car;*
- (g) the extent to which the proposed development accords with Government policies in Planning Policy Guidance 17: Sport, Open Space and Recreation, particularly in relation to:*
  - (i) meeting the sport, open space and recreation requirements of the whole community by securing appropriate new provision; and*
  - (ii) ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are in locations well served by public transport;*
- (h) 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; and*
- (i) any other matters that the Inspector considers relevant.*

1.3 At the Inquiry, a library of Core Documents was provided jointly by the Applicant and the Wakefield Metropolitan District Council (WMDC). The SoS has been supplied with all of these documents. They include details of the application, regional, and local guidance, specific technical information, a statement of common ground and other documents. The Applicant, the Council and other parties have also provided a separate list of documents which each submitted to the Inquiry. These include the proofs of evidence, appendices and summaries. Copies of these documents have also been supplied to the SoS.

The library of Core Documents and the other document lists are set out at the end of this report.

## **The Site and Surroundings**

- 1.4 The site covers an area of approximately 86.53 hectares, incorporating the former Newmarket Silkstone Colliery which closed in 1983, as well as associated waste land and agricultural land. It sits in close proximity to Junction 30 of the M62. Access to the site would be via Aberford Road (A642) which is adjacent to the site to the west and Newmarket Lane which currently runs through the centre of the site. The site is approximately 4 miles to the north east of Wakefield. To the south west of the site are the settlements of Bottom Boat and Stanley and to the east of the site is Methley. To the north of the site is the M62 which adjoins the boundary with Leeds City Council.
- 1.5 Outside the redline boundary but located off Newmarket Lane are a number of residential properties which includes two rows of terrace houses, semi-detached and a detached property. Also situated on Newmarket Lane is a recently constructed methane gas plant. To the south of the site is the Trans Pennine Trail, a route used by walkers, cyclists and horse riders and beyond that is the River Calder. The site is also bisected north-south by a public footpath FP35.
- 1.6 There are various land uses both on the application site and within the surrounding area although the overriding character is rural fringe with frequent blocks of woodland interspersed by settlements on rising ground and large-scale warehouse and distribution development. The wider landscape includes a repeating pattern of rural land with woodland, areas of residential development on high ground and areas of warehouse and distribution development. This includes both small scale warehouses on high ground close to the M62 and more extensive areas on lower ground close to the River Calder (Wakefield Europort). Residential development lies close to the site at Bottom Boat and extends along the rising valley slopes at Stanley and on the opposite side of the valley on high ground at Altofts.
- 1.7 The application site is a combination of arable farming defined by hedgerows and hedgerow trees and former colliery including man made landform; naturally regenerated rough grassland and plantation woodland. The former colliery land (over 28 hectares) has been remediated but contains weeds, shales, stones and areas of bare ground; in places tipping is evident. Landscape features such as watercourses, woodland, hedgerows and trees are frequent and within the wider landscape integrate the man made landform with the surrounding wooded farmland. The M62 is within a cutting along part of its route but where it comes out of the cutting is a prominent and urbanising feature within the landscape. The site is on rising land within a broad river valley. A high voltage overhead power line runs east – west across the site.

## **The Proposals**

- 1.8 The application seeks outline planning permission for a mixed use development comprising a community stadium (with full approval being sought for details of the access, landscaping, layout and scale of the stadium), multi use games

area, B8 warehousing and distribution units, B1b and B1c business units, an hotel, an A3 unit, roads, infrastructure and landscaping.

1.9 The application was amended from the original submission to remove B1a office units from the scheme. Development on Plot 5 was also removed as part of the amendments to the scheme which was a smaller plot of office units to the east of the site. Additional information was also submitted with these amendments relating to highways, ecology, noise, drainage, the location of the development, planning policy and with regard to the development being within the Green Belt.

1.10 In summary the proposal would provide the following:

Stadium:

- 12,000 capacity with 7,000 seats and 5,000 standing
- 17 boxes
- Restaurant for 400
- 800 space car park with potential for park and ride facility
- 28 coach parking spaces
- 644 cycle parking spaces
- 250 motor cycle parking spaces

Commercial:

- B1b/B1c 14,150m<sup>2</sup>
- B8 units 146,324m<sup>2</sup>
- 120 bed hotel with conference/leisure facilities 10,120m<sup>2</sup>
- Restaurant diner 352m<sup>2</sup>
- A multi use games area (MUGA) including pitches and associated facilities

Other Development:

- Associated transport infrastructure including public transport and pedestrian and cycle opportunities
- Landscaping and ecological enhancement

1.11 A full list of the plans submitted with the application and on which the decision should be based is to be found in the Statement of Common Ground (SoCG).<sup>2</sup> Copies of these plans are to be found at CD29. The reader's attention in particular is drawn to the Indicative Landscape Master Plan D2232.003C, the Parameters Plan 2009-039/828 Rev E and the Developable Plot Areas Plan 2009-039/808K. In addition, Plan 2009-039/841 denotes the outline planning application red line boundary. A statement on the visual impact of stadium floodlighting and illustrative plans is to be found at YC22.

1.12 Several documents were submitted in support of the proposals including Design and Access Statements (DAS) 2009 and 2010; a Supporting Statement; the Case for a New Stadium for Wakefield Trinity Wildcats RLFC; a Transport Assessment with Addendum, an Environmental Statement (ES)

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<sup>2</sup> CD46

Volume 1 and Volume 2 with Addendum and an Environmental Report.<sup>3</sup> The supporting information submitted as part of the application indicates that the new community stadium would be operated by the Wakefield and District Community Trust. The Trust would lease the stadium to Wakefield Trinity Wildcats Rugby League Football Club (WTWRLFC) as a main user but it would be open to be used by other sports clubs in the district of Wakefield.

- 1.13 The stadium would meet the specific requirements of WTWRLFC. It is envisaged that the stadium would consist of 4 stands:
  - West stand with a seated capacity for 3,500 covered spectators,
  - East stand with a seated capacity for 3,500 covered spectators
  - North stand with a standing capacity of 2,500 covered spectators
  - South stand with a standing capacity of 2,500 covered spectators
- 1.14 The West stand would accommodate hospitality accommodation areas for use on match days and would be used for corporate and private use on non match days. The West stand would also incorporate club administration and office areas, and players and officials' facilities. The height of the West stand would be approximately 14.5m at the rear and 17.6m at pitch side.
- 1.15 The 3 other single tier stands, of similar height on the North, South and East sides of the stadium would also provide general spectator seating and standing terraces, together with a circulation concourse, toilet and refreshment facilities and first aid facilities. All standing terrace areas would have the potential of being converted to seating areas in the future. Disabled car parking would be provided within 50m of the designated entrance.
- 1.16 Floodlighting would be provided from towers sited at the corners of the stadium to give an even distribution of light on the playing surface. The level at the playing surface would be an average value of at least 1,000 lux. The floodlighting towers would be about 30m in height. Using the 2010 Super League fixture list as an example there were 13 Wakefield Wildcats home games, 10 on a Sunday, 2 on a Friday evening and one on a Saturday.
- 1.17 The community stadium is to be considered in terms of access, landscaping, layout and scale. The stadium would be located to the south west of the site off a roundabout which would be accessed by a new road network from Aberford Road. The parking areas associated with the stadium would be to the west of the new stadium. The MUGA and associated development would be to the south of the stadium with access again from the proposed new road network and the access road to the east of the new stadium. The proposal includes a total of 50.66 hectares of B8 storage and distribution units. The B1b and B1c units would comprise of research and development of products or processes, laboratories and light industry. The proposed hotel and A3 unit would be located centrally within the site.

## Planning History

- 1.18 The following planning applications are relevant to the determination of the application as they are applications that have been determined within the red line of the application site.

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<sup>3</sup> CD28-CD42



- 78/22/24100 - Reclamation and restoration of part of colliery site to agriculture – approved 25 July 1978
- 97/99/57534 - Tip washing; coal recovery and soil import for restoration to amenity use - approved 5 May 1998
- 01/99/57534/A - Variation of condition 2 to extend the time period for completion of site operations and restoration scheme - approved 31 January 2003
- 02/99/63707 - Mine gas proving borehole; utilisation of mine gas for power generation - approved 4 April 2003
- 09/01161/FUL - Retention of an exploratory borehole, erection of containerised plant, electricity generation using coal mine methane and ancillary operations – approved 4 February 2010.

## **Environmental Impact Assessment (EIA)**

- 1.19 The proposed development falls within the description at paragraph 10 of Schedule 2 to the 1999 Regulations as being an infrastructure project.<sup>4</sup> Paragraph 10 (a) covers industrial estate development projects and paragraph 10(b) covers urban development projects, including sports stadia. Such projects fall within Schedule 2 where the area of the development exceeds 0.5 hectare. Given the scale of the development and the range of possible effects that it may have, it clearly falls within Schedule 2 paragraph 10 (a) and/or 10 (b) and consequently amounts to EIA development requiring the preparation of an Environmental Statement (ES). The purpose of the ES is to provide the information reasonably required to assess the potentially significant environmental effects of the development. This process has been undertaken for the application site. The Applicant submitted an ES in 2 volumes with a Non Technical Summary (NTS) dated February 2010.<sup>5</sup>
- 1.20 For each issue considered, the ES sets out the methodology used, including details of the baseline situation and impacts likely to result from the proposed development. The potential effects on the environment were developed by reference to the requirements of Schedule 4 of the Regulations and include an outline of the main alternatives studied. All effects direct, indirect, secondary, cumulative, short, medium, long term, permanent, temporary, positive and negative have been analysed within the ES and measures considered to mitigate any identified impacts. Consultation outcomes were also taken into account along with a consideration of the cumulative effects.
- 1.21 An ES Addendum<sup>6</sup> was submitted in September 2010 to deal with the change in the development by the removal of offices from the proposals and the replacement of offices on plot 5 with landscaping. It also reviewed the environmental effects of the deletion of the B1a offices from the scheme and

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<sup>4</sup> The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999

<sup>5</sup> CD33, CD38 and CD39

<sup>6</sup> CD40

provided supplementary information in relation to the original ES addressing the representations of consultees.

- 1.22 The ES concludes that the proposal is a large scale scheme and would have environmental effects which are assessed for significance in the document. There would be a significant alteration in the visual impact of the site and permanent loss of agricultural land, together with regeneration of a former colliery site, ecological benefits through habitat improvement and management and delivery of significant socio economic benefits through meeting needs for the stadium, warehousing and distribution.
- 1.23 Following examination of the ES, the SoS notified the Applicant, pursuant to Regulation 19 of the 1999 Regulations, that, to comply with Schedule 4 of the Regulations, he required the Applicant to supply further environmental information in relation to the impact of the scheme on protected species, particularly otters and water voles.<sup>7</sup> A Second Addendum to the ES was submitted in July 2011.<sup>8</sup> The Second Addendum concluded that there would be some loss of existing water vole habitat but that would be directly compensated for by the conversion of any existing dry ditch into wet ditch water vole habitat, the creation of new wet water vole ditch and a habitat link. The total length of newly created wildlife ditch habitat, excluding attenuation from ditches and water bodies, would be over 1.2 kms. Further enhancement of existing dry and wet ditches and provision of swales and attenuation ponds would all be designed to be water vole and wildlife friendly. There would be no identified direct impact from the scheme on otters.
- 1.24 The fundamental objectives of the scheme remain unaltered. The Second Addendum document concludes that the residual ecological impacts of the scheme are unchanged from those set out in the February 2010 ES and subsequent Addendum. The proposed scheme would have a beneficial impact on the water vole as a result of habitat creation and a negligible impact on otters. The overall environmental balance remains unaltered as a result of the scheme amendments and would not alter the overall conclusion of the original ES. Recommendations have been made for the implementation of various measures in relation to construction and operational use in order to minimise potential adverse effects during the construction period and post construction period. These matters are addressed and would be controlled by the conditions which have been agreed by the Applicant and the Council.

## **Planning Policy and Guidance**

- 1.25 The development plan comprises:

- The Yorkshire and Humber Plan — Regional Spatial Strategy to 2026 (RSS) (2008). The RSS currently forms part of the development plan although the Government intends to abolish it.

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<sup>7</sup> Letter dated 27 January 2011 from Government Office for Yorkshire and the Humber

<sup>8</sup> CD41

- Saved Policies and Proposals of the Wakefield Unitary Development Plan First Alteration (WUDPFA) (2003)<sup>9</sup>, which presently includes saved land use policies and proposals as shown on the UDP Proposals Maps.
- The Wakefield Local Development Framework Development Policies (2009)
- The Wakefield Local Development Framework Core Strategy (2009)
- Central Wakefield Area Action Plan Development Plan Document (2009)
- Waste Development Plan Document (2009)

### ***Regional Spatial Strategy***

1.26 By the nature of the RSS relevant policies are strategic and non site specific. Key relevant policies in the RSS are as follows:

- Policy H1 - Overall approach and key spatial priorities
- Policy YH2 - Climate change and resource use
- Policy YH4 – Regional cities and sub-regional cities and towns
- Policy YH7 - Location of development
- Policy YH9 - Green Belts
- Policy LCR1 - Leeds City Region sub-area policy
- Policy LCR2 - Regionally significant investment priorities for Leeds City Region
- Policy ENV1 - Development and flood risk
- Policy ENV5 – Energy
- Policy EVN7 - Agricultural land
- Policy ENV8 – Biodiversity
- Policy ENV11 - Health, recreation and sport
- Policy E1 - Creating a successful and competitive regional economy
- Policy E3 - Land and premises for economic development
- Policy T1 - Personal travel reduction and modal shift
- Policy T2 - Parking policy
- Policy T4 – Freight

1.27 In summary these policies seek to: direct new development to sustainable locations; support sustainable development; limit reliance on private cars and encourage sustainable modes of transport; direct most new developments to main settlements in the region, including the Leeds City Region and within it Wakefield (given its status as a Sub Regional City). They also establish Green Belts in parts of the region although there is an acknowledgement that parts might need to be de-designated to facilitate growth. They also confirm the need to address climate change, increase biodiversity, increase energy efficiency and where agricultural land is to be considered for new development poorer quality land should be the first choice. They encourage the formulation of plans and strategies that support and facilitate sport and recreation including new facilities for such activities; seek a strong and competitive economy and support new employment floorspace/developments that can facilitate this; and provide advice on the provision of car parking.

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<sup>9</sup> Under a direction pursuant to Paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004 these policies were saved after 27 September 2007  
www.planningportal.gov.uk/planninginspectorate Page 9

- 1.28 It is noteworthy that Policy E1 of the RSS provides general support to a wide range of economic drivers with the objective of creating a successful and competitive regional economy, including investing in locations where it will have a maximum benefit and secure competitive advantage and investing in development related to important sectors and clusters. Policy E3 of the RSS confirms that plans, strategies, investment decisions and programmes should make use of appropriately located previously developed land and current allocations, and ensure the availability of sufficient land and premises in sustainable locations to meet the needs of a modern economy. Policy T4 (B) requires the location of storage and distribution development close to distributor roads.

### ***Wakefield Unitary Development Plan First Alteration (WUDPFA) (2003)***

- 1.29 The application site is unallocated for a specific land use but is located within an area designated as Green Belt in the WUDPFA. A Class II archaeological site is also located within the application site (NWS39). Both of these have notation on the Proposals Map.
- 1.30 The majority of the policies which formed the WUDPFA<sup>10</sup> have been replaced by new policies forming part of more recent development plan documents (DPDs) that make up the Wakefield Local Development Framework (WLDF). A number of policies were saved in 2007 and of the policies which have yet to be replaced two are of relevance to the proposed development. They are:
- Policy L1 – Leisure development
  - Policy L2 – New leisure and tourist development will be encouraged and permitted.
- 1.31 In summary the policies allocate land for indoor and outdoor leisure facilities, urban space and countryside recreation and govern the locations as to where new leisure and tourist development should be located; and seek to permit developments that meet a need, are sustainable and accessible.

### ***Wakefield Local Development Framework (WLDF) - Core Strategy (2009) and Development Policies DPD (2009)***

- 1.32 The Core Strategy and Development Policies DPDs form part of the WLDF.
- 1.33 The Core Strategy<sup>11</sup> contains a number of strategic policies setting general principles which new development proposals should follow. The following Core Strategy policies are relevant to the proposed development:
- Policy CS1 Location of Development
  - Policy CS2 Retail and Town Centres
  - Policy CS4 Sustainable Transport
  - Policy CS5 Community Facilities and Services
  - Policy CS8 The Local Economy
  - Policy CS9 Transport Network

<sup>10</sup> CD17

<sup>11</sup> CD19

- Policy CS10 Design, Safety and Environmental Quality
- Policy CS11 Leisure, Recreation and Open Space
- Policy CS12 Green Belt
- Policy CS13 Mitigating and Adapting to Climate Change and Efficient Use of Resources
- Policy CS14 Influencing the Demand for Travel

- 1.34 In summary, the policies aim to define the spatial vision for Wakefield District for the period to 2026 by establishing a series of objectives designed to achieve this vision. The spatial vision and objectives are directly linked to and influenced by the Community Strategy for Wakefield District. Among other things, these emphasise the importance of sustainable development and the efficient and effective use of land; improved accessibility, sustainable transport and reducing the need to travel; supporting a dynamic local economy; ensuring the protection and enhancement of built and natural heritage; and responding effectively to climate change.
- 1.35 Five strategic themes emerge from the spatial vision and objectives, which inform the spatial development strategy for Wakefield District. The District aims to make a significant contribution to the prosperity and diversity of the Leeds City Region and the wider Yorkshire and Humber Region, attempting to benefit from the expansion of the sub-regional economy by taking advantage of its accessibility to other centres within the Leeds City Region and to the national transport network.
- 1.36 In response to the spatial development strategy, Policy CS1 of the Core Strategy seeks to direct all new development to locations where it would accord with the established settlement hierarchy, in order to achieve sustainable development. Priority is given to previously developed land within settlements. Policy CS1 also advises that development within the Green Belt will conform to national, regional and Local Development Framework (LDF) policies relating to the Green Belt. Policy CS2 relates to town centre uses and states that they will be of a scale appropriate to the size and function of the centre.
- 1.37 Policies CS4, CS9, and CS14 advise that consideration must be made to ensure that the location of new development is sustainable, and that access to alternative modes of transport, other than the car, is made available. In addition, the traffic generated by the new development should be capable of being accommodated by existing or known improvements to highways, and ensure it will not create or add to problems of safety, congestion or damage to the environment.
- 1.38 Policy CS8 confirms that the District's economic performance should be improved through a number of measures including the provision and safeguarding of an adequate supply of employment land and increasing the level of skills in the District. Policy CS8 criterion 2 confirms that most new development should be located within the urban areas of the District, on employment zones or on sites allocated for employment use, but for B8 warehousing and distribution uses these can be located (i) within employment allocations along the M62 corridor proposed for this type of use (ii) within existing employment zones which are suitable for this type of use. The Core

Strategy confirms that there is a need to allocate an additional 95 hectares of new land for wholesale and freight distribution.<sup>12</sup>

- 1.39 Policy CS8 criterion 2(b) (i) requires new light and general industrial activities to be located in the urban areas set out in the spatial development strategy on previously developed land, within employment allocations designated on the LDF Proposals Maps or within existing Employment Zones. Criterion 3 of the policy also states that in rural areas employment development will be of an appropriate scale and create or retain local jobs to reduce the need to travel, diversify the rural economy and promote sustainable communities.
- 1.40 Policy CS9 and saved UDP Policy L6 require cycle, footpath and bridleway networks to be safeguarded and extended. Policy CS10 advises on how good design should be secured through the planning process, to create sustainable developments; including the consideration of building design, crime reduction, landscape, wildlife habitats and historic assets. Policy CS11 promotes good quality, well maintained leisure, recreation and open space facilities. Key measures specifically include new stadia development serving Wakefield and Castleford, the co-location of sporting facilities, partnership provision of sporting facilities and playing pitch provision.
- 1.41 Policy CS12 indicates that the general extent of the Green Belt defined on the LDF Proposals Map should remain unchanged but that there will be a review of the boundary in order to inform the delivery of growth consistent with the spatial development strategy. Only in exceptional circumstances where there is an overriding need to accommodate what would otherwise be inappropriate development, which cannot be met elsewhere and where Green Belt land offers the most sustainable option will land be taken out of the Green Belt. Policy CS13 relates to the ways in which development must minimise the impact and mitigate the likely effects of climate change, and minimise the use of natural resources. This includes flood risk, carbon emissions, efficient use of natural resources and water management.
- 1.42 The Development Policies DPD<sup>13</sup> sets out a number of detailed development management policies to be applied to planning applications. The following Development Policies DPD are relevant to the proposed development:
  - Policy D4 Sites Designated for Biological or Geological Conservation
  - Policy D5 Ecological Protection of Watercourses and Water Bodies
  - Policy D6 Wildlife Habitat Network
  - Policy D7 Protection of Trees and Woodland
  - Policy D8 Landscape Character
  - Policy D12 Landscape Design
  - Policy D14 Access and Highway Safety
  - Policy D15 Safety and Security Through Design
  - Policy D17 Development Affecting Archaeological Sites
  - Policy D20 Pollution Control
  - Policy D22 Contaminated Land
  - Policy D24 Flood Risk

<sup>12</sup> CD19 paragraph 8.29

<sup>13</sup> CD20

- Policy D25 Drainage
- Policy D26 Protection of Agricultural Land
- Policy D27 Renewable Energy Generation Technology
- Policy D28 Sustainable Construction and Efficient Use of Resources

1.43 In summary, the aim of the policies is to manage and guide specific types of development to different but appropriate locations and to ensure that development is sustainable and assists in contributing to the creation of sustainable communities throughout the District.

1.44 The Waste Development Plan Document (2009) is relevant only in so far as it relates to on-site waste management and the Central Wakefield Area Action Plan Development Plan Document (2009) is not relevant to this application.

***Wakefield LDF Site Specific Proposals Development Plan Document (SSDPD)***

1.45 The SSDPD<sup>14</sup> has reached an advanced stage in terms of its preparation. It reached the Submission stage in February 2011 and the Examination stage in January 2012. The proposals in relation to employment land are relevant in this case.

1.46 The SSDPD allocates a total of 108 hectares of new land for use class B8 – wholesale and freight distribution. This exceeds the 95 hectares in Policy CS8. However, as is explained in the SSDPD, the plan period is 2012-2022. The requirement for additional B8 land as expressed through Core Strategy Policy CS8 only extends to 2021 and not the longer SSDPD period or the full Core Strategy period, i.e. to 2026. In essence, therefore there is an acceptance that additional land is needed to meet the need over this longer time period.<sup>15</sup>

1.47 The SSDPD makes provision for this by including the application site as a draft allocation for B8 use (Ref. Site W40A). Parts of the site are designated as Wakefield Nature Area (WNA34) and Wakefield Habitat Network. The SSDPD at Table 7 defines the gross area as 57.28 hectares, with no more than 51 hectares gross envisaged for B8 use. The discrepancy relates to known and site specific development constraints, including overhead power lines, ecological mitigation and drainage needs. This correlates to the submitted planning application Parameters Plan.<sup>16</sup>

1.48 The SSDPD process has considered a number of sites and has been tested for social, environmental and economic effects through Sustainability Appraisals required to underpin development plan preparation. The document has now been submitted for Public Examination and evidence has been set out by the Council to justify the exceptional circumstances for removing land from the Green Belt.

1.49 The SSDPD shows 5 further sites to be allocated for B8 use to meet the requirement for new land for this use as defined in Table 7 of the SSDPD. All of

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<sup>14</sup> CD21

<sup>15</sup> CD 21 paragraph 7.11 and Table 8

<sup>16</sup> CD29 Plan No: 2009-039/828E

the 5 further sites share a location at Ferrybridge being accessible from the M62 via Junction 33. Only two of the sites, N122 and N4, are of significant scale, being 22 and 26 hectares respectively. Accordingly, site W40A is by some margin the largest and most significant identified opportunity for development of B8 land to meet the required need.

### ***Supplementary Planning Guidance***

1.50 A number of items of supplementary planning guidance (SPG) are also of relevance. They include:

- SPG5 — Sustainable Development Guide (2004 (CD24)). This sets out measures for incorporating sustainability into developments
- SPG7 — District Wide Parking Standards (2004 (CD25)). SPG7 establishes the maximum parking standards for all development within the District and provides details on documents to be submitted with planning applications.

### ***National Planning Guidance***

1.51 It is agreed that the following statements of Government planning policy guidance are material considerations to the determination of these appeals:

- PPS1: Delivering Sustainable Development (2005)
- The Planning System: General Principles
- Planning and Climate Change: Supplement to PPS1 (2007)
- PPG2: Green Belts (1995), (amended 2001)
- PPS4: Planning for Sustainable Economic Growth (2009)
- PPS5: Planning and the Historic Environment (2010)
- PPS7: Sustainable Development in Rural Areas (2004) (partly amended by PPS4)
- PPS9: Biodiversity and Geological Conservation (2005)
- PPG13: Transport (2001), (amended 2011)
- PPG17: Planning for Open Space, Sport and Recreation (2002)
- PPG24: Planning and Noise (1994)
- PPS25: Development and Flood Risk (2006)
- Consultation paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment (2010)
- Draft National Planning Policy Framework (2011)
- Ministerial Statement 'Planning for Growth' (2011)



## **2. THE CASE FOR APPLICANT - YORKCOURT PROPERTIES LIMITED**

### **The scheme**

- 2.1 The scheme is for a single composite development which would deliver a significant range of important benefits for the City of Wakefield. It comprises a number of elements all of which are interdependent and necessary in order to procure the delivery of the entire development and, in particular, the stadium and community uses element of the scheme which has no complete separate funding source. The scheme derives from the serendipity of a coincidence in time and place of two separate needs:
- The need of the WTWRLFC for a new stadium alongside the desire of the WMDC to provide a community stadium with a wider social role than purely to house the Rugby League team. Sport brings people together from all walks of life instilling community values and pride, enhancing lifestyle and culture.
  - The need identified in the recently adopted LDF Core Strategy, to find an additional 95 hectares of land suitable for B8 warehousing and distribution use within the M62 corridor.
- 2.2 The whole development would deliver great benefits. The Club's motto "Together we are stronger" is apposite. The Applicant, the Local Planning Authority and the Leeds City Council (LCC) all accept and agree these needs exist, are important and should carry weight.

### **The need**

- 2.3 The need for the development arises from finding a site which is capable of meeting the requirement to provide a stadium of Super League standard which is also suitable for meeting community needs and providing community benefit whilst also providing a sufficient scale of other development to subsidise the financial shortfall on the provision of the stadium. There is a litany of failed attempts to secure a new stadium as outlined in the evidence of Sir Rodney Walker, Mr. Elston, Ms Dodd and Mr. Townsend.
- 2.4 The adopted LDF Core Strategy<sup>17</sup> identified a need for an additional 95 hectares of B8 warehousing and distribution development within the M62 corridor. Policy CS8 makes it clear at criterion 1a that there is an aim to improve the economic performance of the district by providing clusters of economic development activity specifically in the logistics and distribution sector and looks to employment allocations "along the M62 corridor" to locate warehousing and distribution activities.
- 2.5 The supporting text emphasises the strategic location of Wakefield for warehousing and distribution; the importance of that sector to employment and economic activity in the Borough and that "provision needs to be made to enable the district to build on this role", whilst recognising that "Because it uses large amounts of land and generates heavy goods vehicle movements,

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<sup>17</sup> CD19

warehousing is not usually suited to locations within densely built up urban areas”<sup>18</sup> The need to find an additional 95 hectares of land for wholesale and freight distribution is a specific aim of the Core Strategy.<sup>19</sup>

### **The stadium need**

- 2.6 There is also a stadium need specifically identified in the Core Strategy at Policy CS11 criterion 1c. It is a need for the City of Wakefield; there is a separate need for Castleford.
- 2.7 WTWRLFC has a historic role in the development of the Rugby Football League but, more importantly, within the society of the City of Wakefield. Sport is a key element in providing social identity and community cohesion for a city. It is a focal point, part of its prestige and heritage. It has the ability to unite a city to provide civic pride and an identity and a profile outside of the city. These wider economic benefits should be given significant weight. The evidence of Mr Elston, the Chief Executive of the Club and of various supporters including the Chairman of the Stadium Wakefield Action Group (SWAG) and the Supporters’ Trust all demonstrate the importance of the Club to the City. They also identify the significance in raising the profile of the City regionally, nationally and indeed internationally that the Club had during its successful heyday in the 1960s.
- 2.8 Comparable towns such as Warrington are now able to host international events due to having modern stadium facilities. For example Warrington hosted the Australia –v- New Zealand match in the 4 Nation’s Tournament during the autumn of 2011 and has been selected as a host town for matches for the 2014 Rugby League World Cup. Wakefield has not been chosen to hold any such matches due to the clear and obvious inadequate quality of its facilities. The importance to community cohesion and civic pride of the Club should not be under estimated. The level of support in the 15,000 signature petition from SWAG demonstrates the importance of the Club. It is a significant proportion of the population of the City of Wakefield. That is clearly an indicator of the crucial significance of the Club to the community.
- 2.9 The Rugby Football League no longer has promotion and regulation but has a licensing system whereby licences are awarded on a three year basis. Those licences are tested against a number of criteria: (i) facilities (ii) finance (iii) commercial, marketing, media and community (iv) governance and business management and (v) playing strength and player performance strategy.
- 2.10 As Mr Elston explained in evidence the fundamental one of those criteria is the quality of the facility because the whole business model of a Club, which does not have a billionaire benefactor, has to be derived from its ability to use its stadium facilities to support its business by the generation of increased ticket sales, by the generation of increased revenues from the sale of Club memorabilia and sports wear, by the sale of increased corporate hospitality packages and all the consequential spin off revenue streams. This evidence was not challenged by anybody. The only viable business model for this Club is a facilities led model.

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<sup>18</sup> CD19 paragraphs 8.19-8.20

<sup>19</sup> CD19 paragraph 8.29

- 2.11 The Club went into administration in 2010 when the personal funding that it's then Chairman was able to provide was no longer capable of being continued. The Club is now under new ownership but again is being supported by the generosity of a Chairman. However, that is a situation that is not able to continue. The Club needs a viable business model moving forward. The new management is committed to finding that. It is dependent wholly upon the delivery of new stadium facilities to ensure that the Club is capable of meeting the £4m turnover required by the Rugby Football League and also of being able to spend up to the £1.65m salary cap to enable it to compete on the playing field.
- 2.12 The lack of quality of the Club's facilities is demonstrated by comparison to that which is available at sites such as Warrington and Leigh. At Belle Vue<sup>20</sup> the terraces are crumbling and require checking and repair after every match. The asbestos stand roof has holes in it. The corporate hospitality comprises a stacked block of unpleasantly cold portacabins. The facilities for the disabled are frankly disgraceful according to Mr Wilsher-Mills. He gave very powerful evidence about how segregating that can be for the disabled fan of the Club and what the opportunities would be in a new stadium to integrate all sectors of society, including the disabled. There is a lack of car parking facilities and disgracefully inadequate toilet facilities according to Mr Wilsher-Mills.
- 2.13 In the immediate proximity of the site there are residential properties. It is clearly evident there is an impact that matches have on properties that are a matter of a few metres away from the Club's boundaries. Notwithstanding that the site is within the urban area there is no dedicated transport or shuttle bus provision, there is no dedicated coach parking, no dedicated disabled parking. Quite simply this is a stadium which was designed in the 1800s and was no doubt fit for purpose to the standards of the 1800s, but those standards can no longer apply today. Both the fans and the City deserve much better than they are being given at the present time.
- 2.14 The Club no longer owns its own stadium and merely has a short term lease. Therefore there is no guarantee of it being able to occupy its present facilities beyond the end of 2012.<sup>21</sup> The owner of the stadium has the desire to redevelop it for other more valuable purposes. The Club's licence position can only be described as precarious; the reality is that it only achieved a licence in 2011 by default. If the Celtic Crusaders had not withdrawn from the licensing round on the evening before decisions were announced then it is certain that WTWRLFC would have lost its Super League licence. As it is there has been a reprieve but not one that allows them to continue to remain at Belle Vue without taking immediate action. They have been awarded the lowest grade of licence, a C grade licence. The consequence of having a C grade licence is that it is revocable and it is under review every quarter. They must make progress towards the provision of a new stadium and if they do not then they will certainly lose their Super League licence at the end of the next licensing round, if not before.<sup>22</sup>
- 2.15 That would mean that the Club would no longer be part of a professional Super League but would drop to the Championship. The difference between the Super

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<sup>20</sup> The home ground of WTWRLFC

<sup>21</sup> YC6 Appendix 7

<sup>22</sup> YC6 Appendix 5

League and the Championship in Rugby League is not like the difference between the Premier League and the Championship in football, where there are professional sides and there is promotion and relegation every year. It is a very different world in the Championship in Rugby League. The players are amateurs effectively receiving only a payment for their played matches. They have full time jobs. The crowds are massively reduced; the big name teams do not come to play. It is as Mr Elston says a "bleak existence."

- 2.16 All of that affects the role of sport within the community and the significance of the game to the City's wider civic aspirations. It would prevent sport from playing the huge part in enhancing the whole community that Sir Rodney Walker identifies. It could not be achieved without this scheme. Equally as important is the role that the Club's own Wildcats Community Trust plays. The Community Trust is a vital and integral part of the Club's outreach activities. The Trust is highly regarded and was one of the first Trusts to be set up within the Rugby League and Mr Elston was involved in its foundation. It has proved to be immensely successful involving all sectors of society within wider sporting social, cultural and educational activities outside of Rugby League.
- 2.17 The Trust provides numerous activities ranging from the exceptionally popular dance classes for girls to involving players in outreach visits to schools, where they act as sporting role models. The level of activity and the ability to access external funding to support such activities is dependent upon the Club's Super League status. Without that level of profile, funding would be far more difficult to source as Mr Elston explained and as is demonstrated by the evidence of Mr Dennis in relation to Keighley Cougars. As Mr Elston noted the Club's community activities received recognition and praise from the Rugby Football League in relation to its Super League licence application. The loss of Super League status would be an immense blow to the wider community benefits that the Club provides.
- 2.18 In relation to Rugby League itself it is worth remembering the importance that the Club has had in nurturing talent for the game as a whole and that 5 of the current England squad have roots in the Wakefield training programme. Without Super League status that level of activity, commitment and development of Rugby League talent from school up to international level would simply not be able to continue.
- 2.19 The importance of the Club to the supporters should not be underestimated. Rugby League attendance at matches is very family orientated; it is not a male dominated preserve like football. As Mr Elston confirmed in his evidence, 43% of the average match attendees are women. It is the number one family sport in the country. This is genuinely a family game and therefore further enhances and emphasises the importance of its ability to reach out across all sections of society and not merely a very narrow one. It is solidly inclusive and can be so for more people in a modern stadium attracting larger crowds (the new stadium factor) as evidenced at Hull and Warrington.
- 2.20 There can be no doubt whatsoever that the future of the Club within the Super League is threatened unless it can demonstrate its ability to move to a new modern high quality stadium which allows it to meet the other Super League licensing criteria and become a viable long term business.

## **The size of site needed**

- 2.21 The build cost of the stadium alone is a £12.5m; the value of land to build it upon is additional to that, but is being donated by the developer at a peppercorn rent to the Trust. The land cost would additionally have to be met if a scheme were to be developed elsewhere.
- 2.22 The Club was in administration a matter of months ago, because it could not meet its liabilities. Now under new ownership it is not trading profitably and as Mr Elston's evidence shows it cannot do so without a new stadium facility. The Club has no capital and cannot borrow to fund a stadium as it has no collateral; it does not even own its existing ground. It cannot contribute towards a new stadium.
- 2.23 There is a Council promise of £2 million, but that is nowhere near enough. Grants are very hard to come by in the present economic climate and whilst Sir Rodney Walker believes he can ultimately secure them there is no guarantee at all on amount or timing. There is no realistic prospect of securing them until a planning permission exists, a point recognised by the Warrington Inspector. Hence, there must be a source of funding for the stadium. That is to come from the overall development as shown in the appraisal attached to Mr Francis' proof and the additional information.<sup>23</sup>
- 2.24 The scale of the proposal is demonstrated to be adequate to provide the development as a whole, whilst allowing a developer's profit of less than would normally be acceptable at 10%. The developer takes the risk of being able to increase that to a more normal level of 15% under the claw back mechanism proposed with the Trust.
- 2.25 It is important to note that the Club's financial position is not challenged. Significant weight should therefore be attached to the financial position in proving that only a development of the scale proposed can deliver the finance necessary to deliver the stadium and save the Club's Super League position. No party to this Inquiry has put forward evidence of an alternative development mix on the site that could deliver what is required. In the Applicant's submission it follows that a site of the scale proposed is necessary because the scheme is a single scheme and totally interdependent financially.

## **Alternative Sites**

- 2.26 It is accepted that in a case such as this alternative sites may be a material consideration if the need identified can be met with lesser environmental consequences.
- 2.27 Firstly, the Applicant has considered a range of possible alternative sites in the two sequential analyses presented in the ES (32 sites) and the Addendum ES (further 8 sites).<sup>24</sup> The Applicant has looked at a range of sites, both in and out of the Green Belt across a size range of 60-120 hectares. On that basis no one has suggested any other sites would be capable of accommodating the

<sup>23</sup> YC12 Appendix A1

<sup>24</sup> CD39 and CD40

whole development. None have been identified. This site is the only option before the Inquiry for the whole development.

- 2.28 If the scheme were to be disaggregated there are still no sites which are suitable, viable, available and deliverable for the key elements, but a disaggregated scheme could not meet the total need.
- 2.29 LCC does not object to the stadium on this site. Neither LCC nor anyone else put forward any other sites at all, let alone any that are closer to Wakefield City Centre than Newmarket, or that are suitable, viable, available and deliverable to take the stadium and the enabling elements of the scheme or even the stadium alone.
- 2.30 The only suggestion that is made is that WTWRLFC could share the proposed Castleford Tigers stadium at Glasshoughton. Various factors prove that to be impossible:
- It is Castleford Tigers' stadium not a community stadium with wider benefits.
  - It is not in the City of Wakefield – the unchallenged evidence of the Club and the supporters is that the Club could not operate from a stadium in another town, twice as far away from the centre of Wakefield as the Newmarket site. The fans would not travel there as shown in the example of St Helens playing on a recognised temporary basis in Widnes. It is a different rugby league heartland. There, even with a guaranteed future in a new home town stadium, after one year, attendance dropped by over 3,000 in a location far closer to St Helens than Castleford is to Wakefield.
  - Whilst the Glasshoughton site may have planning permission there is no money to build it, nor any proposed enabling development. It is not viable or deliverable and no one suggests that it is, not even Castleford Tigers themselves who like Wakefield have a revocable grade C licence. It is well known that Castleford Tigers wish to pursue a retail scheme at the Wheldon Road site, but that is out of centre and at best problematic. Even so as Mr Francis noted that site alone could not generate significant revenue to fund a stadium let alone the lengthy new road link. Where would the rest come from even if a retail scheme came forward? The evidence is that it is unlikely, as the Tigers' own announcement makes clear. The site would also increase travel distances for Wakefield fans.
  - The business model would not work in a shared stadium, which is owned by one Club where the other is a tenant and merely pays rent, but does not share in revenue, as Mr Elston explained. The £4m turnover required to meet Super League requirements would not be met.
- 2.31 The only alternatives put before the Inquiry were for the B8 component of the scheme on its own, excluding the B1b, B1c, hotel, A3 and stadium users. No plans or layouts were put forward. Indeed LCC did not conduct any site search, merely suggesting sites that had been put forward in the LDF process with no assessment of them whatsoever. At the Inquiry LCC withdrew from the Knottingley site, relying on the N159 site at Castleford; a Green Belt site in a far more sensitive location than the Newmarket site. However, more than

that, there is no evidence before this Inquiry that site N159 is suitable, available, viable or deliverable for the whole scheme. The developer of that site has submitted its LDF representations, but does not offer to provide land for a stadium, let alone build it. The written representations from Turley Associates on behalf of de Villiers are directed to the LDF issue of soundness and not to the issues before this Inquiry. In those representations, de Villiers is not promoting its site for a stadium, or even exclusively for B8 use. At paragraph 14.1 of the submission it is stated that, "it would be agreeable to de Villiers if this site were allocated as either an employment site or as a mixed use site (SPA)". Even de Villiers does not say it is an alternative. No weight can be attached to the statements submitted on behalf of de Villiers.

2.32 In summary, the Applicant's position, in relation to the size of site required and in relation to availability, sustainability, deliverability and viability is that: -

- There is no alternative site at all
- There is no alternative proposal to meet these needs and no evidence at all that any such possibility even exists or is deliverable.

### Previous Decisions

2.33 Each case must be determined on its own merits in accordance with the statutory development plan, unless material considerations indicate otherwise. However, it is pertinent that the concept of using other development to cross subsidise stadia is well established at both local level and at national level by the SoS in relation to Rugby League at Warrington and Salford.<sup>25</sup> The most relevant of those decisions is the Warrington case, because of the similarities between the town of Warrington and the City of Wakefield. Rugby League is the professional sporting life blood of both places as there is no other professional sport.

2.34 Warrington were playing in a similar age stadium to Belle Vue, the condition of which the Inspector described as "*lamentable*"; the Club's trading position was loss making and its financial position "*weak*" and it no longer owned or controlled its ground. Failing to address the need for a new ground capable of meeting Super League criteria would result in an "*irreversible decline*" in the Club's fortunes, such that a new ground was "*the only way forward*". The Club was very important to the local community with an "*impressive*" community programme and "*is inextricably linked with the town's civic identity and self respect*", such that "*if the Club were to enter a period of decline, then it is likely that this programme would be closed with serious repercussions for the wider community*".<sup>26</sup>

2.35 In the Warrington case the Inspector and the SoS gave significant weight to the need for the new stadium, the threat to the Club's future and the importance of the Club to the town and the community. The circumstances in Wakefield are strikingly similar and exceptional weight should be given in this case to these factors by the SoS. The exceptional weight previously given by the SoS to a parallel situation supports the submission that similar weight should be given here.

<sup>25</sup> YC3 and YC11

<sup>26</sup> YC36

- 2.36 It is against that broad context that the matters set out in the SoS's letter dated 13 December 2010 are considered.

***Issue (a) the extent to which the proposed development is in accordance with the development plan for the area having regard in particular to the Wakefield Core Strategy and Development Policies DPD adopted in April 2009, together with any relevant saved policies;***

- 2.37 The development plan for the area comprises:
- The Regional Spatial Strategy for Yorkshire and the Humber
  - Saved Unitary Development Plan Policies
  - The Core Strategy
  - The Development Policies Document
- 2.38 The RSS remains part of the development plan, although the SoS is committed to abolishing it and indeed in principle now has the powers to do so under the Localism Act. However, those powers have not yet been exercised and until they are exercised, which will entail the completion of Strategic Environmental Assessment and the passing of orders by the SoS, then the RSS, as a matter of law, remains part of the development plan and consequently, in accordance with section 38 (6) of the TCPA 1990, the application should be determined in accordance with it unless material considerations indicate otherwise. The SoS's intention to abolish and the fact that he has the power to do so is a material consideration to which a degree of weight should be attached, but until the SoS has actually exercised his powers significant weight should not be accorded to that intention.
- 2.39 The RSS is the regional strategic element of the development plan and the Core Strategy and Development Policies DPD were prepared to be in accordance with it. Given that the Core Strategy has been adopted it therefore reflects the priorities of the RSS which at this development control stage has limited direct relevance. Insofar as its policies are relevant the view of Mr Francis<sup>27</sup> was that the proposal was in accordance with it. One relevant factor of the RSS to bear in mind is that it recognised that there was likely to be a need for a review of the Green Belt in order to facilitate the delivery of the Spatial Strategy including where this links to economic development. That is an aspect of the RSS that the Council has taken forward in its SSDPD.
- 2.40 There are a certain number of policies of the WUDPFA which remain in place, because they have not yet been replaced by Development Plan Documents forming part of the LDF. In particular, Policies L1 and L2 relating to leisure and tourism are extant. The very many benefits that would flow from the stadium and community facilities are consistent with the aims of those policies.
- 2.41 As already stated the Wakefield Core Strategy is relevant and up to date. It identifies that there is a need for additional warehousing and distribution facilities to serve the District along the M62 corridor and that such development is not necessarily appropriate to the main urban area of Wakefield. The underlying aim of the Core Strategy is to deliver growth both

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<sup>27</sup> YC11 paragraph 7.27



in terms of housing and employment within the District. The employment elements of the proposal are consistent with that strategy. It is also worth noting that Policy CS12 in relation to Green Belt makes it clear that there will be a review of the boundary in order to inform the delivery of growth consistent with the spatial development strategy. That spatial development strategy seeks to promote and improve the economic performance of the District and a form of development which encompasses B8 warehousing and distribution is entirely consistent with the market position and strengths and geographic location of the District and consequently in accordance with Policy CS8. As far as the detailed Green Belt analysis is concerned that is dealt with further below in relation to the SoS's issue (c).

- 2.42 The Development Policies DPD provides a series of policies which will be used in conjunction with the strategic policies to determine planning applications. A number of these are relevant to detailed development control aspects of the scheme such as Policies D4 - Sites designated for biological or geological conservation; D5 - Ecological protection of water courses and water bodies and D6 - Wildlife habitat network. The evidence of Mr Hesketh shows that all of these particular policies are satisfied and more information on these issues is set out below in relation to the SoS's issue (e).
- 2.43 Safe and appropriate access to the scheme is provided in accordance with Policy D14 and no one suggests that the technical highways issues are not satisfied.
- 2.44 The scheme has taken great care to design a development within a landscape framework. That landscape framework means that more than 41% of the development would remain open in green uses<sup>28</sup> and the long term management and maintenance of that for landscaping and ecological purposes can be secured by planning condition.
- 2.45 The archaeological implications of a development have been assessed within the ES and the relevant consultee proposes a planning condition. It follows that Policy D17 is satisfied.
- 2.46 Analysis of the likelihood of the site to impact upon contamination is set out within the ES and the relevant consultees propose appropriate conditions which would satisfy Policy D20.
- 2.47 Flood risk assessment has been carried out as has a drainage analysis. Those show that flood risk is not an issue and it is appropriate to develop the site in accordance with a sustainable drainage strategy. This can be controlled by conditions.
- 2.48 The site does include a proportion of the best and most versatile agricultural land but there is no objection from DEFRA and the sequential site selection analysis demonstrates that there is no more suitable alternative.
- 2.49 The appropriate approach to the development plan is to consider whether or not the development plan as a whole is complied with. Mr Francis' view on this was the same as Mr Hollinson and Mr Thomson. That means that it is inappropriate to look in a narrow way at individual policies or individual criteria within policies, rather the strategy of the development plan should be

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<sup>28</sup> YC17

considered alongside detailed policies and an overall conclusion reached in the light of that strategy. This proposal, with the creation of employment meeting a significant part of the need for additional warehousing and distribution land, together with the need for a new stadium, clearly accords with the spatial aims of the Core Strategy as set out in Chapter 5.<sup>29</sup> For the reasons which were set out elsewhere there is no alternative site which is capable of meeting these needs and having regard to the policies as a whole there is compliance with the development plan.

- 2.50 There is a nuance in relation to Green Belt policy which is worth addressing within the context of the development plan. The Applicant accepts that the development taken as a whole is inappropriate development within the Green Belt, notwithstanding that individual elements of it could be appropriate development within the Green Belt if they were brought forward in isolation. However, this is a single application and all of the elements of it are needed to deliver the composite development and consequently the entirety of it must be treated as inappropriate.
- 2.51 The development plan does not include detailed specific policies for addressing the control of development within the Green Belt, but rather cross refers to PPG2. The framework of PPG2 is to indicate that development which is inappropriate should not be in accordance with development plan policies prepared by Local Authorities.<sup>30</sup> Strictly speaking as there is no directly pertinent development plan policy the issue of accordance with the development plan in relation to Green Belt does not arise. Mr Francis' argument was not, as was misconstrued, that he was suggesting that very special circumstances turns inappropriate development into appropriate development, but that very special circumstances means that inappropriate development becomes capable of being permitted.
- 2.52 If there was a specific development control policy in relation to inappropriate development within the Green Belt then the question of whether or not it was drafted in such a way that inappropriate development which demonstrated very special circumstances was or was not in accordance with a development plan is a matter which would have to be determined on the face of that particular policy. As there is no such policy it cannot be concluded in the context of the Wakefield development plan that inappropriate development which demonstrates very special circumstances is not in accordance with the development plan. Therefore the overall position in relation to accordance with the development plan does not change consequent on the Green Belt issue.

### **Prematurity**

- 2.53 The reality is that any prematurity point may well have become irrelevant by the time the SoS makes his decision because the likelihood is that the Examination In Public (EIP) Inspector may well have reported on the SSDPD.
- 2.54 If not, comment does need to be made. The Applicant's position as explained by Mr Francis is that decisions on location and scale have been strategically determined by the needs identified to be met by Policy CS8 of the Core Strategy and so no prejudice would ensue to the SSDPD, hence refusal on

<sup>29</sup> CD19

<sup>30</sup> PPG2 paragraph 3.3

grounds of prematurity would not be justified. Whilst not an allocation, due to consistency with the SSDPD, weight can be attached to the emerging B8 allocation against the extensive evidence background created by WMDC justifying the allocation.

***Issue (b) the extent to which the proposed development is consistent with the Government policies in Planning Policy Statement 1: Delivering Sustainable Development and the accompanying guidance The Planning System: General Principles with particular regard to the achievement of sustainable development through an integrated approach to social cohesion and inclusion, protection and enhancement of the environment, prudent use of natural resources and economic development;***

- 2.55 Initially the particular items listed in the later half of the SoS's issue are dealt with first. The development involves an integrated approach to social cohesion and inclusion arising out of the fact that it would bring forward a community stadium which would ensure the preservation of WTWRLFC Super League status, preserve its community trust activities and provide wider community and social benefits via the Wakefield and District Community Trust which would run the stadium and other sporting facilities. The site has been designed so that the whole of its landscaped areas can potentially contribute towards public sport, leisure and health activities in the way described by Mr Dennis. Thus there has been a holistic approach to the design of the whole development and its ability to contribute towards social cohesion via sport, leisure education, health and fitness.
- 2.56 Furthermore, the development, through the creation of nearly 2,000 jobs, would support the community by offering employment opportunities which in turn would support families and expenditure within retail and other business within the District. There would also be significant employment creation during the construction phases of the development. All of this supports the community as a whole at a time when the national and international economy is severely challenged, when unemployment is rising and, as the evidence demonstrates, unemployment in Wakefield District is already above the national average. Rugby League is a family sport and the stadium would attract new spectators and provide for excluded groups such as the disabled.
- 2.57 In terms of protection and enhancement of the environment, it is a fact that the proposed development would lead to the loss of an area of open land. However, for the reasons already set out, there is no alternative available site to meet the composite needs of the development. The site has been chosen via a site selection process which accords with the guidance within PPS4 in relation to sequential analysis. It is apparent from the DAS,<sup>31</sup> the ecological, landscape and visual impact sections of the ES and the evidence of Mr. Hesketh, that landscape design, ecological protection, management and enhancement have been at the heart of the evolution of the landscape masterplan for the site as a whole. The scheme has sought as far as possible to preserve areas of ecological interest and to put forward proposals which would result in ecological enhancement.

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<sup>31</sup> CD30 and CD37

- 2.58 The areas of land that are being taken out of open use include the former Newmarket Silkstone Colliery site. This comprises some 28.4 hectares of the site as a whole, which the DAS<sup>32</sup> describes as previously developed land although it has been restored to a limited degree. It is apparent from a cursory site visit that substantial levels of slag, clinker and shale remain very close to the surface of the site. Furthermore, as the technical analysis of ground conditions demonstrates, and indeed as the evidence of those with experience of landscaping and restoration of colliery sites (Mr Townsend and Mr Bramley) shows, the degree of restoration which has been undertaken is limited. To the north of Newmarket Lane there is still substantial evidence of unrestored land including rail lines.
- 2.59 It is the Applicant's contention that the site should in part be treated as a brownfield site.<sup>33</sup> Even if that contention is not accepted, and it is recognised that the Local Planning Authority does not necessarily share the same view, this site is clearly not to be treated in the same vein as a greenfield site which has never been the subject of industrial activity. This was a long term employment site as historical drawings in the DAS show; there are still at least 13 mineshafts within the development area which need to be dealt with. This part of the site it is argued is brownfield, but even if it is not technically brownfield land it simply cannot be regarded as greenfield.
- 2.60 The bulk of the remainder of the site is agricultural land. This land together with the former colliery land is of limited ecological value as per the evidence of Mr Hesketh. The areas which are of greater ecological significance are substantially retained within the masterplan. The site chosen is bounded to the north by the M62 and therefore insofar as it is possible views of it are contained. Detailed landscaping proposals and design proposals for the commercial elements of the scheme would take measures to minimise visual intrusion as far as possible. Overall the scheme has taken strong steps to protect and enhance the environment and use land which is of the least ecological value.
- 2.61 The use of brownfield land is a prudent use of natural resources and the development is proposed to be subject to conditions which would ensure energy conservation and reduction and use of renewable sources as far as possible.
- 2.62 There would be significant economic development benefits and these are set out in the ES and are dealt with further in relation to issue (d) below.
- 2.63 Careful design is evident in the submitted proposal with its supporting landscape framework. The DAS and the ES both show the care given to alternative layouts and options and the intent to address ecological, visual and other constraints at the design stage. The amenity of residential occupiers has been carefully considered. The access road would divert development traffic away from Newmarket Lane and would create residential enclaves sheltered and screened by woodland planting. The landscape framework seeks to

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<sup>32</sup> CD30 page 24

<sup>33</sup> CD30 page 23 paragraph 2.3 Site Analysis

assimilate large buildings into a strongly wooded landscape, whilst creating publically accessible spaces.

- 2.64 Sustainability is a holistic concept. Even though LCC's written evidence sought to equate it to accessibility neither witness maintained that position under cross examination. Accessibility is only one part of sustainability and has no overriding significance or weight. It is to be taken into account. The Accession score is proven to be a meaningless number derived for another purpose and irrelevant to a planning application.<sup>34</sup> There are wider issues about the sustainability of the location which are dealt with under issue (f).

***Issue (c) the extent to which the proposed development is consistent with the Government policies in Planning Policy Guidance Note 2: Green Belt, particularly in relation to assisting in safeguarding the countryside from encroachment;***

- 2.65 The evidence before the Inquiry demonstrates that the entirety of the development is required in order to provide for the community stadium and the cross subsidising B8 development. A single site is required to satisfy these needs. As is apparent from PPG13 (see further below), the most appropriate location for B8 warehousing and distribution is next to the primary distribution network. This site is immediately adjacent to the M62 motorway which is the major east west link in the north of England and is also a European transnational route linking the ports of Liverpool and Hull. The scheme is ideally positioned in order to take advantage of that location. Given that the development plan directs that such a site should be within the M62 corridor then there are a limited range of locations within Wakefield District which would satisfy that requirement.
- 2.66 The only locations which have been put forward are in the Green Belt which, as Mr Francis points out, runs the length of the M62 in Wakefield District. There are no other locations which have been put forward to meet the need for the entire development or even to meet the need for the B8 component of the development. It follows from the analysis of sequential sites and the analysis of possible alternatives put forward by objectors that there is no alternative which is not within the Green Belt. Therefore, it is evitable that there would be impact on the Green Belt arising from the need to meet the development requirements for the stadium and enabling development. The impact on the Green Belt needs to be set against the fact that there is no alternative.
- 2.67 It is recognised that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the most important attribute of Green Belts is their openness. The Applicant questions whether the propose development would comprise sprawl. Mr Francis did not think so as it was not some disorganised unattractive expansion into the countryside. There are occasions when Green Belt designations must accommodate development either via changes to the development plan demonstrating exceptional circumstances, or via the development control process when an application demonstrates very special circumstances. It is accepted that in this instance

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<sup>34</sup> Agreed by Mr Hollinson  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

there would be some loss of openness to the Green Belt, though a large proportion of the site would remain in open land uses.

- 2.68 In relation to the purposes of including land within the Green Belt, it is clear from an analysis of the function of the Green Belt in this locality and having regard to the overall distribution of Green Belt north and south of the M62, that the primary function of Green Belt in this location is to prevent Leeds and Wakefield from merging into one another and additionally to prevent the sprawl of large built up areas. The witnesses on behalf of the WMDC and the Applicant took a different stance on these issues to the witnesses on behalf of LCC. However, what is important to note is the extensiveness of the area of Green Belt that remains north, south, east and west of the application site even if it is developed. The site does not have the effect of causing neighbouring towns to merge into one another and even LCC did not assert that that was the case.
- 2.69 LCC did seek to assert that there was urban sprawl based on a rather tendentious analysis of what sprawl meant. It is submitted that it is not appropriate to get into semantic arguments about this, but to look at the overall function of the Green Belt in this locality and to ask the question as to whether or not that function remains effective after the development of the site. It is quite clear that the fundamental role of the Green Belt in this locality would remain unchanged. There can be no doubt that there would be some encroachment on the countryside caused by the development taking up farm land, though not the former colliery land. A substantial proportion of the site is land which has previously been developed as a colliery and continues to contain land which is inadequately remediated, contains mineshafts and therefore should be regarded differently from open agricultural land.
- 2.70 The impact on encroachment on the countryside would be mitigated by the extent of landscaping which is to be retained and preserved within the site and by the overall extent of the site which would remain in open land uses. The purpose of the Green Belt in this location has no relevance to the setting and special character of historic towns, but the development of the application site would assist urban regeneration by recycling land which is no longer fit for purpose at Belle Vue in Wakefield and also by assisting in the regeneration of previously developed land comprising the former Newmarket Silkstone colliery.
- 2.71 It is clear from the nature of the development that it would have a positive role to play in fulfilling the objectives of the Green Belt. The manner in which the site would operate as a whole with its network of footpaths, cycleways and open spaces, together with its relationship to the community stadium and other sporting facilities, would provide access and linkages to the Trans Pennine Trail, surrounding footpaths, cycleways and therefore would provide opportunities to enter the open countryside. Furthermore, the site is located close to the urban area of Wakefield and clearly provides opportunities for outdoor sport and recreation both formal and informal. The most important elements of the landscape framework within the site would be retained and there is a landscape management plan and long term management and maintenance proposal which seek to deliver quality landscape management and ecological enhancement.

- 2.72 The site contains previously developed land being the former Newmarket Silkstone colliery and it would enable the redevelopment of the Belle Vue site within Wakefield for more appropriate uses. The development would also secure nature conservation interest. There would be a loss of land for agricultural use but that is inevitable if the needs provided for in the application are to be met, because whichever site is chosen would be in the Green Belt and would comprise in significant part agricultural land. The advantage of the application site is that a significant part of it is not in agricultural use and is previously developed land.
- 2.73 The development of this site would enable other land which is of greater sensitivity to be protected from development pressure. The only site which has been put forward by LCC as being appropriate to accommodate at least part of the development (the B8 component but not the entirety of the development) is the site which is referred to as site N159 in the SSDPD. That site is a part of the Green Belt which Mrs Speak admitted in cross examination is very narrow and therefore far more significant and sensitive than the portion of the Green Belt site at Newmarket Lane, because its development would result in the merger of Pontefract and Castleford and the loss of an important structural Green Belt gap.
- 2.74 LCC raised the precedent point. However, any Green Belt change via the development plan has to show exceptional circumstances; or if a planning application, has to show very special circumstances. On that basis, Mrs Speak agreed no weight could be given to her Green Belt precedent point.
- 2.75 In relation to Green Belt impact, the views of the Leeds UDP Inspector whilst of interest can carry no weight. Not only were they expressed 12 years ago but they were not considering the Wakefield Green Belt nor this specific scheme and its effects.
- 2.76 It is accepted that the development as a whole is inappropriate development in the Green Belt notwithstanding that certain parts of it might be individually developed without being inappropriate. Therefore very special circumstances are required in order to justify the development. It is the Applicant's case that very special circumstances do exist. These are set out later.

***Issue (d) the extent of which the proposed development accords with government policies in Planning Policy Statement 4: Planning for Sustainable Economic Growth particularly in relation to:***

***(i) delivering more sustainable patterns of development, reducing the need to travel especially by car and responding to climate change; and***

***(ii) promoting the vitality and viability of town and other centres as important places for communities;***

- 2.77 As Mr Francis pointed out, this guidance in particular, needs to be considered in the context of the Ministerial Statement on Growth.<sup>35</sup> PPS4 sets out Government policies for achieving sustainable economic development. Economic development includes B class uses together with public and

<sup>35</sup> CD15B

community uses and main town centre uses. The guidance in the document therefore applies to a significant proportion of the development which forms part of the planning application. In relation to development management the guidance seeks to set out a very positive framework and Policy EC10 provides that when determining a planning application for economic development "Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably."

2.78 In relation to the question of what constitutes sustainable economic growth there are a series of relevant factors within Policy EC10.2:

- the development has been planned to limit carbon dioxide emissions, in particular by locating B8 warehousing and distribution development immediately adjacent to the M62 motorway and not within the urban area where the effects of congestion would be significant.
- the question of accessibility by alternative modes of transport is considered under issue (f) below. It should be noted however that this includes the issue of impact on local traffic levels and congestion.
- the development is in outline and the detailed design and appearance of buildings is reserved for later approval. However, the evidence demonstrates the high quality approach which has been taken to the overall site design. The indicative landscape masterplan shows how the character and quality of the area would be improved; the way it functions and operates and how the most important ecological aspects would be preserved creating linkages to existing footpaths and national trails. The development would attract the public into its green spaces and also into the community stadium and related elements of the scheme, thus promoting inclusivity.
- there would be a very positive effect on economic and physical regeneration in terms of the redevelopment of the existing Belle Vue stadium for more appropriate purposes. The impact of the development on deprived areas would be overwhelmingly positive with the creation of nearly 2,000 jobs with all the economic benefits at individual and business levels that would flow from that into the wider community. The whole project and the availability of jobs would promote social inclusion as would the furtherance of the Club's Community Trust activities and the wider ambit of the Wakefield and District Community Trust.
- The impact on employment would be overwhelmingly positive as is demonstrated in the ES.

2.79 No party to the Inquiry seeks to suggest that it would be appropriate, let alone possible, to locate the proposal within or on the edge of the City Centre of Wakefield. The only alternative site proposed is the one dealt with (N159).

2.80 It is true that the hotel and the A3 use are regarded as town centre activities by PPS4. They are an integral part of the wider development and relate to the operational needs of the stadium and also the wider employment generating development, they are complementary. They are proposed in order to create a more cohesive and functioning mixed use development and also because they



provide a significant element of finance towards the overall commercial viability profile which is required to deliver the entire development. There is no suggestion, let alone evidence that the location, of these uses on this site would have any adverse impact at all upon the City Centre or its vitality and viability or that they would prevent development from occurring within the City Centre given that they are clearly intended to serve a very different market place - matters which the Council had regard to when considering the planning application.

- 2.81 In relation to whether or not there should be a sequential assessment for these uses considered separately, the Applicant's case is that there should not be one because to disaggregate the entire development would mean that it would be unable to fund the development package as a whole and therefore the entire scheme would fail. It is not sought to argue that a piece of land of an appropriate size to contain the hotel or the A3 unit individually could not be found within the City Centre or perhaps more realistically on the edge of the City Centre. However, it does not mean that those particular items of development would occur within the City Centre. It would mean that the entire development would fail and all the benefits of the development that go with it would not occur.
- 2.82 Quite properly the developer has provided a sequential assessment for the entirety of the proposed development and has not sought to disaggregate it, an approach which is entirely in line with the approach to be taken for the sequential test within Policy EC15 of PPS4 which makes it clear in paragraph EC15.2 that the developer should not be required to arbitrarily subdivide proposals. Paragraph EC15.2 in reality is directed towards a retail form of development and is quite difficult to apply to the extant proposal. However, the implication is clear that if the developer can demonstrate that the entirety of the development is required and there would be difficulties in operating the proposed development from another site then a disaggregation should not be required. That is the case here.
- 2.83 The evidence from Mr. Francis in terms of the economic appraisal in his Appendices and the additional supporting information submitted alongside is that the entire development is needed in order to provide the cross subsidy for the stadium and community elements of the scheme. Without the entire development the finance simply would not exist to bring the development forward. In those circumstances it would be arbitrary and unnecessary to subdivide the proposals, so failing to meet the spatial development needs set out in the LDF Core Strategy.
- 2.84 There was a passing reference by LCC to suggest that development could occur on separate sites and provide the funding. Plainly it is a theoretical possibility that someone might simply handover profits from another development in order to fund the stadium but those circumstances do not exist in the present instance. The Club does not have the financial ability to support the new stadium. There is no suggestion that there is any land available other than the application site which is capable of delivering the entire development as a whole. Even if it were to be subdivided the question of whether or not there was an enabling element which could be provided on another site raises complexities.

- 2.85 It is clear from the decision involving Tesco and Sainsbury's and Wolverhampton City Council<sup>36</sup> that the delivery of beneficial development on this site cannot be used to justify inappropriate development on another site merely because of a cross subsidy. In that case the Supreme Court made it clear that where benefits would result from the proposed development elsewhere than on the application site they would only be a material consideration provided that there is a real connection between those benefits and the development. A real connection cannot simply be that the development proposed in the planning application to be determined would subsidise desirable development elsewhere. A cross subsidy between two developments cannot be taken into consideration unless there is some reason for considering the two developments together, because otherwise that might amount to buying planning permission.
- 2.86 In this case there is no other development site which is capable of funding the scheme and no-one even suggests that there is, let alone that there is a development which has some real connection with the development site and it seems to be from the Tesco case that that must be a physical connection. Here the whole scheme is physically and financially interdependent. That circumstance simply does not arise and consequently to suggest that there might be another means of funding this development is wrong. There is no evidence to support any such contention. From the evidence set out in relation to alternative sites there is clearly no alternative to the proposed development. Therefore the sequential assessment which has been provided satisfies Policy EC15. In relation to Policy EC16 the proposed development would have no impact upon existing community or planned investments in the City Centre or on allocated sites and there is no evidence whatsoever that that would occur.
- 2.87 In relation to Policy EC17 the sequential approach has been complied with and the development would not lead to unacceptable impacts, rather for the reasons which are set out later there would be a very significant and broad range of benefits and positive impacts. Consequently, the development is in accordance with PPS4.
- 2.88 It should be noted that the detailed socio economic benefits are set out in Chapter 15 of the ES. However, the key points are:
- 1,949 new jobs
  - investment of £119m
  - £10m boost to the visitor economy

## Planning for Growth

- 2.89 The Written Ministerial Statement: Planning for Growth<sup>37</sup> is a very important material consideration in this case. The Minister says

*".....there is a pressing need to ensure that the planning system does everything it can to help to secure a swift return to economic growth"*

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<sup>36</sup> YC36

<sup>37</sup> Issued 23 March 2011

- 2.90 The Government's top priority is to promote sustainable economic growth and jobs. Quite rightly this underpinned much of Mr Francis' evidence, because,

*"Government's clear expectation is that the answer to development and growth should wherever possible be "yes", except where this would compromise the key sustainable development principles set at in national planning policy"*

- 2.91 The Applicant's witnesses' evidence, taken as a whole, states that such compromise would not arise. Objectors fail to address the growth agenda and the weight to be given to their objections needs to be reduced because of this. Mr Francis' approach to the weight to be given to economic growth accords with the SoS's guidance that

*"he will attach significant weight to the need to secure economic growth and employment".*

- 2.92. That is a very important material consideration here and is supported by, on the Council's part, the evidence of Mr Wallhead and the evidence of general demand and significant locationally appropriate requirements from Jones Lang Lasalle, a respected national agency in the field.

***Issue (e) the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 9: Biodiversity and Geological Conservation, particularly in relation to giving appropriate weight to protected species and to biodiversity interests within the wider environment;***

- 2.93 The evidence of Mr Hesketh demonstrates the commitment that the Applicant has to supporting the Government's objectives for biodiversity and geological conservation throughout the application process. The Applicant has conducted numerous surveys of the site to identify all items of biological and biodiversity interest and the layout has been carefully designed so as to maximise the use of the land which is of least biological and biodiversity interest (the former colliery land and farm land) and to preserve areas of greater biological interest, such as the woodland, the pattern of which is retained.
- 2.94 The entire evolution of the Indicative Landscape Master Plan has taken account of biological diversity and taken steps to seek to ensure that biological interest is conserved and enhanced. The aim is to restore and improve the diversity of wildlife and biological interest by enhancing the quality and quantity of natural habitats within the application site. The development would result in significant biological and biodiversity benefits including significant enhancement of important habitats as shown in Mr Hesketh's proof.<sup>38</sup>
- 2.95 Detailed regard has been had to any possible effects of the development on protected species, particularly water voles and otters and the application has proceeded in accordance with Natural England's Standing Advice on these animals. A Water Vole and Otter Conservation Strategy has been prepared which would result in significant enhancement for both species. Water voles

<sup>38</sup> YC9 Table 4.1 Summary of Net Change in Habitat  
www.planningportal.gov.uk/planninginspectorate Page 33

have been recorded using part of the site and there would be a net increase of suitable habitat for them which would be beneficial. There has been no record of otters using the site although they are known to be in the River Calder and have been found off site near drainage ditches. The existing habitat on site does not suit otters. The drainage strategy demonstrates that there would be no changes in flow rates from the site into those ditches but that water quality draining from the site would be improved which would be beneficial to the environment generally and to the otter.

- 2.96 Overall the proposals go beyond the requirements of national and local planning policies in relation to biodiversity and would provide a net enhancement, qualitatively and quantitatively, of biodiversity and habitat interest. The proposals would allow retention of existing wildlife habitat networks and linkages on, through and off the site and enhanced quality of retained habitats creating in particular new woodlands and water bodies. There would be a management regime for the newly created habitats which would result in long term ecological benefit.
- 2.97 The approach has been accepted by the national advisory body, Natural England.

***Issue (f) the extent to which the proposed development is consistent with the advice in Planning Policy guidance 13: Transport, in particular, on the need to locate development in a way which helps to:***

***(i) promote more sustainable transport choices;***

***(ii) promote accessibility to jobs, leisure facilities and services by public transport, walking and cycling; and***

***(iii) reduce the need to travel, especially by car;***

- 2.98 The site has been characterised by opponents as being “isolated” or “remote” without having any real regard to the actual location of the site. As a matter of fact the site lies within 4 miles of the City Centre of Wakefield which is a sub regional centre identified by the RSS as a growth point in WMDC’s adopted Core Strategy. The RSS identifies the City of Wakefield and indeed the District of Wakefield as a location for both housing and employment growth. The site is simply not located in the middle of some remote moor land miles from anywhere. It is located on the main east west strategic motorway link in the north of England some 3.8 miles from a sub regional centre and is by no means remote or isolated.
- 2.99 Moreover, it is noteworthy that it is located next to the settlement of Bottom Boat. Whilst the settlement of Bottom Boat may not be specifically recorded in the settlement hierarchy of the development plan, it is nonetheless a substantial village in its own right. It has numerous houses, a school and shops. It is not a settlement which is washed over by the Green Belt, but a settlement which is excluded from the Green Belt. If one proceeds south westwards down Aberford Road from the application site one travels through an area which is a bus corridor and which has development running along one side or another of it all the short distance into the City Centre of Wakefield.

- 2.100 Historically a substantial part of the application site was an employment site up and until the Newmarket Silkstone Colliery closed. It was a destination in its own right where hundreds of people went to work. However, LCC seeks to characterise the site, its own Committee Report notes that it is within a couple of kilometres of three settlements within Leeds District. A balanced review of overall surrounding geographic context is relevant to an assessment or conclusion about the site's accessibility. This is not to be regarded as some untouched greenfield site in the middle of a National Park.
- 2.101 This site has been misleadingly characterised by opponents as being inaccessible, in part because it ceased to be a destination when the colliery closed. It is simply not inaccessible as LCC's witnesses accepted. It is not claimed that it is in a City Centre next to a bus and railway interchange, but that does not mean it is inaccessible. Its general location has already been dealt with, but it is important to bear in mind the level of access that it does already have.
- 2.102 There are bus services along Aberford Road and Newmarket Lane. The Aberford Road services operate with spare capacity at the present point in time and link the regional City of Leeds with the sub regional centre of Wakefield. As Mr Dennis and Mr Blair explained in relation to Leigh Sports Village and the Paragon Business Village respectively, bus services would increase once a site becomes a destination. The Passenger Transport Authority Metro has indicated that if demand grew it would increase the level of services within this corridor. There are also services along Newmarket Lane itself linking with Castleford. Bus stops would be enhanced. Whilst guidance refers to the 400m distance from a bus stop, it is arbitrary and not a realistic 'hindrance' according to Mr Blair. Why can you walk 400m from a bus stop but 800m from a train? Mr Stainsby agreed that a sensible and holistic approach should be taken to these matters.
- 2.103 As far as walking is concerned there are a network of public footpaths within the application site which link to the national Trans Pennine Trail and other paths. There are footways along adjacent roads. The settlement of Bottom Boat is next to the site. Mr Blair said there were 700 houses within 2kms.
- 2.104 In relation to cycling the Trans Pennine Trail is a cycle route and the best evidence available to the Inquiry came from Mr Dennis who had cycled the alternative routes available between Leeds and Wakefield City Centres saying that each could be reached within 20 minutes by bike and that there were in fact at least 4 possible alternative ways of safely and securely cycling to Wakefield City Centre. Mr Blair's unchallenged evidence was that there were 30,000 people within the 5kms cycle ride range. That is a very significant quantum. It is readily accessible by bike from Wakefield, Leeds, Castleford, Methley, Mickletown, Stanley, Lofthouse, Outwood, Oulton, Woodlesford, Rothwell, Bottom Boat and from the proposed Aire Valley Eco-Village which forms part of LCC's recent Enterprise Zone initiative and lies less than 3kms from the site.
- 2.105 It should be remembered also that the car is not necessarily an unsustainable mode of transport. LCC promotes car sharing and clearly recognises that it is sustainable to promote car sharing in its own travel plan guidance. One of the travel plan coordinator's tasks is to facilitate this. It is also proposed to secure

electric vehicle charging points within the application site by condition to further promote the use of environmentally friendly cars.

- 2.106 It is also necessary to consider the appropriateness of the site for the uses which are proposed upon it. Mr Francis and Mr Blair both make the point that this is a perfectly located site for B8 warehousing and distribution development. That choice of site has been endorsed by WMDC in the preparation of its LDF. The benefits of locating B8 warehousing and distribution here are evident and are entirely in line with the approach taken to these matters within PPG13. PPG13 clearly regards and treats freight as creating different issues in relation to the integration of planning and transport. The objectives of PPG13 set out in paragraph 4 clearly indicate that sustainable transport choices for freight may not be the same as sustainable transport choices for people and that is expressly recognised within the first objective. The other objectives of PPG13 are to promote more sustainable transport choices and to improve accessibility and to reduce the need to travel, which travel planning addresses.
- 2.107 Paragraph 18 of PPG13 makes it clear that the overall approach does not apply to warehousing and distribution uses and there is specific guidance given in relation to those in paragraphs 45-47 of PPG13. It therefore follows that the advice in relation to accessibility and linking planning and transport and the other paragraphs 19 through to 44 should not be regarded in relation to the B8 warehousing and distribution component which is the largest element of the scheme. Rather specific regard needs to be had to the paragraphs that deal with that use. Mr Stainsby accepted this advice should carry "significant weight". No party to the Inquiry disputes that it is unsustainable to locate warehousing and distribution within the urban area and Mr Stainsby accepted in cross examination that there were a series of problems that arose that made any such approach unsustainable - noise, fumes, emissions, air quality impacts, vibration, residential amenity impacts, delay and mileage increases.
- 2.108 Locating such uses within the urban area is inherently unsustainable. They are clearly better located adjacent to the strategic road network where all the above adverse effects are minimised. It is inevitable that such uses are likely to be located outside of the central urban area and consequently in areas which have a lesser immediately available choice of alternative transport modes. However, because the B8 needs to be located where it is in order to comply with national guidance in PPG13 and in order to comply with the development plan in the Core Strategy, it is axiomatic that the jobs that relate to the B8 component are not going to be located within an urban area but on the site where the B8 warehousing and distribution is to be developed.
- 2.109 Recognising that, the Applicant in discussions with the strategic highway authority the Highways Agency and with the Local Highway Authority, has taken steps to address those matters by bringing forward Travel Plans for the stadium and employment uses to promote sustainable transport choices, promote accessibility and reduce the need to travel by car. These are not brief framework documents but detailed effective Travel Plans with measures contained within them. They provide for the following:-

- travel plan co-ordinator

- measures to encourage walking, cycling, motorcycling and public transport
- parking measures to manage/reduce car usage
- freight management
- match day shuttle bus to City Centre
- match day parking strategy
- on street parking control<sup>39</sup>

2.110 The Travel Plans can be secured by planning condition. They set targets for modal shift which WMDC regard as challenging but achievable. LCC accepts that the Travel Plans accord with its own guidance. They therefore address the objectives of PPG13 bearing in mind the need to locate the B8 development here. Given that the B8 development is the major funding component for the stadium element of the scheme albeit the other uses also contribute, and that the scheme needs to be treated on a single aggregated basis, it is inevitable that all the other jobs and trips occur in this location.

2.111 The advantage of the location is that, apart from its evident suitability for B8 warehousing and distribution development, it is located at a junction of the M62 motorway where there is capacity to accommodate the increased trip generation that would arise from the development. No party produces any evidence that there is any issue in relation to technical capacity or any detailed analytical highway issue or highway safety issue. The development could therefore be provided without causing any increase in congestion on the network. There would be no adverse traffic impact.

2.112 LCC seeks to suggest that there are potential parking issues. The most important point to make about LCC's arguments in this regard is that they are mere assertions. There is no analysis of what the problems are or where they may arise and it is quite clear that no detailed consideration has been given to these matters. Oddly, the resolution under which the officers were acting indicates clearly that LCC does not object to the stadium at all. This is Mr Stainsby's attempt to make a case, not the City Council's objection.

2.113 The detailed Travel Plans have been drawn up to address the issue of improving and promoting access to the stadium by alternative modes of transport. Mr Elston welcomed it as "fantastic". It is relevant to note that it would result in a far better level of provision of alternative transport modes directly to the stadium than exist at Belle Vue, because there would be a shuttle bus and there would also be a Travel Plan Co-ordinator and detailed Travel Planning mechanisms. The Travel Plan itself would be a living document and could be improved and altered to address the circumstances. In terms of the weight given to any alleged instances of off site parking the following factors need to be borne in mind:

- (i) The likelihood of adjacent occupiers allowing use of their land for parking and indeed one farmer and one industrial occupier have already come forward to offer land and it is clear that that is what occurs at other stadia. The Travel Plan initiatives will mean such

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<sup>39</sup> Further details are contained in YC18 and YC19  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) Page 37

overspill is unlikely as alternatives such as the shuttle bus are available.

- (ii) It would remove the issue of parking and amenity problems in the vicinity of the Belle Vue site where it is far more acute than it is here.
- (iii) The scheme provides coach drop off and parking facilities which do not exist at the Belle Vue site along with the Travel Planning process which equally does not exist at Belle Vue.

2.114 It is clear that these matters have been given careful consideration by the Club and also by the transport consultants in conjunction with the Local Highway Authority and the Highways Agency in arriving at the Travel Plan proposals. It is relevant to the weight to be ascribed to any such unsubstantiated assertions about parking problems. It should be noted that, excluding Club competitions, there would be only 13 home matches per year. The majority of those matches would be held on a Sunday afternoon rather than during peak periods. If other matches were to be played the circumstances relating to the stadium would remain the same.

2.115 LCC also raised the issue of parking in relation to the employment uses but the analysis appears to have entirely overlooked the fact that the total number of jobs created would include 24 hours shift working. It follows that not all of the available parking spaces would be required to be used at the same point in time and therefore the assertions that are made lack credibility.

2.116 LCC also seeks a Freight Management Plan to be put forward at this stage. Mr Blair explained his view that such a Freight Management Plan would be better brought forward when the particular occupier is known so that it could be tailored to the particular use. However, to assist the Inquiry, Mr Blair has produced a Freight Management Plan which could be the subject of a planning condition. Given the location of the site next to an uncongested junction on the M62, the reality is that HGVs would use it - anything else would be impractical and inefficient for them.

***Issue (g) the extent to which the proposed development accords with Government policies in Planning Policy Guidance 17: Sport, Open Space and Recreation, particularly in relation to:***

- (i) meeting the sport, open space and recreation requirements of the whole community by securing appropriate new provision and***
- (ii) ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are in locations well served by public transport;***

2.117 The scheme as a whole, including the stadium and the community sport elements of it and the wider footpaths, cycleways and other connections, has been designed on the basis of ensuring social inclusiveness and availability to the entire community given that the community sport elements would be operated by the Wakefield and District Community Trust. The operation of the stadium is designed to ensure accessibility by public transport by the provision of coach parking and also by the operation of a shuttle bus. For the reasons given previously they are accessible by walking or cycling.



2.118 In relation to the location of the stadium PPG17 as Mr Francis explained does not really get to grips with the issues that arise in terms of delivering modern stadia facilities. PPG17 dates back to 2002 and fails to have regard to the fact that it is very rare these days for such facilities to be delivered on a stand alone basis without accompanying development which is necessary to cross subsidise them. That clearly goes to the weight which should be attached to PPG17 given that in this and indeed many other instances the stadium could simply not be brought forward without the other development to fund it. Given that the most appropriate and sustainable location for the B8 development is adjacent to the M62 motorway and that travel planning can ensure access to the stadium by alternative modes of transport, it is entirely appropriate in so far as PPG17 is pertinent to locate the stadium with the enabling development. There is simply no alternative to site it anywhere else.

***Issue (h) Planning Obligations and Conditions***

- 2.119 A planning obligation is put forward in relation to the delivery of the stadium. Unlike other stadium decisions this is not a negative obligation that prevents something else from happening before the stadium is provided, but does actually secure the delivery of a stadium. This is a positive obligation that says the stadium contract must be let by a particular point in time. It would be built. Mr Evans' criticisms are misleading as he pointedly does not say that the stadium will not be delivered, rather he queries the start date, but he does not say that it will not be built. That is a very significant and weighty factor for the SoS to take into account because it would ensure the delivery of the stadium and is an absolute commitment to the delivery of the stadium.
- 2.120 As is demonstrated in the evidence before the Inquiry, the developer has experience of delivering major B8 warehousing and distribution developments and also a major arena (the Manchester Evening News Arena in Manchester) and the SoS can therefore be assured that the developer has the experience and expertise to deliver the entirety of the development. The developer is not one to sit on permissions, but rather one that consistently delivers schemes for a variety of different clients in both the public and private sectors.
- 2.121 To provide further confidence the Applicant has agreed the proposed planning conditions which seek to ensure that all of the preparatory work for the delivery of the stadium is carried out at an early stage.

**Consequences of Failure**

- 2.122 This is an important material consideration. The failure to secure approval for the new stadium would leave the Club with no home once its lease expires. It would lose its Super League licence and that evidence is undisputed. At best, if it survives, given it would have no home, it would become a Championship side with all the resultant loss of civic pride and community cohesion and activities that it carries out now. This would be a "damaging blow" to the City of Wakefield.<sup>40</sup> That harm should carry great weight.

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<sup>40</sup> The words of Sir Rodney Walker  
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2.123 Equally the failure to approve job creation in a key employment sector to the District should be a significant factor in the present economic climate. The harm that flows from unemployment and the problems that causes are undeniable.

### **Support and Opposition**

2.124 This Inquiry is unusual in that it has many supporters of the development as well as opponents of the development. It is unusual to attract supporters as opposed to objectors. The views of the many thousands of supporters should be given weight, because they relate to planning matters and the key needs that lie at the heart of this application:

- the stadium need
- the B8 need

2.125 The supporters welcome both of these needs and their evidence supports the benefits that flow from the development, in the context of bringing a historic employment site back in to beneficial use. They do not express concern about the impact or the Green Belt. They are also not just Wildcats fans – importantly, they are a cross section of the community.

2.126 The objectors do not dispute the need for the stadium or the need for the B8 development. They dispute meeting that need here, but there is no proof of suitable, accessible, viable, deliverable alternative sites for all or part of these needs. The weight to be given to those objections has to be small in that context.

2.127 LCC's objection is interesting; it accepts both needs. It has no objection to the stadium element of the scheme and Mrs Speak in her evidence confirmed that neither she, nor her clients objected to the stadium need being met at Newmarket Lane. Equally, LCC suggests no suitable, viable, available, deliverable site for the entire, or disaggregated development (i.e. all its parts). In assessing what weight to give to LCC's objection, the impact of the stadium must be excluded as it is acceptable to them. The weight to be given to their objections given the absence of an alternative is severely limited.

2.128 A further limitation on the weight to be given to LCC's evidence is that the 95 hectares is agreed by Mrs Speak to be a need for the Wakefield District that can only be met in Wakefield. It cannot be met in Leeds at the Aire Valley or anywhere else. The jobs at Aire Valley are further from Wakefield than those at Newmarket Lane and less accessible. In so far as LCC's objection is a commercial one then no weight should be ascribed to it, because to do so would undermine the ability of WMDC to meet the spatial objectives in its approved Core Strategy. Mrs Speak agreed that the Aire Valley was irrelevant to the planning issues here.

### **Delivery**

2.129 The delivery certainty of the stadium is relevant to the weight to be attached to it and the benefits that flow from it. There is a positive commitment from the landowner and developer in the section 106 obligation to build the stadium. The necessary other steps, reserved matters application/design finalisation, preparation of a building contract and agreement of a lease of the

stadium to the Wakefield and District Community Trust, are all required as up front elements of the overall development by proposed planning conditions.

- 2.130 This is a development with a funding cross subsidy package so a proportion of the other enabling development needs to come forward to provide the finance to build the stadium, put in road infrastructure and travel planning mechanisms and ecological enhancements, alongside the Council's £2m contribution. The trigger point is 60,000m.<sup>2</sup> At that point the stadium would be built. It can be built earlier, that is just a backstop; it is the clear publicly stated intention of the developer, WMDC, the Club and the Trust to build the stadium as soon as possible.
- 2.131 The developer has a track record of building major B8 and leisure projects (including the MEN Arena in Manchester, the UK's largest indoor arena). Its last site, the Paragon Business Village on the A650 between Wakefield City Centre and the M1, demonstrates the scale and quality of development that can be delivered. As far as Mr Cubbage's comments are concerned about Yorkcourt in accounting terms, Yorkcourt Properties Limited and its Group and Associated Companies are all classified as trading, rather than investment companies. In accordance with accounting convention therefore, all their assets are held on the balance sheet at historical cost levels and are not re-valued. The balance sheets therefore, do not provide current values for assets held, which if reflected at their market value rather than their historical cost, would show a very healthy balance sheet and net assets position.
- 2.132 The developer and the developments it delivers are bank funded. The Jones Lang Lasalle appraisal does not hide from that. The cost of bank finance is clearly shown. There is nothing abnormal in any of this to the development industry of which Mr Cubbage is no part. It is a usual funding scenario.
- 2.133 The Jones Lang Lasalle appraisal is prepared by a specialist form of chartered surveyors, who have considered Mr Cubbage's comments. They do not change their views as to the contents of their appraisal.
- 2.134 That there is demand by the market for B8 is proven by the Colliers' letter and schedule of requirements.<sup>41</sup> Meeting both needs is important and the developer's aim is to deliver everything; the employment is also needed.
- 2.135 Precise delivery timing and occupier interest can only be finalised once consent is given, hence the proposed phasing and delivery scheme. As Mr Elston stated, there is continual dialogue, including quarterly reviews with the Rugby Football League (RFL) so they would be fully aware of timing and progress and tangible steps towards stadium delivery and be involved as they were in St Helens and Salford.

### **Overall Balance and Very Special Circumstances**

- 2.136 Very special circumstances do not have to be rare or uncommon to be relied upon, though if the circumstances are unique then that can carry extra weight. If the balance of factors in favour of the development clearly outweighs the presumed harm to the Green Belt and other factors against, then very special circumstances will exist. The relevant factors are set out in brief below, because more detail is given elsewhere in these submissions and in the

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<sup>41</sup> YC20 and YC31

evidence. In ascribing weight to these factors the terminology minimal, little, significant, considerable has been used.

2.137 The harm to the Green Belt and factors on the negative side of the balance:

- the development is inappropriate development in the Green Belt taken as a whole and so PPG2 paragraph 3.2 presumes harm to which “substantial weight” should be attached. That encompasses the harm to the openness of the Green Belt and any harm to its purposes and objectives
- landscape and visual impact is overall moderate, between little and significant; this is not a protected or sensitive landscape
- the loss of agricultural land; there is no DEFRA objection
- the loss of some woodland; there is no Natural England objection
- the loss of some water vole ditch habitat; there is no Natural England objection
- the development of a site some of which is greenfield and has not been previously developed
- any loss of residential amenity albeit mitigated by the master planning, layout, landscape design and other mitigation measures
- that the site is outside of the main urban area
- the fact that parts of the site do not meet certain guidelines for public transport accessibility not least because it has not been a destination since the colliery closed

2.138 The latter 7 factors all attract little weight, because there is no alternative site and because the effects are not significant.

2.139 The factors to take account of on the other side of the balance:

- the Club’s need for a new stadium to create a viable business to secure its Super League future and all the benefits that flow from that for the City and the community as illustrated in the Warrington example; this attracts considerable weight
- the woeful inadequacy of the Club’s existing facilities and the lack of any security of tenure at Belle Vue and of any finance to fund a new stadium; this attracts considerable weight
- the benefits of a Community Stadium and the wider sporting, health, lifestyle opportunities that that creates delivered through the Wakefield and District Community Trust; this carries significant weight
- the benefits of the activities of the Wildcats Community Trust and the enhanced possibilities for the whole community to benefit carries considerable weight
- social inclusion for the disabled, families, young people and other sectors of society benefitting from the Club and the two Trusts should carry considerable weight

- the community cohesion and civic pride that derives from the Club and the Stadium should attract considerable weight
- the regeneration of an inadequately restored former colliery including dealing with 13 mine shafts, bringing previously developed land back into beneficial use attracts significant weight
- the opening up of land to public access for sport, walking, cycling, general recreation attracts significant weight
- the ability of the scheme to contribute towards the purposes and objectives of Green Belt land attracts significant weight
- the fact that the underlying function of the Green Belt in this locality of separating Wakefield and Leeds is retained carries significant weight
- the enhancements to biodiversity and ecology due to habitat increase and ecological management plans complying with and going beyond PPS9 requirements and linking externally to wildlife corridors and habitats attract considerable weight
- the enhancements to water quality discharging to the River Calder attract little weight
- the economic investment of £119m attracts considerable weight
- the boost to the visitor economy of £10m attracts considerable weight
- the creation of jobs especially at a time of increasing unemployment in a time of economic hardship in a District with above average unemployment attracts considerable weight<sup>42</sup>
- the development plan need for an extra 95 hectares of B8 land to create those jobs building upon the District's strength in the logistics sector should carry significant weight
- the ability of the proposal to implement the Council's adopted Spatial Development Strategy for growth, economic development and employment land (especially B8) and a stadium for the City of Wakefield attracts considerable weight
- the ability to create modern B8 floor space in a location ideally suited for that purpose next to the M62 to meet identified market demand and requirements in a location providing access to the east-west part of the trans-national highway network linking to the ports of Hull and Liverpool carries considerable weight
- the need for a package of enabling development to fund the community stadium and sports facilities should attract considerable weight
- the fact that there is no other site capable of accommodating the whole development or even part of it which is not in the Green Belt should carry considerable weight

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<sup>42</sup> The Ministerial Statement on Growth uses the term "significant" which it is submitted equates to "considerable"

- the fact that the scheme cannot be disaggregated, because to do so would mean it could not fund the community stadium elements should carry considerable weight
- the contribution to inner urban area regeneration by creating the opportunity to redevelop Belle Vue for more appropriate purposes (probably housing), should carry significant weight; the weight would be greater were schemes and consents in place
- the benefits of travel planning for the employment and stadium uses, particularly the enhanced transport opportunities for stadium visitors and the removal of the residential amenity implications of playing at Belle Vue carry significant weight
- the lack of any technical traffic issues arising from the scale of development proposed is a neutral factor which carries little weight
- the economic, civic pride, community and Club consequences if the development failed to go ahead would be highly damaging and attracts considerable weight

2.140 In considering these benefits/positives, exceptional weight should be given to the need for the Community Stadium and its benefits because of the unique nature of the circumstances and because there is simply no other alternative available to deliver these needs.

2.141 Overall there are very many factors in favour of the development, most of which carry considerable weight and one of which is unique and additionally carries exceptional weight beyond that. Set against these factors is the substantial harm presumed to the Green Belt, the weight to landscape and visual impact and the little weight attributed to the other factors. Thus the harm due to inappropriateness and other factors is clearly outweighed by other considerations. In this instance the degree to which the harm is outweighed is huge. It follows, therefore, that very special circumstances are demonstrated, justifying the carrying out of the development in the Green Belt.

## **Conclusion**

2.142 The Club is the focal point of the community of the City of Wakefield. This scheme would enable it to continue to be so, but in modern first class facilities so that it could enhance its Community Trust activities, welcome more families and properly meet the needs of the disabled. The outreach into the community is extended by the wider sport, health, leisure and fitness opportunities afforded by the design of the site as a whole and the MUGAs, and the commitment of the Wakefield and District Community Trust. Great social inclusion and cohesion benefits would arise.

2.143 The scheme would contribute to the overall urban renaissance of Wakefield, would create jobs, facilities, sports and leisure opportunities and would secure the future of the WTWRFCLC thereby retaining a fundamental part of the City's heritage. There would be huge social and cultural benefits. The scheme represents a major opportunity to deliver new employment alongside wider public benefit. It is a unique opportunity and the Applicant requests that the recommendation to the SoS should be to seize it and everything it would deliver. It would be a tragedy for the City and its people not to grant consent.

### **3. THE CASE FOR WAKEFIELD METROPOLITAN DISTRICT COUNCIL**

- 3.1 WMDC underlines the point that the role of the SoS in determining this application is the same as its role as Local Planning Authority; namely, to regulate the use of land in the public interest, having regard to the development plan and all other material considerations. Members were carefully advised as to the planning policy background, the representations in favour of and against the scheme and the issues which they raised,<sup>43</sup> enabling them to come to a properly informed view as to the acceptability of the development. Indeed, during the course of the Inquiry, none of the objectors has criticised the Committee Report to any significant degree. Given the above, the resolution to approve the scheme should be given very significant weight by the SoS, representing as it does the unanimous view of the democratically elected Members of the Planning and Highways Committee.
- 3.2 Before embarking on a discussion of the substantive issues there are two preliminary points that need to be made. Firstly, various Third Parties, especially the Methley and Mickletown Residents Association, have made allegations about a lack of proper consultation by WMDC prior to Members resolving to support the application. These allegations are utterly without foundation. The Council complied with all of the relevant statutory publicity requirements,<sup>44</sup> as well as publicising the application and Committee Report on its website. The Applicant held public exhibitions in December 2009 before the submission of the application and in March 2010. Various objectors, including Ms. Fender, were afforded the opportunity of addressing the Planning Committee in October 2010. In any event, these allegations are irrelevant, given the fact that the SoS will be determining this application, not WMDC, and given Ms. Fender's concession that the various groups for which she speaks (and there are many) have been given every opportunity to make their views known throughout this Inquiry.
- 3.3 The same Third Parties have insinuated that there are, or have been, inappropriate links between the developer and the Council. It is disappointing that any decent substantive points that could have been made by these objectors have been devalued by such baseless accusations. The point can be illustrated by the oral evidence of Ms. Fender. The Methley and Mickletown Residents Association alleged<sup>45</sup> that they asked Councillor Box, the Leader of WMDC, for details of work that he undertook for a company that maintained the application site after it ceased operations as a colliery, but that he "refused" to provide any details. When asked for evidence of the alleged request and refusal, Ms. Fender was unable to produce any. Quite apart from the fact that Councillor Box did not sit on the Planning Committee and that he disclosed his private work on the Register of Members' Interests, this exchange shows how easy it is to make such allegations, but how difficult it is to back them up. There is simply no evidence whatsoever as to any collusion between the Applicant and WMDC. The Council supports the Wakefield Wildcats, as it does the Castleford Tigers, and has resolved to support this

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<sup>43</sup> CD43: WMDC Committee Report

<sup>44</sup> WMDC16 and cross examination of June Fender

<sup>45</sup> At page 4 of their "Report"

application, but only after careful consideration of the merits of the scheme and only after being properly advised by its professional officers.

- 3.4 A second, and important, preliminary point concerns the role of LCC. This neighbouring authority has presented the only organised and professionally supported opposition to the application. As such, one should reasonably assume that LCC came to a balanced view about the acceptability of the scheme and that it would be able to produce witnesses able to back up this view. However, shortly into the cross examination of Mrs Speak, it became clear that she was not representing her professional view, as a member of the RTPI, to the Inquiry, but rather the “corporate” opinion of LCC. We did not find out Mrs Speak’s professional position, but that does not matter. What matters is the fact that LCC was unable to produce any independent professional evidence on the planning balance – the key test.
- 3.5 Crucially, the Inspector is asked to note the following matters from Mrs Speak’s evidence:
- WMDC assumes that LCC Members were advised and were aware of the requirement to demonstrate Very Special Circumstances (VSC) to allow inappropriate development in the Green Belt, but nevertheless do not object to the construction of a community stadium on the application site;
  - As such, LCC Members must have been satisfied that VSC existed which justified the stadium;
  - LCC Members did not express any view on the A3 development or the restaurant. As such, the Inspector can be satisfied that there is no objection to these elements of the proposal;
  - Leeds Members did not question the need for an additional 95 ha of B8 land, as set out in Policy CS8 of the CS;
  - LCC did not express any view whatsoever on the ecological impact of the proposals, one of the key questions raised by the SoS in the call in letter. We do not mean to criticise this omission unduly, but it is critical to note that, by failing to express a view, LCC left out an important element of the overall planning balance. As such, it is difficult to properly attribute any real weight to LCC’s evidence on this point, especially in circumstances in which its planning witness was unable to express her own professional view.
- 3.6 The position is that either LCC considered the matter properly, or not. If it did then it must have decided that VSC applied and therefore “very significant weight” must have been given to the proposed stadium. This runs contrary to closing submissions<sup>46</sup> which says “some weight”. The second alternative is that LCC did not consider the position properly. If that is true then the position of LCC should be given “very little weight”<sup>47</sup>.
- 3.7 Given the way in which LCC’s case developed through the Inquiry, WMDC considers that the Inspector will find it extremely difficult to be persuaded that he has been assisted by a full and professionally founded case presented by

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<sup>46</sup> LCC9 paragraph 54

<sup>47</sup> WMDC20 Appendix 1 paragraph 30 and Appendix 2 paragraphs 42, 47 and 55-56  
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LCC. Unfortunately, this means that less weight should necessarily be attributed to LCC's objections.

## **Prematurity**

- 3.8 Although it did not form part of its Statement of Case or any part of LCC's formal resolution to object to the scheme, LCC have raised prematurity – in the sense meant by paragraphs 17 – 19 of The Planning System: General Principles – through their submissions. With respect to LCC, who want to make the best of their objection, this is a non-point.
- 3.9 It is a fact that a substantial part of the application site is being promoted by WMDC as an allocation for B8 uses through the SSDPD. It is also known that the SSDPD Inspector is likely to report on that DPD in early 2012. Thus, any concern that *"decisions about the scale, location or phasing of new development"*<sup>48</sup> would be prejudiced can be allayed by the pragmatic solution promoted by Mr Hollinson and by Mrs Speak; namely, to ensure that no decision on this application is made until the decision on the soundness of the SSDPD is known. In this way, the SoS can properly be informed in his decision by the most up to date DPD – an example of "joined up" planning. WMDC recommends that this approach be adopted.
- 3.10 If, as expected, the allocation of site W40A is found to be sound by the SSDPD Inspector, this would have a number of ramifications:
- the B8 element of the site (some 50 ha) would be in line with the up to date DPD, including Policy CS8 of the Core Strategy, which directs B8 allocations to the M62 corridor. Whilst there has been some debate at this Inquiry, in the context of alternative sites, as to the width of this corridor, it is common ground that the application site falls within it;
  - around 60% of the application site would have been taken out of the Green Belt, the SSDPD Inspector having concluded that there are exceptional circumstances to justify a revision of the Green Belt boundary;<sup>49</sup>
  - there would be no requirement to show VSC in relation to the B8 element of the scheme, although we accept that such a requirement would remain in relation to the remainder of the site. However, it is noteworthy that LCC can be recorded as accepting that there are VSC to justify the stadium and that it raises no objection to the A3 use and hotel. Under this scenario, LCC could only object legitimately to the B1b and B1c uses, a much smaller element of the proposals.
- 3.11 WMDC recognises that there is a possibility that the outcome of the SSDPD may be different. If, contrary to expectations, the SSDPD Inspector does not support the allocation of W40A, this would clearly represent a material consideration in the determination of this application. For current purposes, the Council would repeat these closing submissions and submit that the

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<sup>48</sup> CD3 paragraph 17

<sup>49</sup> CD19 Policy CS12 and Mrs Speak's cross examination in which she accepted this proposition  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) Page 47

application as a whole should be approved, for it stands on its own merits. However, without knowing in advance why the SSDPD Inspector might find the DPD unsound, whether in relation to this site or the Plan as a whole, the better way forward would be for the SoS or the Inspector to invite further written representations on the issue. Without such an opportunity, the SoS cannot properly be informed as to the parties' respective positions on the point.

## The SoS' Issues

- 3.12 The SoS' issues, set out in his letter dated 13 December 2010, will now be addressed. The submissions have been structured generally so as to address the negative side of the planning balance, before considering the benefits that the scheme would deliver, concluding with the overall planning balance.

### ***Compliance with PPG 13***

- 3.13 Under this heading, the only issue between the main parties is whether the site is sufficiently accessible in transport terms. There are no technical highway issues than cannot be resolved by condition or planning obligation: more particularly, there are **no** technical objections in relation to the capacity of the local or motorway road network to accommodate this development, nor are there any technical concerns as to the internal road layout.

- 3.14 Further, LCC originally raised concerns about overspill parking and the impact on HGVs on certain parts of the road network. However, each of these points has now been addressed:

- Insofar as there would be any overspill parking on Rugby League match days, this can be resolved by the making of Traffic Regulation Orders (TRO) restricting the parking of vehicles on the surrounding roads.<sup>50</sup> The Applicant has agreed to pay for the TRO. As Mr Stainsby accepted in cross examination, with particular reference to paragraph 50(2) of PPG13, this means that there is no reason to refuse planning permission for reasons connected with parking;
- Any objection related to the routing of HGVs along Newmarket Lane can be resolved by the making of a TRO banning HGVs from travelling further east along Newmarket Lane.

- 3.15 It is accepted that the application site is not as accessible as one would hope. Various adjectives have been used, but it appears to be common ground between WMDC and LCC that the site currently has limited accessibility by modes of transport other than the private car.<sup>51</sup> Indeed, despite attempting to further downgrade the accessibility of the site in his proof, Mr Stainsby accepted in cross examination that LCC's position was reflected in its Committee Report dated 13 May 2010 and that the site was "*not particularly accessible by means other than the car.*"<sup>52</sup> Given LCC's position in relation to

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<sup>50</sup> Mr Stainsby in cross examination and paragraph 8.17 of the LCC Committee Report at LCC6 Appendix SS3

<sup>51</sup> WMDC3 and cross examination

<sup>52</sup> LCC Committee Report at LCC6 Appendix SS2 paragraph 8.7

the stadium, Mr Stainsby did not express any view – whether written or oral – in relation to the accessibility of stadium itself, confining his comments exclusively to the employment uses.<sup>53</sup> As such, the debate has focused on the accessibility of the employment uses. Irrespective of LCC's limited role, this focus makes sense given the fact that the employment elements of the proposal would be used all year round, whereas the stadium would be used on far fewer occasions.

- 3.16 WMDC uses the term “accessibility” deliberately, rather than the oft-misused expression “sustainable”. As Mr Stainsby recognised in cross examination, accessibility is but one element of a sustainable development; it is not synonymous with it. Thus, a proposal can be a sustainable one even if it suffers from limitations in terms of its accessibility by walking, cycling or public transport.
- 3.17 However the position is characterised, it is accepted that the accessibility of the site is a matter which is likely to go on the negative side of the planning balance. But, this concession must be seen in the proper context. Whilst one of the key objectives of PPG13 is to reduce the need to travel by car,<sup>54</sup> an equally valid objective is to promote sustainable transport choices for the movement of freight.<sup>55</sup> The overall approach to accessibility is set out at paragraph 19 of PPG13 and it places particular emphasis on the requirement that development is accessible by means other than the car. However, this general approach is disappplied in relation to warehousing and distribution proposals.<sup>56</sup>
- 3.18 This relaxation of the general approach is explained by paragraphs 45 – 47 of PPG13 and is encapsulated by the *“need to strike a balance between the interests of local residents and those of the wider community, including the need to protect the vitality of urban economies, local employment opportunities and the overall quality of life in towns and cities.”*<sup>57</sup> In other words, PPG13 requires an internal, transport related, balance to be struck between the requirement to locate B8 uses away from congested urban areas and residential development, but to encourage – so far as is possible in this context – access by non-car modes. This approach is reflected by the RSS, especially Policy T4(B), which requires the location of B8 uses close to distributor roads.
- 3.19 The B8 element of the scheme meets unequivocally the locational requirements of national, regional and local policy:
  - it is located away from the congested centre of Wakefield and, save in respect of a number of houses that will remain close to the B8 uses, is not next to residential development: it therefore complies with paragraphs 45 – 47 of PPG13;
  - it is situated with ready access to the M62, a key European and Regional route and traffic distributor: it satisfies RSS Policy T4;

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<sup>53</sup> Mr Stainsby in cross examination

<sup>54</sup> PPG13 paragraph 4

<sup>55</sup> *Ibid*

<sup>56</sup> PPG13 paragraph 18

<sup>57</sup> PPG13 paragraph 46

- it is within the M62 corridor. Whilst not an allocation (yet), the location of the site meets the locational requirements of Core Strategy Policy CS8(2).
- 3.20 Given that this location for B8 development is fully supported by policy, it should provide the context for considering how accessible the site needs to be. The Inquiry has heard the evidence about walking isochrones and the regularity of the bus services so it will not help to repeat it here. These are all matters of fact. However, two further contextual points should be made before carrying out the internal balance.
- 3.21 Firstly, one of the reasons why WMDC Members were not provided with a firm recommendation in October 2010 was the existence of an objection from the Highways Agency (HAg).<sup>58</sup> Mr Thomson rightly afforded weight to this objection. In the same way, significant weight should now be given to the removal of the HAg's objection following detailed discussions and negotiations, in the light of their agreement to the Travel Plans. As Mr Stainsby accepted, the withdrawal of the objection signals a number of matters:
- That the HAg is satisfied that the modal split which governs both Travel Plans is acceptable; and
  - That the HAg is satisfied that the measures set out in the Travel Plans are sufficient to ensure that the modal splits will be achieved.
- 3.22 WMDC considers that it is highly unlikely that the HAg would have signed off the Travel Plans unless they were entirely content with them or that they still considered that the development should be refused on highways grounds. Thus, the HAg's position is an extremely weighty consideration, and one that serves to mitigate the "limited" accessibility of the application site.
- 3.23 Secondly, whilst the location of the site falls outside the distances one would normally expect people to walk or cycle, it is not inaccessible by these modes of travel. Indeed, we heard evidence from Mr. Dennis on behalf of the Applicant and from Mr. Amende, a local resident, that the Trans Pennine Trail is already used as part of a trip to work by cycle. Moreover, there are people living within the 2kms isochrone drawn by Mr Stainsby - this is not a wholly isolated location.
- 3.24 Drawing all of these points together, and recognising that the site as a whole is not as accessible as one would normally expect, any deficiency in this respect is substantially mitigated by reference to the policy balance between the very specific locational requirements of the largest element of the proposal (B8) and the general objective of encouraging non-car modes of travel. When one considers the provisions of the Travel Plans and the removal of the HAg objection, this transport related balance is struck in the best possible way, having regard to the particular circumstances of this case.

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<sup>58</sup> Mr Thomson in cross examination  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

### ***Compliance with Green Belt policy***

- 3.25 It has been accepted by WMDC throughout that the scheme as a whole represents inappropriate development in the Green Belt. Indeed, that is the entire reason for referring the application to the SoS for determination, as a departure from the development plan.
- 3.26 However, setting the proper decision making framework is an essential pre-requisite to any sound decision.
- 3.27 It appears to be common ground that one of the central issues, if not **the** central issue, at this Inquiry is whether there are any VSC which clearly outweigh the harm caused by the inappropriateness of the application scheme and any other harm. All parties know that the SoS will attach “substantial weight” to the harm caused by inappropriateness.<sup>59</sup>
- 3.28 However, whatever the focus on PPG2, it should be recognised that PPG2 is a piece of national guidance and is thereby a material consideration, which is to be read alongside other national guidance and other material considerations. It is not pre-eminent.<sup>60</sup> As such, the decision maker still needs to carry out the overall planning balance, taking into account all relevant planning policies and relevant considerations. In our view, the Green Belt balance forms part – albeit an important part – of this overall balance.
- 3.29 There are elements of the Green Belt balance that are less clear, for example, is the expression “any other harm” in PPG2<sup>61</sup> intended to include only harm to the Green Belt or harm to other interests? We say the additional harm must relate to harm to the Green Belt, by way of a reduction in openness or adverse impact on appearance rather than harm to interests with which PPG2 is not concerned - accessibility or ecology. Not only would such an approach stretch the ambit of PPG2 beyond its natural scope, but it would elevate a single piece of national guidance above the provisions of other, equally relevant, national policy and would undermine the function of s38(6) Planning and Compulsory Purchase Act 2004. Moreover, there is no legal authority for this approach. Such jurisprudence as exists would tend to support our interpretation.<sup>62</sup> Interestingly, the questions posed by the SoS in his call in letter raise a variety of issues, only one of which is compliance with Green Belt policy.
- 3.30 This means that the only harm that scheme must overcome is the “in principle” harm and any additional harm *caused to the Green Belt*, whether through loss of openness or by offending against the purposes of including land in the Green Belt. Importantly, this means that WMDC and the Applicant do not need to show, for example, that the limited accessibility of the site is clearly outweighed by VSC in order to satisfy the “Green Belt balance”.
- 3.31 As to the question of VSC, the position is slightly clearer:
- there is no prescribed list of VSC;

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<sup>59</sup> PPG2 paragraph 3.2

<sup>60</sup> *Isaq v SoS* [2011] EWHC 3052 (Admin) at [30]

<sup>61</sup> PPG2 paragraph 3.2

<sup>62</sup> *R (Chelmsford BC) v. SoS* [2003] EWHC 2978 at [42] and [47]

- the VSC question is to be determined in the context of the particular application or appeal which is being determined, not in the abstract;
- the decision taker must be able to point to a circumstance or circumstances which, viewed objectively, are reasonably capable of being described as “very special”;
- it is not necessary for an Applicant to show that each of the factors upon which he relies is “very special” in and of itself, but that the factors – when considered holistically – represent VSC.<sup>63</sup>

3.32 Finally, it is accepted that inappropriate development in the Green Belt would not be in accord with the development plan.<sup>64</sup>

3.33 This, we say, is how the Green Belt issues should be considered.

### ***Any other harm***

3.34 In order to properly carry out the Green Belt balance, one must assess whether there is any harm to the Green Belt, over and above the “definitional harm.”

3.35 The best way to address this point is to consider whether harm is caused to any of the purposes of including land in the Green Belt.

3.36 Firstly, it is no part of LCC’s case that the development of this former colliery site would undermine the setting and special character of historic towns.

3.37 Secondly, although Mrs Speak attempted to argue that the scheme would not assist in promoting urban regeneration, such an argument is without foundation:

- there is absolutely no evidence whatsoever that the development would somehow prevent urban regeneration schemes from coming forward. On the contrary, the release of the existing stadium site at Belle Vue for a more appropriate scheme would positively assist in regenerating that area of Wakefield;
- given that the application scheme is presented, quite properly, as a package that is greater than the sum of its parts, there is absolutely no location within the urban area that could accommodate it;
- in relation to the B8 element, given that around 70% of WMDC’s area is Green Belt, it is difficult to see where Wakefield is meant to meet its requirement for an additional 95 ha of land other than in the Green Belt. Indeed, the 3 “alternative” sites floated by Mrs Speak in her evidence<sup>65</sup>

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<sup>63</sup> *Ibid.* at [55] – [56]

<sup>64</sup> PPG2, paragraph 3.3 and Mr Hollinson in cross examination

<sup>65</sup> LCC5 paragraph 6.4.7

are all located in the Green Belt. Thus, any future allocations are highly unlikely to be located in the urban area.

- 3.38 Thirdly, much time was taken up at the Inquiry in semantic debate as to the meaning of "sprawl". Whilst it is accepted that the scheme would represent development not connected to any existing settlement, defined as such in the development plan, the real objective of this Green Belt purpose is to prevent "unrestricted" growth of existing built up areas. In this sense, the development would not represent unrestricted sprawl: it would have clear and defensible boundaries: Aberford Road to the west; Bottom Boat to the south and the M62 to the north. The structural planting on the eastern boundary would provide a clear and defined edge to the development.
- 3.39 Fourthly, for very similar reasons, it is difficult to see how one could conclude that the scheme would result in neighbouring towns merging into one another. LCC has relied on the observations of the Leeds UDP Inspector some 11 years ago that development to the north of the M62 would result in fragmentation of the open break between Oulton in Leeds and Stanley in Wakefield.<sup>66</sup> Setting aside the fact that LCC was actively promoting the UDP site for employment and the obvious point that that Inspector was considering a different piece of land which was characterised as being "in the middle of a gap,"<sup>67</sup> the use of the application site would not be seen as leading to the merging of Leeds and Wakefield. Leeds would still remain to the north of the M62 and, as Mrs Speak accepted in cross examination, LCC would remain committed to the protection of **its** Green Belt and would be extremely reluctant to allow any future development there.
- 3.40 Fifthly, it is accepted that the scheme would result in a significant reduction in openness by virtue of the presence of built development. Similarly, it is accepted<sup>68</sup> that there would be a significant encroachment into the countryside. In order to set the context for this encroachment issue, one should recall that the only professional assessment of landscape impact is provided by the Landscape and Visual Impact assessment (LVIA) included with the ES. The conclusion of the LVIA was that the development would result in a "moderate adverse" impact on the landscape character of the area.<sup>69</sup> The conclusions as to visual impact on a limited number of relevant receptors (mainly houses) are generally minor to moderate adverse.<sup>70</sup>
- 3.41 It would not be appropriate to downplay these effects, but one should recognise that such impacts are inevitable if a scheme of this size is to proceed and is to deliver the acknowledged socio-economic benefits. One could actually be forgiven for being surprised that the impacts are not greater. That they are not reflects the careful design of the proposals; especially the Landscape Framework.
- 3.42 Overall, WMDC recognises that additional harm would be caused to the Green Belt which should be added to the "in principle" harm caused by

<sup>66</sup> LCC6 Appendix SS5

<sup>67</sup> LCC6 Appendix SS5 paragraph 711.27

<sup>68</sup> In the Proof of Evidence of Mr Thomson

<sup>69</sup> CD38 ES Chapter 7 paragraph 7.1

<sup>70</sup> *Ibid* at paragraph 7.4

inappropriateness. It is this combined harm that must be clearly outweighed by the VSC that we shall outline next.

## VSC

- 3.43 Before setting out the Council's position, it should be noted and underlined that LCC has not produced any evidence to undermine the evidence base that underpins the Applicant's or the Council's case on VSC. The focus of LCC's attack has been to downplay the significance of the factors relied upon rather than to produce any countervailing evidence. It has not once been suggested that any of the factors is irrelevant to a VSC case or that the Council's view that VSC exist is utterly unreasonable. When it comes down to it, the real difference is one of weight; insofar as LCC expresses a view on any element of the proposal - WMDC already knows that it considers that VSC justify the stadium - it strikes the Green Belt balance differently.
- 3.44 We shall consider each of the factors relied upon by the Council before turning to the overall Green Belt balance.
- 3.45 *The Need for the stadium:* this is an extremely significant matter that should attract very substantial weight in its own right. Perhaps due to the lack of any real opposition to the principle of a new stadium, even from third party objectors, less time has been spent on this issue at the Inquiry than was relative to its importance.
- 3.46 However, we would invite the Inspector and the SoS to recognise the following:
- the need for a new stadium is recognised in spatial planning terms through Policy CS11 of the Core Strategy;
  - Wakefield Wildcats are the only professional sports club in the City of Wakefield. As Mr Elston, Sir Rodney Walker and Lisa Dodd made abundantly clear, the status of the Club and its current retention of Super League status make a vital contribution to the socio-economic well being of the City. This contribution ranges from the money that comes into the City during match days, to the community programmes organised by the Club, to the general sense of pride and ownership that Wakefield's inhabitants feel in relation to the Club. It is difficult to measure this contribution empirically, but it is no less valuable because of that. On the contrary, the Government expresses itself in PPS1 as being "*committed to developing strong, vibrant and sustainable communities and to promoting community cohesion in both urban and rural areas.*"<sup>71</sup> The existence of the Club and the contribution it currently makes reflects the Government's commitment in this regard;
  - given the acknowledged importance of the Club to the community, its retention as a Super League entity - with all of the socio-economic benefits that that brings with it - is imperative. Again, this submission does not appear to be particularly controversial. The flipside of this position is that the loss of the Club's Super League status is likely to

<sup>71</sup> PPS1 paragraph 14



have a significant adverse socio-economic impact on Wakefield. In the absence of a new stadium and the enabling development to fund it there is a very real prospect that (a) the Club will have to leave Belle Vue, which it does not own; (b) that, as a consequence, it will lose its Super League status; and (c) that it would become an amateur club without the funds or the prestige that goes with playing in top flight rugby. If this occurs, the Government's commitment that we have already mentioned would be significantly undermined;

- if planning permission is granted, the socio-economic benefits that currently exist would be retained and, in all probability, enhanced and the Club's future secured. As Mr Elston and Sir Rodney Walker made clear, a new stadium would generate greater revenues and would thereby provide much more certainty that the Wakefield Wildcats would remain in the Super League. Not only that, but the economic chapter of the ES predicted that the stadium would produce an annual visitor expenditure of £2.6m.<sup>72</sup> Taken together with the hotel and restaurant, the total projected economic benefit to Wakefield is predicted as being over £10m.<sup>73</sup> These figures were not challenged by anyone, or even referred to in cross examination. However, their importance should not be underestimated, especially in today's economic climate and in light of the Council's commitment to encouraging more visitors to Wakefield<sup>74</sup> and the Government's commitment to delivering economic growth.

3.47 *The Community Benefits:* the stadium would be operated by a Community Trust, not the Wakefield Wildcats. As such, the Inspector and the SoS can be assured that the stadium would serve the community, in a very real sense. On the basis that the stadium and associated MUGA are used by the wider community, this would accord with the Council's Sport and Active Lifestyles Strategy<sup>75</sup>, PPS1 (so far as the commitment to promote community cohesion is concerned) and PPG17, which promotes social inclusion and community cohesion and health and well being.<sup>76</sup> It is submitted that this is a very powerful material consideration in favour of the development and perhaps explains - at least in part - the general level of support for a new stadium.

3.48 *Delivery of the Core Strategy target for employment growth:* the Core Strategy is committed at all levels to delivering economic growth, entirely in line with the Government's current objectives: see *e.g.* the Spatial Vision - making a significant contribution towards the "*prosperity and diversity of the region*;"<sup>77</sup> Spatial Objective 7, which seeks to support the growth of a dynamic local economy;<sup>78</sup> and Part 1 of Policy CS8, which seeks to improve the District's economic performance through a range of measures, including providing an adequate supply of employment land and bridging the skills gap.<sup>79</sup>

<sup>72</sup> CD38 ES Chapter 15 Table 9 page 29

<sup>73</sup> *Ibid*

<sup>74</sup> Miss Dodd in chief

<sup>75</sup> WMDC7 Miss Dodd Proof of Evidence paragraphs 6.1 - 6.7

<sup>76</sup> Planning Objectives section at the beginning of PPG17

<sup>77</sup> CD19 page 26 paragraph 5.4

<sup>78</sup> CD19 page 28

<sup>79</sup> CD19 page 66

- 3.49 LCC criticised reliance on the spatial vision objectives in circumstances where there is non compliance with Policy CS8 of the Core Strategy. Whilst it is accepted there is not strict compliance with Policy CS8, to ignore the strategic objectives and spatial vision would be a puritanical overlooking of the Core Strategy. The spatial objectives of the Core Strategy are particularly relevant to this factor i.e. delivery of employment land and must in these circumstances carry significant weight.
- 3.50 To achieve these objectives, the Council will have to find additional employment land. In the context of warehousing and distribution, WMDC has been set the task of allocating an additional 95 ha of B8 land within the plan period,<sup>80</sup> preferably within the M62 corridor.
- 3.51 The grant of planning permission for the scheme fits these objectives extremely well:
- it would make up a substantial proportion of the deficit in B8 land in a location that is unequivocally within the M62 corridor and in a way that meets national, regional and local policies in relation to the location of such uses;
  - it would deliver over its lifetime a minimum of 1,363 permanent jobs,<sup>81</sup> but perhaps up to 2,000<sup>82</sup> if more optimistic projections about job creation are deployed. Given that around 1,700 jobs were lost in the local economy between 2009 – 2010,<sup>83</sup> these jobs would result in a very significant boost for those in search of work in the area and would contribute towards achieving the spatial objectives of promoting prosperity and a dynamic local economy.
- 3.52 For the reasons set out above, the grant of consent for this scheme supports one of the key objectives of our time: economic growth. As such, very significant weight should be attached to this factor.

### ***The Green Belt Balance***

- 3.53 There could have been a variety of ways in which to characterise the VSC in this case. But, however one categorises the advantages of this scheme, it would produce a series of very substantial - indeed, very special - benefits that accord with the spatial vision for Wakefield and which would ensure the survival and enhancement of a key community asset. This set of circumstances is unlikely to repeat itself in the District any time soon, if ever. Indeed, WMDC could do no better than to repeat its opening remarks:

*"This application concerns a once-in-a-generation opportunity to secure the future of the Wakefield Wildcats, the City's only remaining professional sports club; a club that is close to the hearts of many in this area and an important community asset. It also represents a*

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<sup>80</sup> CD19 page 67

<sup>81</sup> YC11 Mr Francis Proof of Evidence paragraph 8.36

<sup>82</sup> Mr Wallhead in cross examination

<sup>83</sup> Mr Wallhead Proof of Evidence paragraph 3.9

*chance for Wakefield to deliver employment land in a way that is entirely in step with the Core Strategy and the emerging Local Development Framework. In this respect, the provision of jobs (along with other substantial benefits) that the scheme will undoubtedly generate is wholly in line with the Government's stated aim to deliver economic growth."*

- 3.54 It is the Council's very firm view that the circumstances set out above are very special, and - when taken as a whole - do clearly outweigh the "in principle" harm caused to the Green Belt and the additional harm already identified. As such, the Green Belt balance comes down in favour of granting planning permission.

### **Compliance with PPS4**

- 3.55 The call in letter focuses on two important aspects of PPS4: the encouragement of sustainable patterns of development and the promotion of town centres. However, one should recall that the fundamental objective of PPS4 (now given greater weight by more recent Government policy announcements) is to achieve sustainable economic growth. In this regard, decision makers are required to adopt a positive and constructive approach to proposals that deliver economic development. This approach should be adopted in relation to this application, especially given the key messages from the Core Strategy that Wakefield needs to "up its game" in order to compete in the regional economy, an objective which finds expression in Policy CS8, which requires the LPA to find an additional 95 ha of B8 land during the plan period.
- 3.56 In relation to the specific aspects of PPS4 to which the SoS has drawn the parties' attention, the evidence has shown that:
- although the site is not ideally located in terms of its accessibility to modes of transport other than the private car, it is critical to note that HAag has withdrawn its objection subject to the delivery of Travel Plans for the stadium and the employment uses. Moreover, given the location of the development site, close to the M62, it is ideally located for the warehousing and distribution elements of the scheme;
  - some elements of the development are "town centre uses" and so, technically, fall to be considered within the ambit of PPS4. The Inspector and the SoS should look at this issue with a degree of common sense and to consider the symbiotic relationship between, for example, the hotel and A3 uses and the stadium. Put simply, the "town centre" uses put forward as part of the scheme would not be proposed unless they formed part of a holistic development proposal. This common sense approach is reflected by paragraphs 5.7 and 6.9 of the PPS4 Good Practice Guide, which, it is argued, requires a decision maker to consider the application as a whole (including the town centre elements), to consider their operational and market requirements, and to take a view as to what the overall scheme is trying to achieve. If one adopts this approach, it is abundantly clear that there would have been absolutely no utility in WMDC requiring stand-alone sequential assessments for the restaurant and hotel. Alternatively, if one follows Mrs Speak's advice to comply with procedure, then it is strongly arguable that a sequential

assessment in relation to the **application** has already been carried out and has concluded that there are no suitable, available and alternative sites in town centre locations. Finally, and importantly, despite initially making great play of the requirement for a PPS4 sequential assessment, Mrs Speak did not go so far in evidence as to recommend that the application should be refused for want of a sequential assessment dealing with the A3 and restaurant uses; uses, we should remember, about which Leeds Members did not express any view, least of all a negative one.

- 3.57 Thus, whilst the application could be criticised for a technical failure to follow to strict letter of the procedure laid down by PPS4, no one is suggesting that the scheme should be rejected for that reason. If one applies the aim of PPS4 to deliver economic growth in a sensible way, the Inspector and SoS can quite easily reach the view that there is compliance with PPS4.

### ***Compliance with PPS 9***

- 3.58 LCC, the only Rule 6 party and the only professionally represented objector has not raised any objection on ecological grounds. Indeed, as Mrs Speak accepted in cross examination, if there had been objections on ecological grounds, LCC would have raised them. However, the neighbouring authority was content to be "neutral" on this issue.
- 3.59 Whilst WMDC did not lead any expert ecological evidence at the Inquiry, these issues were considered carefully throughout the planning application process and have been factored into Mr Thomson's overall planning balance (unlike LCC's evidence).
- 3.60 Natural England has been consulted and closely involved at all stages of the proposal. It is satisfied with the ecological surveys and the proposed mitigation strategy. Importantly, it can be recorded that no objection is raised by the Government's statutory consultee on ecological matters.
- 3.61 These two points should provide the Inspector and SoS with a sufficient degree of comfort that the scheme can proceed without there being any unacceptable ecological impact. Thus, there is compliance with PPS9.

### ***Alternative sites***

- 3.62 This is not an issue upon which the SoS has asked to be informed, but it is a matter that has been raised by LCC. However, under cross examination Mrs Speak rowed back from the position expressed in her proof that there were 3 "reasonable" alternatives to the application site:
- she was not promoting any of the 3 sites on the basis that planning permission should be refused for the scheme, but rather to support an argument that the future location of B8 development should be determined through the SSDPD;
  - she had not investigated the planning merits of the "alternatives" in any detail, nor could she say whether any of the sites was available so that one could be satisfied that it was a genuine alternative;

- she was no longer relying on site N127 (Land North of Grove Hall) in any event.
- 3.63 More particularly, the SoS should note that Mr Stainsby did not even mention these "alternatives" in terms of their impact on the highway network or their relative accessibility. He also conceded that he had no reason to challenge the comments made by WMDC's Highways Dept in relation to the 3 sites.<sup>84</sup>
- 3.64 Seen in this light, LCC no longer promotes alternative locations for the development. Even if it does, there is no evidence on their availability, suitability or viability other than that produced by WMDC. One simply cannot conclude - on the evidence heard - that there exists an alternative site that would be more acceptable for the employment development than the application site.
- 3.65 The other alternative, again floated by LCC contrary to its acceptance of the stadium at Newmarket Lane, was that the Wakefield Wildcats could ground-share with Castleford Tigers, who have planning permission for a new ground at Glasshoughton. This, with respect, is a total non-starter:
- as Mr Elston pointed out (and was not challenged), a ground-share at Glasshoughton would not make financial sense for the Wakefield Wildcats, and would risk the very thing the Club is trying to protect; namely, Super League status;
  - there is no evidence whatsoever that Castleford Tigers have the funds to enable their new stadium to be constructed. On the contrary, not only do they have to sell the existing ground (which has not happened), but they must construct a link road of greater than 1km prior to any development on the new stadium.<sup>85</sup>
  - the ground-share option is, on a general assessment, a less sustainable transport option.<sup>86</sup>

### ***Conditions and Obligations***

- 3.66 It is anticipated that by the time these closing submissions are delivered, substantial - if not complete - agreement will have been reached between the Applicant and WMDC as to the scope and content of the conditions and planning obligation. Indeed, insofar as there has been any disagreement, it relates to the trigger point for the letting of a contract for the construction of the stadium. Having recently discussed the relevant trigger with the Applicant, WMDC is now satisfied that the appropriate stage at which the contract should be let is 1/3 of the B1 uses and the occupation of 60,000m<sup>2</sup> of B8 floorspace.
- 3.67 In the circumstances, and having regard to the close link between the financial viability of the employment development and the funding of the stadium, WMDC is prepared to accept that this represents an acceptable trigger point,

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<sup>84</sup> Mr Stainsby in cross examination and see WMDC14

<sup>85</sup> WMDC13

<sup>86</sup> Ms Brewer in chief and Mr Stainsby in cross examination

although the SoS will note that Sir Rodney Walker (Chair of the Community Trust) understands that the developer is committed to delivering the stadium as soon as possible. Overall, WMDC is content to submit to the SoS that the tests in Regulation 122 of the CIL Regulations are satisfied.

### ***Other Matters***

- 3.68 The SoS can also be satisfied that there are no objections or difficulties that cannot be overcome by condition in relation to noise, air pollution, design, drainage and flooding or contaminated land.

### **The Planning Balance**

- 3.69 Having considered all of issues raised by the SoS, it will still be necessary to carry out the "planning balance": i.e. do the benefits of the application outweigh its disadvantages? No proposal is without its disadvantages, and this is no exception. However, there are very substantial benefits associated with this scheme that would outweigh the harm caused to the Green Belt and the limited accessibility to jobs.
- 3.70 As such, the SoS can be satisfied that this proposal would deliver significant social and economic benefits in a way that minimises any harm to policy objectives and the environment.
- 3.71 To test this proposition, one should ask what would happen if planning permission is refused? The answer: there is a very real prospect that Wakefield Wildcats would lose its Super League status and Wakefield would lose a vital sporting and community asset. Wakefield would also miss the opportunity to bring forward a development that would generate a significant number of jobs and private investment and, as such, the Council would fail to deliver one of the key objectives of the Core Strategy.
- 3.72 It is for all of these reasons that the Council remains satisfied to support the application, subject to the imposition of appropriate conditions and the execution of the planning obligation. WMDC formally requests that the Inspector recommends approval of the application and that the SoS grants planning permission.

## **4. THE CASE FOR LEEDS CITY COUNCIL (THE RULE 6 PARTY)**

### **Introduction**

- 4.1 LCC objects to the application being considered by this Inquiry. These submissions develop that objection in the light of the evidence presented at the Inquiry and explain why LCC takes the view that the application should be refused planning permission. The structure of these submissions follows the order of issues identified by the SoS in the call in letter.<sup>87</sup>

### **The SOS Issues**

#### ***Issue (a) accordance with the development plan for the area***

- 4.2 In respect of issue (a), the SoS wishes to be informed about the extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Wakefield Core Strategy (CS) and the Development Policies DPD adopted in April 2009, together with any relevant saved policies.
- 4.3 It is incumbent on the decision maker to come to a view in respect of the question whether the proposed development is in accordance with the development plan as whole.
- 4.4 All parties have approached the case on the basis that the CS<sup>88</sup> is the key aspect of the development plan for present purposes. The RSS has received little attention in the Inquiry and the same goes for the Development Policies DPD.
- 4.5 It is submitted that the proposed development is plainly not in accordance with the CS as a whole. Policy CS1 of the CS sets out the broad spatial framework for the location and scale of development in Wakefield in order to deliver the spatial development strategy for the district based on the settlement hierarchy. By paragraph 6.10 of the justification it is provided that "this policy is applicable to all development proposals and its implementation is fundamental to achieving the Core Strategy objectives and development strategy."
- 4.6 Sub-paragraph f of Policy CS1 provides that in the Green Belt development will conform to national, regional and LDF policies relating to the Green Belt. The proposed development is inappropriate development in the Green Belt<sup>89</sup> and therefore falls foul of Policy CS1 f. This point is further explained in paragraphs 4.26 and 4.27 below but is in any event accepted by both Mr Francis and Mr Hollinson.
- 4.7 Turning to the largest part of the proposed development, the B8 proposals, B8 development is subject to a bespoke policy in the CS, namely, Policy CS8 2 c which provides that warehousing and distribution activities will be located:

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<sup>87</sup> CD44

<sup>88</sup> CD19

<sup>89</sup> Save for the MUGA

- (i) within employment allocations along the M62 corridor proposed for this type of use
  - (ii) within existing employment zones which are suitable for this type of use, making best use of opportunities for redevelopment.
- 4.8 The proposed B8 development is not in accordance with Policy CS8 2 c. The second limb of the policy is irrelevant and an allocation within the first limb of the policy cannot have development plan status unless and until it is confirmed as such in an adopted development plan document, as Mr Francis and Mr Hollinson acknowledge. The SSDPD document does not yet command that status and must be approached not as part of the statutory development plan but as an emerging development plan document which is to be treated as another material consideration.
- 4.9 The B1 aspect of the development, or at least the B1c aspect of it, is also the subject of a bespoke policy in the CS. This is found in Policy CS8 2 b which provides that light and general industrial activities will be located in the urban areas set out in the spatial development strategy on previously developed land, within employment allocations designated on the LDF Proposals Maps or within existing employment zones. The B1 proposals are not in accordance with Policy CS8 2 b because they are not located in any of the identified areas. Wakefield expressly accepts this conflict.<sup>90</sup>
- 4.10 It does not assist to argue, as Mr Hollinson did, that Policy CS8 2 refers to “most” new employment development. That formulation allows for an exception to policy rather than provide a guide to policy compliance.
- 4.11 There is no dispute between the parties that the proposed hotel and A3 unit represent town centre uses. These uses are the subject of Policy CS2 which directs such uses, not surprisingly, to town centres. These aspects of the proposed development are therefore contrary to Policy CS2.
- 4.12 The bespoke policy in relation to stadia is found in Policy CS11 which identifies, in paragraph c, new stadia development, particularly in Wakefield and Castleford as a key measure. However, the policy is not locationally specific and cannot possibly be taken to sanction a stadium development in the Green Belt for otherwise it would be inconsistent with Policy CS1 f. The proposed stadium development in the Green Belt at Newmarket Lane does not therefore gain support from Policy CS11.
- 4.13 Policy CS12 deals with the Green Belt. However, it is plain that this is not a development management policy. Rather it is a policy which is designed to guide Green Belt review as both Mr Francis and Mr Hollinson accept. It does not therefore have any particular relevance to the matters before this Inquiry.
- 4.14 The inevitable and only conclusion to be drawn from the above analysis is that the proposed development is not in accordance with the CS as a whole. Mr

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<sup>90</sup> Paragraphs 8.17 and 8.18 of Mr Hollinson’s proof and paragraph 6.18 of Mr Thomson’s proof  
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Francis' view that it is unsustainable, shown in cross examination<sup>91</sup> to be flawed by a fundamental misunderstanding of Green Belt policy (thinking that very special circumstances made inappropriate development appropriate and thus policy compliant) and an inability to distinguish issues which go to the question of accordance with the development plan from those which go to the question of other material considerations.

- 4.15 Some attempt is also made by both the Applicant and WMDC to make a case for the accordance of the proposed development with the CS as a whole by seeking to focus on parts of policies which bear generally on aspects of the proposed development whilst ignoring the spatial requirements of the policies. For instance, it is said that the B8 development is consistent with so much of Policy CS8 as it seeks to improve the economic performance of the District by, inter alia, providing an adequate supply and variety of land and buildings which match employment skills and employment needs. This is an impossible position to take. The specific spatial requirements of the policy are fundamental and, if contradicted, place the proposed development in conflict with the policy. It avails the Applicant and WMDC nothing to argue that employment development is seen as a good thing by Policy CS8 if that development is to be placed where CS8 says it should not go.
- 4.16 WMDC also sought in Mr Hollinson's evidence to step away from the policy specifics and retreat to the CS objectives. Again, this approach is simply not acceptable. As Mr Hollinson accepted,<sup>92</sup> if the proposed development is contrary to Policy CS1, then it cannot then somehow be said that postulated consistency in other respects with objectives of the CS can found a conclusion that the proposed development is in accordance with the CS as a whole.

### ***Issue (b) consistency with PPS1***

- 4.17 In respect of issue (b), the SoS wishes to be informed about the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 1: Delivering Sustainable Development and the accompanying guidance The Planning System: General Principles, with particular regard to the achievement of sustainable development through an integrated approach to social cohesion and inclusion, protection and enhancement of the environment, prudent use of natural resources and economic development.
- 4.18 Plainly certain facets of sustainable development are not met. All parties recognise that the proposed development constitutes encroachment into the countryside. That in itself is not consistent with protection and enhancement of the environment. The LVIA chapter of the ES<sup>93</sup> records in paragraph 7.1 that the proposed development would have a moderate *adverse* effect on landscape character. Again, that is not consistent with protection and enhancement of the environment. The fact that the proposed development involves the loss of some of the best and most versatile agricultural land would also seem not to be in accordance with an approach which makes prudent use

<sup>91</sup> Agreed on 9 December 2011

<sup>92</sup> Agreed on 13 December 2011

<sup>93</sup> CD38

of natural resources although it is recognised at once that such loss is not a ground of objection by LCC and Mrs Speak accepted that such loss was not a particular problem.<sup>94</sup> LCC does not seek to challenge the view, expressed through Mr Hesketh, that the proposed development would be able to provide a net gain in ecological terms.

- 4.19 LCC does not argue that the proposed development would not help achieve social cohesion and inclusion and economic development but does refer to a number of caveats in this connection which are set out in paragraphs 4.62-4.64 below.

### ***Issue (c) consistency with PPG2***

#### *Introduction*

- 4.20 In respect of issue (c), the SoS wishes to be informed of the extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note 2: Green Belts, particularly in relation to safeguarding the countryside from encroachment.
- 4.21 The short answer is that the proposed development is inconsistent with Government policies in PPG2 in all material respects.

#### *Basic principles*

- 4.22 All parties are agreed that the proposed development represents inappropriate development in the Green Belt.<sup>95</sup> The fact that the proposed development represents inappropriate development triggers a general presumption against the proposals in accordance with paragraph 3.1 of PPG2 and, by the same paragraph, requires there to be very special circumstances before approval can be forthcoming.
- 4.23 The importance of paragraph 3.2 of PPG2 warrants its quotation in full. It provides that "inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development."
- 4.24 It is therefore clear both that substantial weight attaches to the harm to the Green Belt which is inherent in inappropriateness in this case and that very special circumstances will not exist unless that harm and any other harm is clearly outweighed by other considerations.
- 4.25 There are 2 other matters which it is necessary to deal with at this point. The first is the proposition that, if very special circumstances are made out, that

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<sup>94</sup> Agreed on 15 December 2011

<sup>95</sup> Save for the MUGA element

does not render inappropriate development not inappropriate. Notwithstanding that this proposition is now accepted all round, it is worth stressing this matter because, despite his protestations to the contrary, it is clear that Mr Francis, whilst now accepting the proposition, did not understand it when he wrote his proof.<sup>96</sup>

- 4.26 The second and connected matter is the question of how inappropriate development should be treated for the purposes of development plan accordance. In this connection paragraph 3.3 of PPG2 provides that "green belt policies in development plans should ensure that any planning applications for inappropriate development would not be in accord with the plan. These exceptional cases would thus be treated as departures from the development plan, to be referred to the SoS under the Town and Country Planning (Development Plans and Consultations) Directions 1992 (see DOE Circular 19/92)." The position is therefore that inappropriate development is not to be treated as in accordance with the development plan.
- 4.27 As the existence of very special circumstances does not render inappropriate development not inappropriate, it follows that, even if very special circumstances are made out, the inappropriate development in question cannot thereby be treated as in accordance with the development plan. It is worth stressing this point because, despite the fact that it is now accepted by all, it was clearly not understood by either the Applicant or WMDC when the case began.<sup>97</sup> The significance of the point lies in the fact that no one argues that Wakefield's CS departs from the guidance in paragraph 3.3 of PPG2 and has the effect of treating inappropriate development as in accordance with the CS. Thus, as inappropriate development, the proposed development in this case simply cannot be, and is not, in accordance with the CS.
- 4.28 The final basic principle which it is worth mentioning is that the most important attribute of Green Belts is their openness.<sup>98</sup>

*Other harm: Green Belt related*

- 4.29 It is next necessary to consider the question of other harm apart from the harm inherent in inappropriateness in this case. This matter is best approached by reference, first, to Green Belt related harm apart from the harm inherent in inappropriateness and then to other harm more generally.
- 4.30 In order to provide the context for the consideration of Green Belt related harm, a judgment needs to be made as to the role played by the Green Belt in the vicinity of the application site.
- 4.31 LCC submits that the Green Belt in this area performs 4 of the Green Belt purposes which are identified in paragraph 1.5 of PPG2. It:
- checks the unrestricted sprawl of large built up areas

<sup>96</sup> Paragraphs 7.17 and 9.37 of YC11

<sup>97</sup> Pages 4-5 of the opening submissions on behalf of the Applicant and paragraph 3.4.1 of the opening submissions on behalf of WMDC

<sup>98</sup> Paragraph 1.4 of PPG2

- prevents neighbouring towns from merging into one another
- assists in safeguarding the countryside from encroachment
- assists in urban regeneration by encouraging the recycling of derelict and other urban land.

- 4.32 In fact, the only Green Belt purpose which is not relevant here is that of preserving the setting and special character of historic towns. This is not just the view of LCC but was also the view taken by WMDC when objecting to the proposed allocation of employment land to the north of junction 30 of the M62 in the Leeds UDP in the late 1990s. Thus, paragraph 711.3 of the Inspector's report in respect of this matter (under topic 711) records that as part of their objection WMDC's case was that "the current GB between Oulton and Stanley performs all but one of the GB purposes including the major function of maintaining the separation of the two communities."<sup>99</sup>
- 4.33 LCC also submits that the Green Belt in and around the application site represents a strategically important open break between Oulton in Leeds and Stanley in Wakefield. The judgment that the open break between Oulton in Leeds and Stanley in Wakefield is of strategic importance was the conclusion which the Leeds UDP Inspector reached in 1999 in paragraph 711.27 of his report on topic 711. The fact that the Inspector was then dealing not with the application site but a site nearby is no reason why his judgment on the nature of the break between Oulton and Stanley should hold any less good presently. There has been no material change "on the ground" since then.
- 4.34 Moreover, as appears from paragraph 711.3 of the report, WMDC pointed out, when pursuing their objection to the proposed Leeds UDP allocation, that "the Inspector reporting on the Wakefield UDP took the view that this GB serves an important function in separating Stanley/Bottom Boat from Oulton." Two Inspectors have therefore reached similar conclusions on this issue. It is also worth recording that the Leeds UDP Inspector appeared (in paragraph 711.27) to offer endorsement of the view that a gap between settlements in different districts was more important than a gap between settlements in the same district.
- 4.35 More generally in relation to the weight to be attached to this report, LCC's position is that it should be accorded significant weight for present purposes both in its treatment of the nature of the Green Belt in the vicinity and in its approach to matters of Green Belt purposes. Apart from the fact that there has not been any material change "on the ground" since the report was written, there has also not been any material change in Green Belt policy in the meantime. Of course, the question of very special circumstances has to be considered by reference to the specific merits of the present case and the Inspector's report cannot provide any assistance in this particular regard. That, however, is a separate matter and the report is not deployed in that connection.
- 4.36 Returning to the question of other Green Belt related harm, the first matter to consider is the question of **loss of openness**. Whilst it might be said that loss of openness represents the harm inherent in inappropriateness, in the sense

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<sup>99</sup> The extract of the report dealing with topic 711 is found in Mrs Speak's evidence LCC6 Appendix SS5  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) Page 66

that openness represents the absence of inappropriate built development, the sheer scale and nature of the proposed development must be taken into account. The loss of openness is very substantial indeed. Thus Mr Thomson rightly states in his proof that “with regard to the impact on the openness of the Green Belt when the scale and nature of the development proposed is taken into account it is clear that the openness would be lost.”<sup>100</sup>

4.37 In this connection it is also relevant to consider The Town and Country Planning (Consultation) (England) Direction 2009. It simply cannot be right to argue<sup>101</sup> that this Direction ceases to have relevance once an application is referred to the SoS. Paragraph 4 of the Direction provides that ‘Green Belt development’ means development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan document and which consists of or includes –

- (a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.”

4.38 The inescapable inference from paragraph 4 of the Direction is that the SoS considers that the provision of a building or buildings where the floor space created is more than 1,000 square metres has a significant impact on the openness of the Green Belt. If a development which proposes that amount of built floorspace is to be treated as giving rise to a significant impact on openness for the purposes of referral, it is impossible to see why it should not equally follow that such a development should, once referral has taken place, still be treated as having a significant impact on openness. The built floorspace currently proposed is enormously in excess of the referral threshold and the significance of its impact on openness is thereby enormously increased.

4.39 All parties agree that the proposed development infringes the third Green Belt purpose in that it represents **encroachment into the countryside**. LCC considers that the proposed development also represents sporadic development, a point which Mr Francis appeared to accept.<sup>102</sup> Mr Hollinson’s acceptance that the proposals would represent an “island” of development in the Green Belt<sup>103</sup> appears to embody a similar idea. The Leeds UDP Inspector regarded such development as a particularly damaging form of encroachment into the countryside (in paragraph 711.30 of his report). LCC commends that view. Mr Hollinson’s acceptance that the proposed development would fragment the Green Belt<sup>104</sup> adds to the strength of this conclusion. LCC says the development would indeed fragment a strategically important part of the Green Belt.

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<sup>100</sup> WMDC9 paragraph 8.3.4

<sup>101</sup> As Mr Francis did on 9 December 2011

<sup>102</sup> Agreed on 9 December 2011

<sup>103</sup> Agreed on 13 December 2011

<sup>104</sup> Agreed on 13 December 2011

- 4.40 LCC also submits that the proposed development would infringe the first Green Belt purpose of checking the **unrestricted sprawl** of large built up areas. As the Leeds UDP Inspector pointed out (in paragraphs 711.26 and 711.27 of his report), sprawl is not necessarily to be equated simply with the peripheral expansion of a main built up area but may encompass “an irregular or straggling form of development which fails to remain compact but strays from the main body.”<sup>105</sup> If the proposed allocation which the Inspector was considering constituted sprawl by that definition then so would development of the application site.
- 4.41 Further, the attachment of both WMDC’s planning witnesses Mr Hollinson and Mr Thomson<sup>106</sup> to the notion that the proposed development would be an extension of urban development might, if correct as a matter of approach, be thought to be another reason to regard the proposed development as sprawl. The urban development relied on as the platform for the “extension” claim is Bottom Boat. The proposed development is clearly not restricted in scale by reference to Bottom Boat because it is much larger than Bottom Boat. The proposed development would thus amount to unrestricted sprawl when judged against the relevant comparator. It is nothing to the point to argue, as did Mr Hollinson,<sup>107</sup> in relation to the question of what amounts to “unrestricted” sprawl that the proposed development would be restricted by defined boundaries. Any development proposal would have defined boundaries.
- 4.42 In actual fact, the approach of Mr Hollinson and Mr Thomson is wrong in any event because the proposed development cannot fairly be regarded as an extension of urban development when account is taken of the fact that Bottom Boat is too small to feature in WMDC’s settlement hierarchy. As for the question of whether any extension can be regarded as “planned”,<sup>108</sup> it is only the B8 component of the overall scheme which might be argued in any relevant sense to be “planned” as that is the subject of an emerging allocation.<sup>109</sup> That aspect of the overall development is plainly not an extension of Bottom Boat because it is detached from it. As recorded, in respect of site W40A, in the appendices to the Sustainability Appraisal for the SSDPD,<sup>110</sup> “the site is within the Green Belt, detached from the urban area.” Despite the attempt of WMDC to distance itself from the use of the Sustainability Appraisal in the context of this Inquiry,<sup>111</sup> there is no good reason why relatively specific judgments such as the one quoted here should not have relevance for present purposes.
- 4.43 LCC further submits that the proposed development would infringe the second Green Belt purpose of **preventing neighbouring towns from merging into one another**. In this respect LCC relies on, and commends, the approach of the UDP Inspector (in paragraphs 711.25, 711.28 and 711.29 of his report) in

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<sup>105</sup> Paragraph 711.26

<sup>106</sup> See paragraph 7.9 of Mr Hollinson’s proof and paragraph 7.2.4 of Mr Thomson’s proof

<sup>107</sup> On 13 December 2011

<sup>108</sup> As Mr Thomson argues in paragraph 7.2.4 of his proof

<sup>109</sup> A development cannot meaningfully be argued to be “planned” simply because it is the subject of a planning application. All development (save for that unlawfully undertaken without a prior planning application) could be said to be “planned” in that very general sense

<sup>110</sup> CD27C

<sup>111</sup> Mr Hollinson on 13 December 11

relation to the issue of the perception of coalescence. Just as the allocation there proposed would increase the perception of coalescence between settlements in Leeds and those in Wakefield so here would the proposed development of the application site do the same thing. This gives the lie to the claim made in support of the scheme that a wide swathe of Green Belt would remain were the proposals to go ahead.

- 4.44 It is also part of LCC's case that the proposed development would conflict with the fifth Green Belt purpose of **assisting in urban regeneration, by encouraging the recycling of derelict and other urban land**. As Mrs Speak puts it in her proof,<sup>112</sup> "the site is substantially greenfield and not attached to any settlement and therefore development ... [of it] ... can only serve to frustrate Wakefield's ambitions to develop either on brownfield land or in sustainable locations within the district."
- 4.45 Finally in relation to other harm which is Green Belt related, LCC submits that the proposed development would set a **harmful precedent for further Green Belt development** in the area. It is an insufficient response to this point to rely on the bland, standard line that any future case will be decided on its own merits in the light of the circumstances which prevail at the time. An important part of WMDC's case when objecting to the Leeds UDP allocation was (as recorded in paragraph 711.3 of the Inspector's report) that such Green Belt development would "prejudice the future of a much wider area and set a major precedent for the future of the remaining gaps between Oulton and Stanley."
- 4.46 As apparent from paragraph 711.30 of the report, the Leeds UDP Inspector was also himself concerned at the prospect of further encroachment. It is true, as put to Mrs Speak and accepted by her in cross examination,<sup>113</sup> that any future use of Green Belt land to the north of the M62 lies in the control of LCC as Local Planning Authority for that area so that it could thereby seek to resist any precedent effect. However, that plainly does not hold good for Green Belt land to the south of the M62 which LCC has every right to be concerned about also.

*Other harm: non-Green Belt related*

- 4.47 The harm caused by the proposed development does not stop at Green Belt related harm. There are many other aspects of harm.
- 4.48 First, it is the Applicant's own case that the proposed development would have a moderate *adverse* effect on landscape character as recorded in paragraph 7.1 of the LVIA Report forming part of the ES.<sup>114</sup> Mr Francis' view that the proposed development would "enhance the local landscape"<sup>115</sup> is simply not tenable and displays a cavalier disregard for the expert conclusions in the LVIA.

<sup>112</sup> LCC5 paragraph 6.3.14

<sup>113</sup> Agreed on 15 December 2011

<sup>114</sup> CD38

<sup>115</sup> YC11 paragraph 9.35

- 4.49 Secondly, the LVIA also establishes (as summarised in table 4: visual receptors) that there would be a battery of *adverse* visual impacts. This is, of course, to be expected with a development of the scale proposed.
- 4.50 Thirdly, as Mr Thomson accepts in paragraph 8.3.3 of his proof, “there will be major *adverse* ‘residual effects’ on the existing residential properties in Newmarket Lane”.
- 4.51 Fourthly, there would be a loss of best and most versatile agricultural land. It is right to record that Mrs Speak accepted in cross examination that this was not to be regarded as a particular problem<sup>116</sup> but the loss nevertheless remains a feature which must be placed on the debit side of the balance.
- 4.52 Fifthly, there would be harm in relation to the spatial development strategy of the CS and its more detailed policies (apart from the Green Belt harm):
- the proposed development as a whole is, as Mr Thomson puts it, “not aligned with Policy CS1 and CS2”<sup>117</sup>
  - the proposed B8 development is presently in conflict with Policy CS8 2 c, as Mr Francis and Mr Hollinson accepted,<sup>118</sup> because it is not within an employment allocation proposed for this type of use but only an emerging allocation which at this point can command no more than limited weight
  - the proposed B1<sup>119</sup> development is in conflict with Policy CS8 2 b because it is not in the urban areas set out in the spatial development strategy on previously developed land, within an employment allocation (in this case adopted or emerging) or within an existing employment zone, a conflict which Wakefield expressly accepts<sup>120</sup>
  - the proposed town centre uses (hotel and A3) are in conflict with Policy CS2 which, naturally enough, directs such uses to town centres.
- 4.53 Finally, the proposed development has demonstrable shortcomings in terms of accessibility by sustainable modes of transport which is more fully dealt with under issue (f) below.

*Material considerations to be placed on the other side of the balance*

- 4.54 It is next necessary for consideration to be given to material considerations to be placed on the other side of the balance.
- 4.55 In essence, the material considerations which the Applicant and WMDC seek to place on the other side of the balance are the need for a new stadium for WTWRLFC and the need to find new B8 land to meet the CS requirement for an extra 95 ha of such land. The benefits which would flow from meeting these

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<sup>116</sup> Agreed on 15 December 2011

<sup>117</sup> WMDC9 paragraph 7.1.2

<sup>118</sup> Agreed on 9 December 2011 and 13 December 2011 respectively

<sup>119</sup> Certainly in respect of the B1(c) aspect which is specifically referred to in Policy CS 2 b

<sup>120</sup> Paragraphs 8.17 and 8.18 of Mr Hollinson’s proof and paragraph 6.18 of Mr Thomson’s proof



needs are also relied on. In broad terms these may be identified, insofar as the stadium is concerned, as the community benefits which would ensue coupled with the sense of civic pride and identity which would be fostered not just by Wakefield having such a stadium but also the by the anticipated retention of the Club's Super League status facilitated by a new ground. The benefits of the employment provision are characterised in terms of economic growth and job provision. Importantly, in order to complete the need picture, the case is also put that the needs in question could not be met elsewhere.

- 4.56 LCC has not expressed concerns in principle in relation to the stadium itself but has expressed strong objections in relation to the scale and impact of the wider development on the Green Belt. The question<sup>121</sup> of whether the Members' resolution in these terms could be characterised as a judgment that they considered that the very special circumstances test was met in relation to the stadium itself is entirely academic given that the stadium comes forward in the proposals not on a "stand alone" basis but as part of a package of wider development which does give rise to strong objections.
- 4.57 Nevertheless, considered on its own, Mrs Speak has, on behalf of LCC, acknowledged that: WTWRLFC needs a new stadium; that Mr Elston's evidence in relation to the Club's financial circumstances is not disputed; and that the consequences both for the Club and for Wakefield in terms of civic pride and social cohesion if a new stadium is not brought forward are not challenged.<sup>122</sup> These matters are entitled to some weight although it remains the case at the conclusion of the evidence that the endeavours of Mr Dennis and Mr Francis have not been able to supply an example of new stadium development in the Green Belt which has been justified on the basis of very special circumstances.
- 4.58 LCC also recognises, as they must given the requirements of the CS, that WMDC needs to find 95 ha of additional B8 land. However, it is submitted that little weight can be placed on those matters relied on by the Applicant and WMDC to support the case that, of that need, some 50 ha (gross) needs to be located at Newmarket Lane. First, it is submitted that little weight can be placed on the proposed allocation in the SSDPD document in accordance with the normal way of approaching emerging policies found in paragraphs 17 to 19 of The Planning System: General Principles. The Newmarket Lane allocation has yet to be the subject of examination and is the subject of objection by LCC, Barton Wilmore (on behalf of Newmarket residents) and Turleys on behalf of the promoters (de Villiers) of site N159 in Castleford, who promote that site for B8.<sup>123</sup> Secondly, it is submitted that little weight can be placed on any claim that the "sequential assessment" carried out as part of the present application demonstrates the need for the level of B8 provision proposed as part of the application to be at Newmarket Lane. That assessment was looking at a much wider development package which encompassed not just the stadium but also the hotel and A3 use, the B1 use and the B8 use. It cannot therefore be used to draw conclusions in relation simply to alternative sites for B8 use.

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<sup>121</sup> Raised by Mr Easton on 15 December 2011

<sup>122</sup> Agreed by Mrs Speak on 15 December 2011

<sup>123</sup> Agreed by Mr Hollinson on 13 December 2011

- 4.59 The Inquiry should not be distracted from the force of the above points by focusing on what may be considered the limitations of LCC's ability to provide a great deal of detail in relation to alternative sites for B8 provision. Mrs Speak conceded in cross examination that she was not able to put forward an acceptable and available site at this Inquiry<sup>124</sup> although she clearly had not ruled out the potential of site N159 at Castleford. The point is that the question of the acceptability and availability of alternative sites and comparison thereof with allocated sites is the job of the examination of the SSDPD where all relevant parties, including site promoters, will be able to make their case. This Inquiry can only obtain, at best, a limited view of these matters.
- 4.60 On the face of it, however, site N159 would appear: to have an active promoter putting forward the site for B8 use; to represent a rounding off of the built up area of Castleford; to be in a relatively accessible location;<sup>125</sup> and to be capable of access in highway terms albeit with extensive mitigation. The impact of development on the narrowness of the Green Belt gap between Castleford and Pontefract has to be seen in the context of the rounding off function that development of the site would perform and the apparent absence in the Appendices to the Sustainability Appraisal of concern on this particular score.
- 4.61 It is also submitted that, notwithstanding the example of site N159, the Inquiry should not approach the matter on the basis that any B8 development in the M62 corridor must necessarily be in the Green Belt. The M62 corridor is not defined in the CS and paragraph 8.20 of the CS specifically indicates in respect of "wholesale and freight distribution" that "in the first instance, best use will be made of *brownfield sites on the edge of existing urban areas* which are close to existing housing, are accessible by public transport and have good access to the highway, rail or waterway networks."
- 4.62 So far as concerns the benefits of the employment aspects of the proposed development, it cannot be denied that assisting economic growth and providing jobs should be given some weight, not least in the light of the present drift of policy towards placing greater emphasis on such matters. However, a number of notes of caution need to be sounded in relation to the evidence that Mr Wallhead provided on behalf of WMDC in this regard. First, Mr Wallhead fell into error in assuming that the B8 development would provide some 3,000 jobs and either confused the gross development area for B8 at the application site with the net developable area or else did not trouble to read carefully the Roger Tym report which is appended to his proof and then to apply what was said therein to the known B8 floorspace of the application proposals.
- 4.63 Secondly, Mr Wallhead was also in error in thinking<sup>126</sup> that the Inspector who had dealt with the examination of the CS had concluded that a further 95 ha of land for logistics should be found in the northern part of Wakefield. The

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<sup>124</sup> Agreed by Mrs Speak on 15 December 2011

<sup>125</sup> CD27C

<sup>126</sup> WMDC5 paragraph 4.2

relevant conclusion of the Inspector in paragraph 3.4.9 of her report<sup>127</sup> related not to any shortcoming in the spatial distribution of employment land but to inadequate and insufficiently flexible sectoral provision.

- 4.64 Thirdly, Mr Wallhead's reliance on the argument that the application proposals would assume particular significance by virtue of providing jobs for deprivation blackspots, such as the Five Towns Area, lacked any contextual perspective. Mr Hollinson has made it plain that WMDC already has strategies in place for these areas.<sup>128</sup> And as the Appendices to the Sustainability Appraisal make clear, the proposed B8 allocation "is not in an area affected by income or employment deprivation." This point is fortified by the September 2011 Unemployment Bulletin which forms Appendix SS11 to Mrs Speak's proof.<sup>129</sup>
- 4.65 It is next necessary to consider the argument that, once the need for the new stadium and for B8 provision are combined, the only site which can meet that combined need is the application site. In approaching this issue, it is submitted that there are two questions which need to be distinguished. The first is the question of quantum, that is, whether all the B8 development (and the B1 development plus the hotel and A3 unit) are necessary in order to make the provision of the new stadium viable. The second is the question of co-location, that is, whether the "enabling development" needs to be on the same site as the stadium.
- 4.66 As to the first question, Mrs Speak accepted that, in respect of the financial appraisal appended to Mr Francis' evidence, she had no evidence to the contrary and that all of the development contained in the application had to be brought forward to make the stadium construction viable but that it did not necessarily have to come forward on this site.<sup>130</sup>
- 4.67 As to the second question, however, there is nowhere to be found in any of the Applicant's or WMDC's material any clear explanation of why all the enabling development and the stadium needs to be on the same site. There is no reason as a matter of principle or practice why all enabling development and the stadium need to be on the same site. Mr Dennis confirmed instances of "satellite" enabling development for stadia (that is enabling development at remote sites).<sup>131</sup> As the matter lies within the realm of very special circumstances, the burden is firmly on the Applicant to demonstrate why the stadium and the enabling development need to be on the same site. In the light of that, it is nothing to the point that Mrs Speak has, as she accepted,<sup>132</sup> no evidence of any alternative funding package to put before the Inquiry. Rather, the evidence adduced on behalf of the Applicant entirely fails to discharge the burden cast on them.
- 4.68 Mr Francis' explanation by way of a "collision" of opportunities and coincidences<sup>133</sup> falls well short of what is required and serves more to

<sup>127</sup> CD18

<sup>128</sup> Agreed on 13 December 2011

<sup>129</sup> LCC6

<sup>130</sup> Agreed on 15 December 2011

<sup>131</sup> Agreed on 6 December 2011

<sup>132</sup> Agreed on 15 December 2011

<sup>133</sup> YC11 paragraph 2.13

obfuscate than elucidate. It should firmly be borne in mind that the author(s) of WMDC's Committee Report<sup>134</sup> studiously avoided passing any judgment on the reasonableness of the assumption that the whole of the development needed to be located in the same place. WMDC's Spatial Policy team observed the same self-denying ordinance. Viewed in this context, the Applicant's sequential assessment can indeed be dismissed, as Mrs Speak indicated, as no more than a self-fulfilling prophesy.<sup>135</sup>

*Very special circumstances*

4.69 In the light of all the above it is submitted that, taking account of the substantial weight attaching to the harm to the Green Belt inherent in inappropriateness together with all the other harm and then considering that against the material considerations on the other side of the scales, it cannot be said that the latter clearly outweigh the former. As such very special circumstances have not been demonstrated.

***Issue (d) accordance with PPS4***

4.70 In respect of issue (d), the SoS wishes to be informed of the extent to which the proposed development accords with Government policies in Planning Policy Statement 4: Planning for Sustainable Economic Growth, particularly in relation to:

- (i) delivering more sustainable patterns of development, reducing the need to travel, especially by car and responding to climate change; and
- (ii) promoting the vitality and viability of town and other centres as important places for communities.

4.71 In respect of sub-paragraph (i) above, it is submitted that the proposed development does not achieve the objective of reducing the need to travel by car. As Ms Brewer rightly states entirely in line with Mr Stainsby's evidence:

- "it is likely that the main mode of transport to the stadium and B1 uses from the evidence provided in the Transport Assessment (TA) will be by private car"<sup>136</sup> (and to this judgment can be added travel to work by those employed in the B8 development)<sup>137</sup>
- "the site is dependent on access by motor vehicle".<sup>138</sup>

4.72 As to PPS4's requirements in relation to town centre uses, there can be no doubt that the hotel and A3 unit which are to be provided as part of the proposed development consist of main town centre uses – see paragraph 7 of the introduction to PPS4. No one argues otherwise. These aspects of the proposed development are not consistent with PPS4.

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<sup>134</sup> CD43

<sup>135</sup> Agreed on 15 December 2011

<sup>136</sup> WMDC3 paragraph 7.6

<sup>137</sup> Agreed on 14 December 2011

<sup>138</sup> WMDC3 paragraph 7.8

- 4.73 They do not escape the need for the application of the town centre policies in PPS4 on the basis that they are ancillary to other uses. Policy EC14.2 of PPS4 provides that the town centre policies in PPS4 "apply to planning applications for ... [main town centre] ... uses unless they are ancillary to other uses. Where office development is ancillary to other forms of economic development not located in the town centre there should be no requirement for such offices to be located in the town centre." It is important to note that it is this policy and no other which provides the only escape route from the application of the town centre policies in PPS4 to main town centre uses.
- 4.74 There is, and with due respect to Mr Hollinson,<sup>139</sup> absolutely no reason why the notion of an ancillary use in Policy EC14.2 is to be understood for the purposes of the policy in any way other than that in which the notion of an ancillary use would normally be understood. The example which is provided by the latter part of the paragraph - where office development is ancillary to other forms of economic development not located in the town centre - would apply on the facts of the present application to offices located in the B8 sheds for the purposes of administration of the warehousing and distribution uses.
- 4.75 However, the hotel and A3 unit would plainly not be ancillary to any other uses in the conventional sense. Both would be free standing proposals which would be perfectly capable of operating in their own right. The fact that they might be seen as a complementary part of a larger overall development, and even possibly as a not substantial part of that larger overall development, is of no relevance for the purposes of the application of the town centre policies in PPS4. It is equally of no relevance for these purposes that the hotel and A3 unit might be necessary in financial terms for the overall viability of the development.
- 4.76 Given that the hotel and the A3 unit do not escape the application of the town centre policies as ancillary uses under Policy EC14.2, Policy EC14.3 comes into play. This provides that "a sequential assessment (under Policy EC15) is required for planning applications for main town centre uses which are not in an existing centre and not in accordance with an up to date development plan." The hotel and A3 unit are not in an existing centre and not in accordance with an up to date development plan. Therefore they need to be sequentially assessed.
- 4.77 Both the Applicant and WMDC then seek to say that the need for a sequential assessment does not apply by virtue of the concluding words of Policy EC15.1 d iv. This part of Policy EC15.1 provides that "in considering sequential assessments required under Policy EC14.3, local planning authorities should: ... ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of: ... the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, on to separate, sequentially preferable, sites. *However local planning authorities should not seek arbitrary sub-division of proposals.*"

<sup>139</sup> Agreed on 13 December 2011

- 4.78 The simple fact of the matter is that the last sentence of Policy EC15.1 d iv does not come into play in this case. First, Policy EC15.1 d applies only to sites in or on the edge of existing centres which the application site is plainly not. Secondly, Policy EC15.1 d iv applies only to the disaggregation of specific parts of a retail or leisure development. It has nothing to say about the question of the disaggregation of mixed use development into its component parts. The Applicant and WMDC miss the point entirely in claiming that the hotel and A3 unit cannot be disaggregated because they are necessary components of a mixed use scheme which is necessary in its entirety to finance the construction of the stadium.
- 4.79 That point goes to the question of the quantum of development necessary in financial terms to enable the construction of the stadium and thereafter to the question whether an alternative site could be found for that quantum of development as a whole. The point which is presently at stake is the completely different one whether the town centre policies in PPS4 apply to the hotel and A3 unit. The fact that the question whether an alternative site could be found for the development as a whole has been approached by way of an exercise which has been labelled somewhat inappositely a "sequential test" has served only to lead the Applicant and WMDC into error in this regard.
- 4.80 It is next necessary to consider Policy EC17.1 of PPS4. This is clear and unambiguous in its terms: "Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where: a. the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15)".
- 4.81 The PPS4 Practice Guidance relied on by Mr Hollinson<sup>140</sup> does not assist WMDC's case. The passage relied on in paragraph 5.7 is taken out of context and there is a failure to recognise that the section in question begins at paragraph 5.4 which makes it plain that "where sequential site assessment is required by Policy EC14, [as it is here] the policy requirements for that assessment are set out in Policy EC15".
- 4.82 Moreover, paragraph 5.7 deals with the use to be made of the sequential test once one is required to be applied and not the question presently under consideration of whether such a test is required. Even if paragraph 5.7 is taken in isolation, it hardly lies in WMDC's mouth to argue that there is not "a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet." The relevant parts of the application for present purposes are the hotel and A3 unit and, in respect of these, Mr Thomson's evidence is quite clear: "the Council accepts that sites in sequentially more favourable locations could be found for these individual uses".<sup>141</sup>
- 4.83 Reliance was also placed on paragraph 6.9 of the PPS4 Practice Guidance. It is impossible to use this as an escape from the requirement of the sequential test

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<sup>140</sup> Agreed on 13 December 2011

<sup>141</sup> WMDC9 paragraph 7.3.2

being applied to the town centre uses in the proposed development because the very opening words of the paragraph highlight that the sequential approach applies to all main town centre uses. Thereafter it does little to assist WMDC's case to point out that the paragraph states that "local planning authorities should consider the relevant priorities and needs of different main town centre uses, particularly recognising their differing operational and market requirements." The operational and market requirements of the hotel and A3 unit have not been considered in any true sense. Where, one might ask by way of example, is there any analysis of need or demand for hotel accommodation in the District? The hotel and A3 unit have simply been incorporated in the scheme to provide a source of finance. Further, the proposed hotel is not the same as the example provided in the paragraph of a hotel associated with a motorway service area.

- 4.84 In reality, the only case which it is open to make in favour of the town centre uses is that an exception should be made to PPS4 on the basis that the hotel and A3 units are necessary ingredients of a wider scheme all ingredients of which must be provided in order to enable the funding of the stadium. That case has already been addressed above (and refuted) in respect of issue (c) under the heading "material considerations to be placed on the other side of the balance".

#### ***Issue (e) consistency with PPS9***

- 4.85 In respect of issue (e), the SoS wishes to be informed of the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 9: Biodiversity and Geological Conservation, particularly in relation to giving appropriate weight to protected species and to biodiversity interests within the wider environment.
- 4.86 LCC offers no view in respect of this issue other than to acknowledge that it does not seek to challenge the view, expressed through Mr Hesketh, that the proposed development would be able to provide a net gain in ecological terms. It is submitted that this matter does not tilt the overall balance in favour of the proposed development.

#### ***Issue (f) consistency with PPG13***

- 4.87 In respect of issue (f), the SoS wishes to be informed of the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note 13: Transport, in particular, on the need to locate development in a way which helps to:
- i) promote more sustainable transport choices;
  - ii) promote accessibility to jobs, leisure facilities and services by public transport, walking and cycling; and
  - iii) reduce the need to travel, especially by car.
- 4.88 The matters which the SoS has highlighted in this issue represent the objectives of PPG13 which are set out in paragraph 4 of that document.

- 4.89 Other paragraphs of PPG13 which have received particular attention in the course of the Inquiry are paragraphs 18, 19 and 45.
- 4.90 Paragraph 18 of PPG13 provides that “the overall approach on jobs, shopping, leisure and services ... outlined below should be applied by all authorities in the preparation of regional planning guidance, when preparing or amending their development plans, and in determining planning applications for such uses.” However, the same paragraph goes on to provide that the overall approach does not apply to warehousing and distribution uses in respect of which guidance is provided in the section on freight in paragraphs 45 to 47.
- 4.91 Paragraph 19 of PPG13 provides that “a key planning objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.” The paragraph also states that, “in preparing their development plans, local authorities should give particular emphasis to accessibility in identifying the preferred areas and sites where such land uses should be located, to ensure they offer realistic, safe and easy access by a range of transport modes, and not exclusively by car.”
- 4.92 Paragraph 45 provides that, in preparing their development plans and in determining planning applications, local authorities should “(2) where possible, locate developments generating substantial freight movements such as distribution and warehousing, particularly of bulk goods, away from congested central areas and residential areas, and ensure adequate access to trunk roads”.
- 4.93 LCC’s case is that the proposed development does not adequately promote any of the 3 objectives of PPG13.
- 4.94 The Applicant argues through Mr Blair that, if the guidance in paragraph 45(2) is observed in relation to the location of distribution and warehousing facilities, accessibility to the jobs provided at those facilities must be taken to be acceptable in consequence. LCC does not accept this argument. It may immediately be observed that the argument has little attraction as a matter of first principles because it seeks to eschew any notion of a planning balance in favour of the position that acceptability of a proposal in respect of one matter (location of distribution and warehousing facilities) should automatically carry with it a conclusion of acceptability in relation to other matters (accessibility to jobs).
- 4.95 The only possible policy basis for the argument is found in that part of paragraph 18 of PPG13 which disapplies the overall approach set out thereafter in relation to, inter alia, accessibility to jobs in the case of warehousing and distribution uses. However, there are 2 important points to note in this respect. The first is that paragraph 18 does not, in the case of warehousing and distribution uses, disapply the objectives found in paragraph 4 of PPG13. It thus remains an objective of PPG13 across the board (including warehousing and distribution uses) to promote accessibility to jobs by public transport, walking and cycling. The second point is that all that paragraph 18 disapplies in relation to the approach to accessibility to jobs set out in paragraph 19 is the requirement, when preparing development plans, to give *particular emphasis* to accessibility in identifying the preferred areas and sites.



- 4.96 The removal of the enhanced weight which accessibility would have were paragraph 18 not to disapply paragraph 19 in the case of warehousing and distribution uses does not mean that the weight attached to accessibility is thereby *reduced* below what it would normally be as Ms Brewer accepted.<sup>142</sup> As ever, the requirement is to strike a proper balance. In this case that requires a balance between the potentially competing considerations of, on the one hand, the need for warehousing and distribution uses to locate away from congested central/residential areas and to have adequate access to trunk roads and, on the other, the need to promote accessibility to jobs for the workforce for the warehousing and distribution uses.
- 4.97 LCC's case is that the site is unacceptably inaccessible by non-car modes. There is little residential development within any reasonable walking distance standard such as those referred to in the Institution of Highways and Transportation (IHT) publication "Guidelines for Providing for Journeys on Foot". There is evidence that the section of the A642 from Stanley Ferry to Bottom Boat is regarded as dangerous by cyclists.<sup>143</sup> The railway stations in the vicinity - Outwood and Woodlesford - lie well beyond an acceptable walking distance, there has been no audit of the quality of cycle routes to those stations and only Woodlesford has a bus link to the site with a walk of some 100m between the railway station and the bus stop.
- 4.98 Bus services on Aberford Road are limited and there is only one service on Newmarket Lane which neither provides a link to Wakefield City Centre nor runs on Sundays. There are no formal proposals to improve bus services either by way of upgrading existing services or by way of the introduction of new services, save for shuttle bus provision on match days. The B8 development would lie in excess of the maximum walking distance of 400m from the bus stops on Aberford Road. This distance is sanctioned in the IHT publication "Planning for Public Transport in Developments" and has already taken into account trips to work.
- 4.99 The views expressed on behalf of WMDC by Ms Brewer in reality differ little from those of Mr Stainsby on behalf of LCC. Ms Brewer variously accepts that:
- the site would not be easily accessible by pedestrians<sup>144</sup>
  - opportunities for walking are limited<sup>145</sup>
  - she has no reason to disagree with the information provided to her by those in WMDC's Public Rights of Way (PROW) team<sup>146</sup> that "the section from Stanley Ferry to Bottom Boat is considered to be a dangerous part of the route"<sup>147</sup>
  - opportunities for cycling are limited<sup>148</sup>
  - the provision of cycle lanes along Aberford Road tying in to other cycle links and quite possibly to include the whole of Aberford Road to link

<sup>142</sup> Agreed on 14 December 2011

<sup>143</sup> LCC8

<sup>144</sup> WMDC3 paragraph 6.34

<sup>145</sup> WMDC3 paragraph 7.7

<sup>146</sup> LCC8

<sup>147</sup> Agreed on 14 December 2011

<sup>148</sup> WMDC3 paragraph 7.7

into the town centre would assist<sup>149</sup> - something which is not part of the proposals

- the bus service on Aberford Road has a limited frequency<sup>150</sup>
- the opportunities for public transport trips are limited<sup>151</sup>
- an improved frequency of bus service along Aberford Road would be beneficial<sup>152</sup> - something which is not part of the proposals
- the main mode of transport to the stadium and B1 uses would be likely to be the private car<sup>153</sup> to which judgment can be added travel to work by those employed in the B8 development<sup>154</sup>
- the site is dependent on access by motor vehicle<sup>155</sup>
- the provision of the shuttle bus, improvements to bus stops and enhancement of cycleways and footpaths would alleviate only some of the location concerns but others would remain<sup>156</sup>
- the location of the site does not fully meet the needs for sustainable development or sustainable transport<sup>157</sup>
- the application site falls below the standard of accessibility which would normally be expected of a site of its nature<sup>158</sup>
- the deficiencies of the site in terms of sustainable transport are such that other material planning considerations would need to be brought into play to redress the balance.<sup>159</sup>

4.100 It is submitted that Mr Blair's view of the accessibility of the application site by non-car modes is over-optimistic.

4.101 The argument that bus services might be expected to improve as the site is developed should command little weight. Such an approach is conjectural, as Mr Stainsby said.<sup>160</sup>

4.102 In respect of the Travel Plans, it is submitted that the modal split (70% single occupancy vehicle/30% sustainable modes) embodied in the Employment Travel Plan Framework<sup>161</sup> is more than "challenging" - a label accepted by both Mr Blair and Ms Brewer<sup>162</sup> and is, as Mr Stainsby said,<sup>163</sup> neither achievable nor realistic given the substantial shortcomings of the application site in terms of its accessibility by non-car modes. It is also to be noted that the modal split target only becomes effective approximately 6 months after the occupation of 70% of the full development.<sup>164</sup> The much vaunted control by way of a restriction on further development is in any event not triggered by a failure to

<sup>149</sup> WMDC3 paragraph 6.35

<sup>150</sup> WMDC3 paragraphs 6.32 and 6.34

<sup>151</sup> WMDC3 paragraph 7.7

<sup>152</sup> WMDC3 paragraph 6.34

<sup>153</sup> WMDC3 paragraph 7.6

<sup>154</sup> Agreed on 14 December 2011

<sup>155</sup> WMDC3 paragraph 7.8

<sup>156</sup> WMDC3 paragraph 7.6 and agreed on 14 December 2011

<sup>157</sup> WMDC3 paragraph 7.8

<sup>158</sup> Agreed on 14 December 2011

<sup>159</sup> WMDC3 paragraph 7.8 and agreed on 14 December 2011

<sup>160</sup> Agreed on 15 December 2011

<sup>161</sup> CD46A

<sup>162</sup> Agreed on 8 December 2011 and 14 December 2011 respectively

<sup>163</sup> Agreed on 14 December 2011

<sup>164</sup> CD46B paragraph 5.4.4

meet the modal split target but by a failure to meet trip generation targets.<sup>165</sup> Caution should be placed on seeking to attach over-much weight to the endorsement of the Travel Plan Frameworks by the HAg. The HAg's concern is naturally its own network (the M62) and it has not participated at the Inquiry by giving evidence to explain its position.

4.103 Paragraph 88 of PPG13 provides a salutary reminder that "unacceptable development should never be permitted because of the existence of a travel plan" yet this is, in effect, what is sought by the Applicant in this case.

4.104 Turning to more specific matters, Mr Stainsby ultimately accepted that LCC's concerns in relation to overspill parking on the public highway - both from the stadium on match days and from the employment uses - could be dealt with by TRO.<sup>166</sup> The section 106 Obligation now provides for a TRO in respect of the stadium parking issue.

4.105 In relation to the remaining concern of LCC, Mr Blair has now provided an outline freight management plan which can be tied into any grant of permission by way of a condition. The plan should incorporate specific reference to the prevention of use of Newmarket Lane by HGVs.

#### ***Issue (g) accordance with PPG17***

4.106 In respect of issue (g), the SoS wishes to be informed about the extent to which the proposed development accords with Government policies in relation to:

- (i) meeting the sport, open space and recreation requirements of the whole community by securing an appropriate new provision; and
- (ii) ensuring that open space, sports and recreation facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are in locations well served by public transport.

4.107 LCC has no objection in principle to the stadium and would not seek to argue that the proposed stadium and associated MUGA would not conform with the objective set out in sub-paragraph (i) above.

4.108 LCC does, however, make submissions in respect of the matter of accessibility referred to in sub-paragraph (ii) in order both to address the SoS's issue, rather than to advance an objection to the stadium, and to cast light on the issue of accessibility more generally in relation to the wider development.

4.109 One of the objectives of PPG17 is to promote more sustainable development "by ensuring that open space, sports and recreational facilities, particularly in urban areas, are *easily accessible* by walking and cycling and that more

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<sup>165</sup> Agreed by Mr Blair on 8 December 2011

<sup>166</sup> Agreed on 15 December 2011

heavily used or intensive sports and recreational facilities are planned for locations *well served* by public transport."

- 4.110 Paragraph 21 of PPG17 provides that "many sporting and recreational facilities will be similar in their land use characteristics to some forms of leisure – by making intensive use of land and attracting a large number of visits." It goes on to say that "planning permission for such developments should only be granted where they are to be located in *highly accessible* locations in or adjacent to town centres, or in district or neighbourhood centres."
- 4.111 Paragraph 22 of PPG17 relates specifically to stadia and states that "planning permission for stadia and major sports developments which will accommodate large numbers of spectators, or which will also function as a facility for community based sports and recreation, should only be granted where they are to be located in areas with *good access* to public transport."
- 4.112 Notwithstanding LCC's lack of objection to the stadium and associated sports facilities, it is idle to pretend that the qualitative standards of accessibility found in the above passages from PPG17 are met in this case. The proposed facilities are not easily accessible by walking and cycling, not in a highly accessible location and cannot be said to have good access to public transport<sup>167</sup> or be well served by the same.
- 4.113 Further, the access standard set in Wakefield's Playing Pitch Strategy – that no person should live more than 1,000m from their nearest playing pitch facility<sup>168</sup> - can be used to test the accessibility of the sports provision at the application site by seeing how much residential development lies within 1,000m of it (as Miss Dodd accepted it).<sup>169</sup> By that standard the application proposals again fall short in terms of accessibility.

### ***Issue (h) planning obligations***

- 4.114 In respect of issue (h), the SoS wishes to be informed 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.
- 4.115 The main substantive comment to be made in respect of the planning obligation offered in this case is that no one should be under the slightest illusion that it provides any mechanism at all by which the early delivery of the stadium can be ensured. There is no obligation to let a contract for the construction of the stadium until 60,000 m<sup>2</sup> of B8 is constructed and occupied. Indeed, there is a weak incentive under the Planning Obligation to provide any stadium at all. 59,999 m<sup>2</sup> (over ½ of the total provision) of the proposed B8 can be built and occupied without any obligation to let a contract for the stadium ever accruing at all. The mismatch between the urgent need case advanced for the stadium by the Applicant and what the developer is actually willing to commit to in a legally binding document is glaring and obvious.

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<sup>167</sup> Mr Blair accepted that there was not good access to public transport on 8 December 2011

<sup>168</sup> CD27 paragraph 6.29

<sup>169</sup> Agreed on 14 December 2011

4.116 It is not acceptable to argue that the B8 has its own free-standing justification so that it matters not how much of the B8 part of the scheme is built out. That free-standing justification for B8 at the Newmarket site is disputed for the reasons set out in connection with issue (c) above under the heading “material considerations to be placed on the other side of the balance”. Be that as it may, the point in issue here is not about the provision of B8 development in its own right but about its enabling relationship to what is said to be the urgent need for early stadium provision. On that score the planning obligation is signally deficient.

***Issue (i) any other matters***

4.117 In respect of issue (i), the SoS wishes to be informed about any other matters which the Inspector considers relevant.

4.118 LCC would comment here that the developer’s commitment to stadium construction is a material consideration. Sir Rodney Walker’s airy assurance that he has Yorkcourt’s word<sup>170</sup> has now been translated into a letter dated 8 December 2011<sup>171</sup> which does not demonstrate any real commitment but is simply a bland statement of present intent. It is very much of a piece with the planning obligation.

4.119 It is also submitted that the ability of the developer to build the scheme is a material consideration, particularly given the emphasis which has been placed on the need case by the proponents of the development. It is entirely true that it has been no part of LCC’s case at the Inquiry to question this aspect of matters but the evidence of Mr Cubbage which has only just become available<sup>172</sup> raises real concerns in this regard, both as to the strength of the developer and the viability of the scheme, which remain entirely unanswered as these submissions are written.

**Conclusion**

4.120 For all the reasons set out above it is respectfully submitted that the recommendation to the SoS should be that this application is refused planning permission.

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<sup>170</sup> Agreed on 6 December 2011

<sup>171</sup> YC21

<sup>172</sup> 19 December 2011

## 5. THE CASE FOR INTERESTED PERSONS WHO APPEARED AT THE INQUIRY

- 5.1 **Mr. John Allott**<sup>173</sup> is a local business man based in Methley (South Leeds) which is 2 miles from the proposed development. He is the Managing Partner of Cedars Partnership - a business which has operated in Methley for the last 30 years. Some 40 staff are employed there. Mr. Allott foresees an enormous benefit from the development of Newmarket for the immediate and surrounding areas. Mr. Allott is also a Director of St Swithun's Community Project, Wakefield and a Governor at Wakefield City Academy.
- 5.2 From his experience as an employer Mr. Allott can see that general employment opportunities in the area are very limited. He can see this on a very regular basis when people come for interview. He can also hear this from other local employers. The reality is there are far too many people seeking far too few jobs and it is not getting any better. Local people are being made redundant and are saying 'where are the jobs'? A further 600 jobs may go from LCC. He understands that WMDC may also have to consider further job cuts due to austerity measures.
- 5.3 On a wider front, Mr Allott referred to an article in the Daily Telegraph where KPMG is forecasting that UK unemployment could soar from 2.6m to 3m as employers shed jobs. Unfortunately, Methley and surrounding districts, in both Wakefield and Leeds, are not immune from such hardship. Therefore he strongly believes that we need to create work and employment. Local jobs for local people. He said that the local area is urgently in need of economic stimulus otherwise we will certainly experience 'the lost generation'. There are many people in the area who still remember Newmarket as a working pit and would welcome jobs and prospects returning to that area. Mr Allott describes this as authentic regeneration.
- 5.4 Presently there is very little in the way of resources for local businesses such as meeting places, facilities or conference provision. More options for local businesses would be great – at present he said we have to go into central Wakefield. This development would also attract incoming business and be ideally suited right on the M62 network. Local businesses are in favour of the Newmarket project.
- 5.5 There is very little for local young people in Wakefield District and facilities are extremely limited. A new stadium would bring a sport focal point for the local communities. Local teams could use the facilities there, play their cup final games - the possibilities are endless. Mr Allott is a big Huddersfield Town soccer fan and has witnessed the transformation that has taken place, with the help and support of the Council, in relation to the Galpharm Stadium. This is now a fantastic resource that is used by all the community - so multi-functional for sport, education and business. The educational facilities alone are fantastic in many of our new stadia developments countrywide.
- 5.6 The establishments Mr Allott is involved with - City Academy, St Swithuns CP – comprise some of the most challenged people in the inner city area who would

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<sup>173</sup> Mr Allott's full statement is at IP1

greatly welcome, appreciate and use these additional sport, educational and leisure facilities. All the neighbouring authorities have stadia and quality facilities that others can use – Leeds: Carnegie, Elland Rd; Barnsley; Doncaster; Sheffield and many other quality multi-functional stadia developments. A new development like this would bring increased opportunities. It would be an 'uplifting' experience for the local psyche – for individuals and communities. It would greatly uplift how people feel about their neighbourhood and themselves – their own self-identity.

- 5.7 Mr Allott cannot understand why such a large city such as Leeds wants to jeopardise such an important project for Wakefield. He loves Leeds. He studied at the University, worked in the city and lived there. He undertakes contracts on behalf of LCC that are worth many £1,000's each year. However, he cannot believe that Leeds, a large and relatively prosperous city, is not giving this development its total support. He referred to the fact that Leeds is to be announced as one of 8 core cities in England and will attract discounted business rates and seed funding to aid IT development as part of the Government's City Deals Scheme. In addition, the Newmarket scheme would be such a boom for the area and would benefit people who live in South Leeds.
- 5.8 The majority of Mr Allott's employees are Castleford Tigers supporters with a few Leeds Rhino fans. The Castleford fans say that the Club probably has no financial backing for a stadium and so the proposal is still a dream at this stage. However, if there ever was to be a ground share then moving to share Newmarket would not be a problem for them. However, when people in Wakefield are asked about the Glasshoughton site, it is perceived as literally miles away with no social or cultural link at all. There would be no social identity or resonance at all for people in Wakefield with a stadium that may, in the distant future, be built in Castleford. Although Wakefield and Castleford are in the same Metropolitan District they have many differences and perceptions - and so it is ludicrous for outsiders to say that Wakefield teams should play in Castleford. This only shows a total lack of understanding of the many social and cultural nuances that relate to these areas. Of the two sites it is Newmarket that is much more equidistant between the respective town centres and is also right on the M62 corridor. Newmarket would capture the imagination of local people.
- 5.9 **Jason Wilsher-Mills**<sup>174</sup> represents the Wakefield Trinity Wildcats RLFC Disabled Supporters Association (DSA). It was formed in 2008 in order to give a voice to those supporters, who although small in number, play an absolutely fundamental role in the Club, but had up to this point not had a formal route to pursue their concerns. The Club has always taken time to listen to their most vulnerable supporters, and this has become even more noticeable under the new management. In the short time that the DSA has been in existence the following have been realised:
- Training for RNIB commentators
  - NIB Commentary kit — so that 10 visually impaired supporters can enjoy the game live, whilst receiving commentary from specially trained supporters in the ground

<sup>174</sup> Jason Wilsher Mills' full statement is at IP2

- You'll Never Watch Alone — Wakefield Trinity is the second club to introduce this scheme whereby supporters with learning disabilities are 'buddied' up with an able bodied supporter so that they can attend games
  - Regular meetings with the Club
  - Special social events for disabled supporters
  - Waitress service for the disabled viewing area in the East Stand
  - Reduced rates for disabled supporters season tickets, along with a free season ticket for those who require a carer
  - A free parking pass for the season — although these are very limited
- 5.10 These are fantastic achievements for the Club, and demonstrate great vision and innovation, which is far greater than many of the other Super League clubs, but there could be so much more at a new stadium, because when Belle Vue was built it did not take into consideration the issues that disabled people face when attending live sport. There is not enough parking for disabled supporters and they cannot move freely throughout the stadium, so they do not have the same viewing experience as their able bodied fellow supporters.
- 5.11 When disabled supporters travel to new stadiums, such as the KC Stadium in Hull, then there is an incredible difference in the viewing experience, in that there is:
- Ample disabled parking
  - Numerous disabled toilets
  - Access to many food and drink outlets
  - Opportunity to sit anywhere in the stadium
  - Access to all of the stadium's facilities
  - Specially trained stewards
- 5.12 Not only would the viewing experience for disabled supporters be greatly enhanced through the new stadium, but it would also give an opportunity for those disabled supporters who have kept away from watching 'their' team, because of access issues, to once again take part in watching live sport. The DSA would be able to offer facilities to those supporters who are totally dependent on care, through having disabled toilets at the stadium, which offered adult changing tables.
- 5.13 The DSA would also work with the Club to increase the facilities for its members so that it could offer such initiatives as wheelchair rugby. This cannot be offered at present, due to the restrictions at the existing ground. The DSA has been approached by local wheelchair rugby league teams, with a view to using the facilities and becoming part of the 'wildcat' family.
- 5.14 The DSA would also ensure that disabled supporters had an opportunity to socialise with other supporters and have access to such amenities as the restaurant, which would ensure total equality of opportunity.
- 5.15 The new stadium development is very important. The facilities at Belle Vue are restricted even though there have been many initiatives that have improved the viewing/social experience of disabled supporters. With the proposed new development at Newmarket so much more could be done, by offering:



- Better parking
- Greater access to disabled toilets
- Movement throughout the stadium
- Access to all facilities offered by the Club
- A wheelchair rugby league team — affiliated with WTWRLFC
- Increased attendance by disabled supporters

- 5.16 Mr. Wilsher-Mills recently spoke to an elderly lady, at the last game of the season, who is confined to a wheelchair and totally reliant on round-the-clock care. She said that watching WTWRLFC was the highlight of her week. She told him that she knew others who felt the same way, but had stopped going due to access and this is why a modern stadium must be delivered to ensure that the great work at Trinity with disabled supporters is continued. There should never be a situation where disabled people do not attend games because they feel that they cannot park at the stadium, or use the facilities. This development would change lives.
- 5.17 **Jonathan Stone**<sup>175</sup> is the chairman of Residents FOR Newmarket (RFN), a resident's action group in support of the Newmarket Colliery site development. He lives about a mile from the centre of the proposed Newmarket Colliery site. Mr Stone is a structural engineer by profession and works as an independent sales, marketing and project management consultant within the construction industry, particularly in the field of engineered timber and low energy structures. He is also a community governor at a local primary school, a past President of Wakefield Junior Chamber (JCI Wakefield), a past National President of British Junior Chamber (JCI United Kingdom) and a former council member of the Mid-Yorkshire Chamber of Commerce.
- 5.18 RFN first learned of a potential planning application at this site through the media and also when Mr Stone was asked to sign the SWAG petition, by a friend, in support. It was noted that the petition did clearly state that this would be part of a wider enabling development at the site - likely to be B8. RFN then saw advertised a Public Consultation event in Wakefield Express and attended at Church Centre in Stanley to look at and then support plans as a local resident (December 2009). RFN would question comments made in Wakefield Community Conservation Group (WCCG)/Methley Residents Association (MRA) report that consultation at this event was poor. It would seem that the writer did not attend in person and people were on hand to answer questions and people were asked to sign a form only on their way out, not on their way in. The event seemed to be well attended and good natured.
- 5.19 WCCG is not a pre-existing group like MRA or the Oulton Society. It was created as a vehicle to solicit wider objections and disguise the fact that it had originated from Newmarket Lane residents. Two flyers were produced, one under the guise of WCCG and another under a new group called Wakefield Angry Residents. It is understood that these were distributed to around 25,000 homes on both sides of the Wakefield and Leeds boundary. Both of these leaflets were misleading on the facts presented. The claim made by WCCG/MRA that consultation on the planning application was poor or was planned to be kept concealed from local residents is false.

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<sup>175</sup> Mr Stone's full statement is at IP3  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

- 5.20 The representations made in respect of the planning application were analysed and as at December 2010, there were 460 objections from within Wakefield MD; 632 from within Leeds MD and 27 objections from outside both districts. There were 254 letters of support mainly from Wakefield and Leeds MDs. It is noteworthy that there was little objection, other than from Newmarket Lane Residents, from those who lived very close to the site. It should also be noted in fact that from the whole of the Moorhouse Estate, the closest settlement area to the site, that only two letters of objection were received and that only a relative small number of objections were received from Bottom Boat, the next close settlement to the site. The opposition groups were misrepresenting themselves both in terms of concealing their true identity but also they were claiming to represent a prevailing local view of general objection to the scheme. That perception was challenged through forming RFN.
- 5.21 It was decided to hold an open public meeting for all local residents to explain the scheme in greater detail and then provide advocates for the scheme in the local area, who would then ask people to sign statements of support. The statements were designed to be honest and direct about Green Belt issues and areas of land used. The question which was asked was do you agree that the benefits outweigh the harm. It was pointed out that there was requirement for 95ha of B8 on the M62 corridor, that the site had already been selected by WMDC and that supporting this site would not only see the creation of jobs but the much needed sports facilities.
- 5.22 RFN has demonstrated that the overwhelming view of local residents is that they are happy to see this former predominately brownfield colliery site redeveloped for both the B8, stadium and community sports facilities. Some 2,848 statements of support were collected in just a 4 week period in January 2011. RFN opted for a statement of support pro-forma letter because it is more difficult to get people to write in support of a planning application but equally the group wanted the document to be read and fully understood by people before signing such a letter. If more time were available to continue collecting these statements, a figure close to that of the original SWAG petition was achievable.
- 5.23 The development would have little impact on peoples' lives, especially in Methley, from where the majority of objections originated. The SWAG petition is very valid and it is disputed that people signed it blindly. At the time, full details of the development were not known but the petition clearly stated that the stadium complex would be part of a wider enabling development. It is still valid in indicating the overwhelming level of local support for a stadium on this site and the level of importance the people attached to the City's only professional sports team. RFN was very clear about the current Green Belt status of the land and listed exactly what else would be present on the site and what areas of the site they would take-up. The aim of RFN was to show people that the benefits of the scheme outweighed the harm.
- 5.24 In summary, RFN has a valid mandate to speak on behalf of almost 3,000 local residents who support the development of this land for B8 employment uses and the stadium and the community sports facilities it would provide for the District. It is incredible that LCC persists in making objections to try and block not only 2,000 jobs but also, by definition, much needed stadium and sports facilities in the District. With regard to the Glasshoughton site, this would not

be a community stadium and it would have limited community facilities. The Castleford Tigers have the same issue of lack of funds to build a stadium as WTWRLFC. They are reliant on the sale of the Wheldon Road Ground to fund the new development at Glasshoughton. The proposed option deal with Ben Bailey Homes fell through and they have been working with a developer to look at a retail use for the site. However, the target client (Tesco) recently withdrew from negotiations and is looking at other site options in Castleford. The sale and development of the Wheldon Road site leaves the building of a stadium at Glasshoughton open ended and possibly many years away. If the Newmarket opportunity is lost then professional top-flight Rugby League and sport could be lost to Wakefield and potentially the whole District.

- 5.25 This site is not remote and isolated. Moorhouse and Bottom Boat are part of Stanley on the outer edge of the settlement. Schoolchildren walk from Moorhouse and Bottom Boat to Stanley St Peters School everyday. Residents would benefit from more regular bus services. Large numbers at the Coca Cola factory and at Morrison's cycle to work. Until 1984 miners travelled to the site to work with no problems. There is a direct bus link from Eastmoor Estate, a key employment area. Access would be improved by the development. The site is not currently used to any significant level for informal recreational use. Away supporters would travel by car share or coach; home supporters would also car share to a significant extent and special shuttle buses would be used.
- 5.26 In terms of employment, Wakefield is ideally located at the crossroads of 3 major motorways to provide growth and jobs for the District. Much is made of the relatively low unemployment in Stanley and Altofts, but the Eastmoor Estate is only 2 miles away and is the worst area of unemployment in Wakefield. Public transport would improve to suit demand. The headline figures for unemployment are: 9.5% unemployed in the region; 8.3% national average and locally LCC will be cutting 600 jobs. WMDC has to find £20m of savings during the next financial year. The region has fastest rate of rising unemployment. RFN says that we cannot afford to turn down 2,000 new jobs and up to 500 construction jobs in this climate. Construction jobs would come on-line straight away to build the infrastructure, the stadium and the community sports facilities.
- 5.27 **Martin Shevill**<sup>176</sup> is the Principal of Ossett Academy and Sixth Form College. He said that he has always found that the development of new sporting facilities leads to an increase in the take up and participation in sport. From the school's perspective this means students but also includes out of school hours used by the community. He has been instrumental in three schools as a senior leader over the last 16 years in helping to develop either new or refurbished sporting facilities and this has been his experience in all 3 cases.
- 5.28 He said that participation rates in sport have increased proportionately with the new facilities that have been obtained. In recent years he consistently had about 45% of students participating in at least 1 extra-curricular competitive sport per week. In terms of general involvement this increases to about 70%. Over the last 2 school years Ossett Academy has had over 300 competitive school fixtures. This level of involvement is unprecedented. Any new first class

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<sup>176</sup> Mr Shevill's full statement is at IP4  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

sporting venue in the City would provide even greater impetus in the promotion of sport at Ossett Academy and across other schools of different phases in Wakefield. The facility would present enhanced interest, excitement and participation in school sport.

- 5.29 Ossett Academy is one of several schools locally that have developed Rugby League as a competitive extra-curricular sport. Its progress towards competing at a higher level is continuing and two of its teams are progressing very well in regional competitions. There is a growth in this particular sport in a region that already is the best in the country. Such a new facility would develop Rugby League to even higher levels of both participation and standard.
- 5.30 Mr. Shevill's involvement in the wider national school sport agenda, through organisations such as the Youth Sport Trust, has provided him with an opportunity to promote sport in education at a national level. His work at Ossett Academy has been showcased at national conferences and this has helped put Wakefield on the map. One of his aims has been to promote sport in Wakefield as well as promoting Ossett Academy. He would therefore feel privileged to be able to share news of such a new sporting facility in any national conference he may be speaking at in the future.
- 5.31 It is fairly obvious that the Principal of the Sports College would wish to speak in favour of such an initiative. Research in the Academy recently has demonstrated that the majority of students that participate regularly in sport are also the higher achievers academically. The value that sport provides to the all-round education of young people should not be underestimated. The proposed facility would therefore be an enormous addition to the sporting infrastructure of Wakefield and its surrounding hinterland.
- 5.32 **Phil Townsend**<sup>177</sup> is the spokesman for SWAG – Stadium Wakefield Action Group. Mr Townsend is a Contracts Manager for a Commercial Landscaping company. In his professional capacity he has worked on the remediation of many former colliery sites in addition to many other industrial, commercial, retail and housing developments. He has been involved as a volunteer with the Wildcats for over 10 years, firstly as Chairman of the official Supporters Club, WiSCA, secondly as a committee member of Wildcats Squadbuilder and then, from 2004, as the spokesman for SWAG. A copy of the initial SWAG brochure is attached to his statement.
- 5.33 The main aim of SWAG is reflected in its mission statement -"To provide a modern sports stadium for the City of Wakefield. To raise awareness of the benefits that such a project can provide for the public of Wakefield and this image of the City to all relevant political and non-political organizations." As supporters of the Club, SWAG recognises that a new stadium is needed. The condition of the Belle Vue ground is very poor. This is not a matter of dispute.
- 5.34 SWAG argues that Wakefield is one of the leading areas nationally for obesity, lack of fitness and health issues surrounding these. Wakefield Trinity Wildcats' own community department provides much assistance in delivering messages surrounding these issues, aimed towards getting people to take more care of

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<sup>177</sup> Mr Townsend's full statement is at IP5  
www.planningportal.gov.uk/planninginspectorate

themselves and to participate in sporting activities. Unfortunately there is a distinct lack of such facilities in Wakefield. The campaign run by SWAG has consistently argued that a stadium is needed not only to host professional sport in the City but also that any such facility has to be open to wider use by amateur sports clubs and to the general public.

- 5.35 SWAG points out that several attempts have been made to provide Wakefield with a new stadium. These include the following: (i) Pugneys, Junction 39, M1; (ii) Calder Island, Junction 39, M1; (iii) Junction 40, M1; (iv) Wakefield Power Station; (v) Thornes Park and (vi) Newmarket. SWAG has worked tirelessly to promote the Newmarket site in an attempt to convince people inside and outside the District just what an asset a facility such as this could become for Wakefield. As part of this campaign a petition was put together, for submission to the Local Authority, which was aimed at demonstrating the support for the development of a community stadium and sports facility. The petition also clearly indicated that this formed part of a wider development without which the stadium and sports facilities would not occur. In just 6 weeks over 15,000 signatures were collected in support of the development and this was later handed in to WMDC.
- 5.36 Whilst SWAG has worked tirelessly to promote the site it maintains that there is a campaign by a small number of influential local residents who have sought to undermine the scheme at every turn. The groups involved are: WCCG — Wakefield Community Conservation Group, WAR — Wakefield Angry Residents, Wakefield and Leeds Community Conservation Group and latterly, Wakefield Residents Interest Group. All are closely linked with an address in Newmarket Lane.
- 5.37 With regard to the proposed ground share with Castleford Tigers at Glasshoughton, it is clear that the vast majority of Wakefield Trinity supporters consider the Glasshoughton site to be in Castleford, with any attempt to have Wakefield Trinity Wildcats play out of that stadium on a permanent basis tantamount to the end of professional sport in Wakefield — and that they would not support either the move nor, ultimately, the Club in such an endeavour. SWAG also believes that this coincides with Wakefield Trinity Wildcats' own conclusions that it would not be viable to run the club from the Glasshoughton site.
- 5.38 Mr Townsend considers the site at Newmarket currently does not fit the description of a remediated site. Rather, he claims, it is an area sparse in newly introduced vegetation; of low value species diversity and with little structure in its layout as a public amenity. In short, the site was not remediated for either public or ecological purposes and there are several, much better examples of this which have been returned to their local communities in recent years.
- 5.39 Mr Townsend refers to a comparative site, namely, the development at Wakefield 41 industrial estate pointing out that this was formerly farmland and now contains significant employment arising from Wm Morrisons and Coca-Cola Enterprises.

- 5.40 **Ian Bramley**<sup>178</sup> is chairman of the Wakefield Trinity Supporters Trust and he explained how important the Newmarket development is to Wakefield Trinity, its supporters and the people of Wakefield. He said that Wakefield is a rugby city; it is the largest city in England without a professional football club. The rugby union Club went into liquidation a few years ago. Wakefield Trinity is the only professional sporting club in Wakefield and it means so much to the people of Wakefield — Wakefield Trinity is part of the City's heritage.
- 5.41 He pointed out that the Club is one of the oldest in the Rugby Football League being founded in 1873 by the young men of the Holy Trinity Church — that's where Trinity comes from, and was one of the founder members of the Rugby League in 1895 when a number of rugby union clubs broke away from the RFU and formed the Northern Union over "broken time payments" by being able to compensate players for missing shifts when playing the game. It's a club with a glorious past having won Challenge Cups — 3 in 4 years in the early 60's and "back to back" Championships in 1967 and 1968. It has produced numerous England and Great Britain Internationals including Neil Fox MBE who is still the world record points scorer. It continues to do so.
- 5.42 He said that latterly the Club has struggled to deliver those past glories but maintained its place in the top division until 1996 when Super League, the elite Rugby League competition was established and 6 clubs were demoted and 2 new Clubs, Paris St Germain and London Broncos were added. However, the Club was promoted to Super League in 1998 and despite many difficulties including receiving no Super League funding for the first 2 years has managed to avoid relegation and maintain its elite status. It has struggled financially, partially due to lack of success on the field, poor facilities at Belle Vue which makes it difficult to attract new fans who expect better than Victorian facilities and a past Management Team who lacked a vision for the Club.
- 5.43 He argued that even the Management Team recognised the facilities at Belle Vue were inadequate and they have tried to bring forward a new stadium on a number of sites without success. He referred to the fact that financial difficulties came to a head around a year ago when the Club was unable to meet its commitments, particularly to HMRC and after surviving "winding up orders" the Club was placed in administration and faced a somewhat uncertain future. Had a buyer not come forward it would have been the end of Wakefield Trinity and the end of professional sport in the City of Wakefield.
- 5.44 Mr Bramley said that Super League has ended promotion and relegation and moved to "licensing" where Clubs have to submit an application for a licence for a 3 year period. The award of a licence is based on a number of criteria but most notably having a suitable stadium in which to play games. The current Belle Vue stadium falls well short of the required standard and therefore if the Club does not secure a new stadium it will fail to secure a licence and will be relegated from Super League. The last round of licences was awarded in 2011 for a 3 year period from the 2012 Season. Much to everyone's surprise Wakefield Trinity was awarded a licence, however it is believed that that was due to the fact that Crusaders due to their own financial difficulties withdrew

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<sup>178</sup> Mr Bramley's full statement is at IP6  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

their application resulting in Wakefield Trinity being awarded a licence pretty much by default.

- 5.45 Mr Bramley said that the next round of licences will commence in 2015 with applications being submitted in 2014 so there is little time to secure a new stadium. If a new stadium is not forthcoming the Club will not secure a licence and will be relegated from the elite competition. This would be disastrous for the Club, its supporters and the District — but it's not just about playing in the elite competition, it's about what playing in the Super League enables the Club to deliver. He explained that the Club, through its Community Department and the Community Trust, works closely with local schools to deliver community programmes particularly focusing on healthy living through diet and exercise. Wakefield has some of the highest levels of obesity in young people in the country and the Club's actions in addressing this issue should be applauded.
- 5.46 The Club was one of only two Super League Clubs whose community work was regarded as "excellent". If Wakefield Trinity fails to secure a licence from 2015 and beyond this work could not be continued. A Club playing in the 2nd tier competition just would not have the finances, or full time players to act as role models and visit schools and so all this good work would cease as there are no other funding sources available particularly from the public sector in these difficult times. That would be a tragedy.
- 5.47 If the application is passed the stadium would be a community stadium owned by the Community Trust. Wakefield Trinity would be tenants paying rent but the facilities it would provide would be available to other sporting bodies and community groups. There would be other facilities provided as well as a stadium such as training pitches and a MUGA. That would be open to all sporting bodies in the area. Facilities that the District is currently lacking with no other opportunity for them to be provided other than by the Newmarket development. Mr Bramley said that it was not just about a community stadium and sporting facilities that the District is crying out for, it is about the benefits the wider Newmarket development could bring to the District.
- 5.48 The site is designated as Green Belt but it was the former Newmarket Silkstone Colliery. Mr Bramley has seen first hand how the redevelopment of former colliery sites can stimulate economic regeneration, provide employment opportunities and put hope back into communities where there previously was only despair. Grimethorpe is a good example of this. Newmarket would be no different. Wakefield District is still suffering the legacy of the demise of the mining industry and the redevelopment of the Newmarket site could provide much needed employment opportunities - around 500 construction and 2,000 permanent jobs. It is an old colliery which has been restored after a fashion but the restoration is minimal, it is still in need of restoration. It is used as a dumping ground for old tyres and general fly tipping – its redevelopment has got to improve its appearance.
- 5.49 It is inevitable that Green Belt land will have to be used for development as around 75% of Wakefield Metropolitan District is currently Green Belt. The Council wants this development to take place; they know how much Wakefield needs the community stadium, sports facilities and job opportunities. They know that they alone are unable to provide this, so much so that the vote was a unanimous "mindful to approve" when they considered the planning

application in October last year. The people of Wakefield need these facilities; over 15,000 people signed a petition in support of the community stadium at Newmarket. The people of Wakefield want and need jobs.

- 5.50 **Councillor Clive Hudson**<sup>179</sup> has been a Wakefield District Councillor for the Stanley area since the year 2000. One of the main areas of concern for Cllr Hudson and his colleagues in the ward has been the old Newmarket colliery site. Over the years this site has given both him and his colleagues numerous headaches both from Newmarket residents and those living in the Moorhouse estate and Bottom Boat. There have been numerous letters, emails and representations at his surgery asking him what the WMDC is going to do about this old pit site because they are tired of encampments by travellers on the site bringing bad feeling and on every occasion piles of detritus that WMDC has to clear. On one of these occasions that amounted to over £60,000 of local taxation monies being spent.
- 5.51 Various proposals have been put forward for this site including a household waste recycling centre and more recently for a travellers' rest. These have been resisted. However, the Newmarket site incorporating a brand new state of the art sports stadium and associated sports complex is considered, by the local members, to be just what was needed on this site and for many reasons.
- 5.52 He said that the north east side of the Stanley ward is not one of the most deprived areas of Wakefield but it does have its areas of concern for facilities, jobs and transportation to its various parts, not least being the Newmarket/Moorhouse area. There is a total lack of many of the facilities that most people take for granted around these areas not least of which is public transport to and from any sort of work for the local residents. This development would provide many of his constituents with the opportunity to live and work locally much like three of his family do thanks to the Europort and distribution centres in the Whitwood area of Wakefield.
- 5.53 Cllr Hudson referred to the proposed 2,000 local jobs, the transport links and how this proposal would help the residents on the Moorhouse estate as well as the Bottom Boat area. He said there were many unemployed people who want to work but find it difficult to travel to any other areas due to the lack of transportation. In his view many residents did not have any objections to the stadium but had some concern about traffic movement to and from the site.
- 5.54 Cllr Hudson argues that this development should be approved by the SoS. He says it would provide much needed jobs for local residents, much needed public transport infrastructure for the Moorhouse estate as well as the Bottom Boat area and sporting facilities that would enable the Wakefield Trinity Wildcats to be an integral part of the City for another 138 years.
- 5.55 **Mohammed Ayub**<sup>180</sup> is the managing director of Next Generation Youth and Community Project (NGYCP). Mr Ayub supports the planning application because of the great work that WTWRLFC has been doing over many years. He

<sup>179</sup> Councillor Hudson's full statement is at IP7

<sup>180</sup> Mr Ayub's full statement is at IP8



says that the Club has been involved with many local schools and communities and as such it is making a real difference to the fabric of Wakefield society.

- 5.56 NGYCP was founded in 1997 by parents from the South Asian community who wanted to improve the quality of life of their children by offering new opportunities and experiences and by improving their local environment. Since then NGYCP has developed into a thriving organisation that now provides positive activities for children and young people from all backgrounds, awareness raising programmes, community development, training and employment support. NGYCP has a proven track record of delivering projects, e.g. for Big Lottery, Next Step, Joseph Rowntree Charitable Trust and WMDC.
- 5.57 NGYCP believes in children, young people and the community. It helps young people to believe in themselves, to achieve their dreams. NGYCP's motto is: *Dream, Believe, Achieve*. NGYCP is passionate but practical about this. Projects are innovative but realistic and based on community needs. Through consultation for the *MyPlace* bid (2009) young people from the Wakefield District said that there was a lack of quality affordable positive activities for them to access. At community meetings residents complain about bored and frustrated teenagers hanging around street corners and drinking in local parks. Parents express concern and fear in allowing teenagers to go out at night.
- 5.58 NGYCP is located at the heart of Wakefield City Centre immediately adjacent to the bus station at the Lightwaves Leisure Centre. It can serve the entire Wakefield District and 39,000 young people will be one bus ride away. Within the wards closest to Wakefield City 10,500 young people will be within 5 miles of Lightwaves. The 3 wards that border the City have a youth population of 5,800. These would all be within a 2 kms walk or cycle of Lightwaves. The young people that live in the 3 wards that border the City make up some of the most deprived young people within the Wakefield District.
- 5.59 Of these 5,800 young people - 23% live in workless households compared to the District average of 12%. In these 3 wards rates of youth antisocial behaviour is currently recorded at 50 incidents per 1,000 of the population and this compares to a District average of 37:1000. Over 20% of all youth crime within the Wakefield District occurs within these 3 City Centre wards. Rates of youth criminal damage are high at 115 incidents per 1000.
- 5.60 Mr Ayub says that young people within the 3 deprived wards surrounding the City Centre have some of the poorest education training and employment outcomes. The number of NEET<sup>181</sup> young people is 22% against a district average of 12%. High numbers of vulnerable groups of young people live within the 3 City Centre wards. Accommodation for young asylum seekers and care leavers are located within 1 km of Lightwaves. The 3 City Centre wards have been identified by the Wakefield Public Health Unit as in need of targeted support to address key public health outcomes. Young people within these wards are more likely to be obese, smoke, misuse alcohol and lead inactive lifestyles.

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<sup>181</sup> NEET is the Government acronym for people currently "not in education, employment, or training"  
www.planningportal.gov.uk/planninginspectorate Page 95

- 5.61 Through NGYCP's JobZone work, Information, Advice and Guidance for people looking for training and employment, it is known that the employment situation for Wakefield residents is dire (8,941 claiming job seekers allowance). NGYCP comes across people desperate for work on a daily basis, and sees the effects of poverty in families, on the children and young people who are attending sessions.
- 5.62 The Newmarket development is planned on a former colliery site. It was the mining sector that provided many jobs in Wakefield. The Newmarket development would create much needed new employment opportunities for the City. It would also generate enough funding to sustain itself, independent from grants and subsidies and further develop the local community. It would create a much needed community stadium; not only for the rugby teams but would also enable other sports to host amateur sports events, as well as large scale community events - something that is currently missing in Wakefield.
- 5.63 **Peter Bevils**<sup>182</sup> is Head of Strategic Development for Wakefield FC. Mr Bevils outlined the status of Wakefield FC (also known as the Bears). It is a level 7 standard football club, which has ambitions to achieve Football League status. It has around 18 teams within the club, ranging from 4 years old to open age. It is recognised as the City's football club. It is an FA Charter Standard Club and comprises a Ladies, Junior and Men's sections. The club would like to add a football centre of excellence and youth development programme. The history of Wakefield FC is set out in Mr Bevil's statement.
- 5.64 Wakefield FC sees the Newmarket project as a critically important one for sport in the City. It sees a facility which it could use as a springboard, and working closely with the Wildcats sees benefits for both partners for a very long time to come. The sports facilities in Wakefield are poor to say the very least. There is one running track, which with all due respect to Athletics is not one of the big mainstream sports. There are in the region of 500 football teams in Wakefield from Juniors through to open age. Newmarket would become a focal point for Wakefield Football. At present there is nothing with the exception of a few parks to play games on, which is just not good enough. Wakefield FC's vision involves a full youth development scheme for kids.
- 5.65 In 2010 Wakefield FC struck up a very good relationship with Wakefield College who have common and desperate requirements for facilities on which to play sport. Wakefield FC runs the College football academy. Wakefield FC also has developed very good relationships with Leeds United and Huddersfield Town over the years. Wakefield FC considers that facilities are lacking in order to fulfil the ambitions of both rugby and football clubs within the City. Mr Bevils would like to see a central point within the City, which is established upon the grounds of excellent facilities so that the large population can benefit whether that be watching or participating in well organised sport. The centre would be a platform on which Wakefield sport could develop and push on in a manner which has and is being enjoyed by nearby cities such as Leeds.

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<sup>182</sup> Mr Bevils' full statement is at IP9  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

- 5.66 **Mark Jones**<sup>183</sup> (Barton Willmore) spoke on behalf of a group of local residents. Mr Jones objects to the proposed development and the way in which WMDC considered and approved the application before it was called in. He accepts that Wakefield Wildcats needs a new home. However, it is argued that WMDC (as a whole) has been obliged to support this development from a very early stage and that this has prevented the Council from assessing the application in the proper manner.
- 5.67 Mr Jones said that the application site lies on the northern edge of the Wakefield District in the Green Belt. It is in an isolated location. It has poor public transport links. It is not located in or adjacent to any of the 32 key settlements listed in the Wakefield Core Strategy Settlement Hierarchy where growth should be focussed. The main drive on current and emerging national planning guidance is to ensure the delivery and support of sustainable development. PPS1 sets out the Government's aims for sustainable development in paragraph 4. Paragraph 5 then identifies the role of planning which is not just about the use of land, but about contributing to sustainable economic development, protecting and enhancing the environment and ensuring that development supports existing communities with good access to jobs and key services for all members of the community. In his view the site was not in a sustainable location and was not highly accessible.
- 5.68 Mr. Jones considers that the proposed development would be contrary to national planning policy and local planning policies. In relation to national planning policy, the Core Strategy, the Development Policies DPD and having regard to the size of the catchment area required to support the scheme, he argued the proposed development was not of an appropriate scale for this location and would result in an unsustainable development. Whilst he accepted that there are important and pressing circumstances for Wakefield Wildcats to find a new home, he claimed that this does not amount to very special circumstances.
- 5.69 Mr. Jones was aware that WMDC needs to accommodate 95 hectares of land for B8 use in the Wakefield District to meet the requirements set out in Policy CS8 and that this would be considered in more detail in the next few months. However, at this current time, WMDC has 25 years worth of prime employment land and that recent take up rates have been poor. Therefore this does not amount to very special circumstances.
- 5.70 He said that the proposed development is inappropriate development and it would have a detrimental impact upon the Green Belt. He stated that the sequential assessment carried out by the Applicant was not exhaustive and it was not possible to conclude that a less sensitive site could not be found. He argued that the Applicant had failed to clearly demonstrate that this site is the only one which could deliver the proposed development.
- 5.71 He referred to PPG2 which he said clearly sets out that the responsibility is on the Applicant to show why permission should be granted. He said that the Applicant has simply presented material planning considerations and therefore has failed to demonstrate "very special circumstances." He claimed that the

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<sup>183</sup> Mr Jones' full statement is at IP10

Applicant had submitted a biased and inaccurate sequential assessment that could not be treated as a reliable piece of evidence and therefore should be given little weight. As a result, he argued that the Applicant had failed to demonstrate that this was the only site for the development and had failed to provide a robust case that all of the enabling development is required on the site. He also said that the Applicant had failed to prove that there is an urgent need for B8 in advance of the SSDPD being adopted.

- 5.72 Overall Mr Jones said that the circumstances put forward by the Applicant were material planning considerations but not "very special circumstances". If they were to be considered as very special circumstances, then Green Belt policy would be substantially undermined. He concluded that there were no "very special circumstances" which warranted an intense 24/7 urban development on 86 hectares of land in an unsustainable and isolated location in the Green Belt. He considered that the application should be refused by the SoS.
- 5.73 **Mr Robert Beards**<sup>184</sup> has lived in the area for 56 years and regularly uses the site for bird watching and walking. He is past chair of the Yorkshire British Bird and Hybrid Club. Mr Beards said that the total area of Green Belt land in England has barely changed since 2003 and that the main purposes of including land in the Green Belt were well known. Once an area of land has been defined as Green Belt, opportunities and benefits arise. These include: providing opportunities for access to the open countryside for the urban population; the retention of land in agricultural, forestry and related uses; providing opportunities for outdoor recreation near urban areas; the retention of attractive landscapes and the enhancement of landscapes, near to where people live; improvement of damaged and derelict land around towns and the securing of nature conservation interests. Mr Beards said that the proposed development at Newmarket Lane would contravene these criteria.
- 5.74 One of Mr Beard's concerns is for the wildlife habitat that lies within the proposed development site. He referred to the statutory legislation which places a duty on Government to have regard to the conservation of biodiversity and to maintain lists of species and habitats for which conservation should be promoted, in accordance with the Convention on Biological Diversity. For the purposes of securing the nature conservation interest of this site, Mr Beards used the Birds of Conservation Concern 3 – Red, Amber and Green Lists to indicate those birds whose habitat is within the 95 hectares of the proposed development.
- 5.75 The habitats of 12 out of 52 species on the Red List lie within the 95 hectares of the proposed development and all have been observed on the site. The habitats of 5 out of 126 species on the Amber List lie within the site and all have been observed. The habitats of 30 out of 68 species on the Green List lie within the site and all have been observed. Details of the species are set out in Mr Beard's statement.
- 5.76 Mr Beards said that one of the main reasons for the decline in a number of species is disturbance of their habitat. He claimed there could be no greater disturbance than to destroy such habitats by building a stadium and B8

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<sup>184</sup> Mr Beard's full statement is at IP11  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

warehousing. Given the number of Red list birds alone observed on the site, there should be no question that this planning application would be harmful and should not be approved. Mr Beards is totally opposed to the development as flora and fauna would die, or be displaced.

- 5.77 **Denis Mattinson**<sup>185</sup> represents Methley Residents Association. He was a gamekeeper for 12 years during which he became aware of the requirements and the necessity of different habitats required by various species of bird and animals. Later he became a curator of birds aiding in the creation of the bird garden and the breeding of many endangered species. He is a member of the World Pheasant Association. Mr Mattinson has lectured and written about birds, photographed and painted them. Therefore, in one capacity or another, he has been associated with birds for most of his life.
- 5.78 Mr Mattinson said that of the 52 species on the Birds of Conservation Concern Red List, 12 have been observed on this site. This includes migrants from Scandinavia, namely fieldfare and redwings which over-winter here every year. This illustrates the importance of this particular site because it constitutes part of a natural corridor between the cities of Leeds and Wakefield, allowing both summer and winter migrants access to the Aire valley and beyond. If this project goes ahead it would completely eliminate a natural passage and feeding ground.
- 5.79 In addition to the resident species, Mr Mattinson said there were in the locality relative newcomers such as the hobby, peregrine, buzzard and the red kite - these are all confirmed sightings. These birds of prey require an extensive hunting range. The red kite has recently been reintroduced into this country. However, loss of suitable habitat would threaten its survival yet again. He said it was most exasperating to see one organisation trying to re-introduce this species whilst on the other hand another, WMDC, supporting the very destruction of such a valuable ecological asset. He claimed this was against the national interest and obligations.
- 5.80 The former Silkstone pit site has regenerated into open heath. In itself it is an ideal hunting ground for all the former birds of prey to hunt over, together with tawny and long-eared owls that have also been seen in the area. This site also supports the struggling skylark, more noticeable in the summer when performing its spiralling breeding display. The adjoining agricultural land also supports this species along with breeding lapwings. Natural avenues of trees and hedgerows, brambles and buckthorn, provide extensive food and shelter. Bats too have been observed hunting on the site.
- 5.81 Mr Mattinson stated that if the site was visited frequently at different times of the year then the charms of goldfinch could be seen feeding on teasel and flocks of redpoll. Last winter due to the adverse weather conditions the silken plumaged Scandinavian waxing was much in evidence. This starling size bird with a noticeable crest is known as the harbinger of bad weather.
- 5.82 Because the leaves have fallen off the deciduous trees innumerable different nests are visible. Other nests will not be seen, such as those of whitethroats,

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<sup>185</sup> Mr Mattinson's full statement is at IP12  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

black cap, long-tailed tits and willow warblers, simply because most are well hidden or they are too frail and have disintegrated due to the inclement weather. Only if very vigilant will you see the holes utilised by nuthatch, blue, great, marsh and coal tits and the green and greater spotted woodpecker, or the displaced bark of oak used by tree creeper. All of which gives credence to the importance of this habitat for nesting. The fact that herons are present at the becks, which meander through the site, indicate sticklebacks, frogs and newts. Mr Mattinson has also seen signs of water voles too. Covering the site with concrete would sign the death warrant of every robin in this area. He said that the Green Belt should be protected for future generations and this planning application should be refused.

- 5.83 **Mr A W Ripley**<sup>186</sup> is an ex colliery mechanical engineer. He is vice chair of the Wakefield District Biodiversity Group and a Parish Councillor at Crofton. Mr Ripley has been involved with a number of projects including the restoration of the Frickley Colliery site, the Rabbit Ings site and the Santingley Opencast site restoration which was close to a Site of Special Scientific Interest (SSSI). He was also involved in the formation of 6 new local nature reserves, 2 of which were old colliery sites i.e. Walton and Kingsley Drift. The Sharston Colliery site involved coal, clay and red shale extraction. Prior to extraction taking place, the translocation of water vole, orchids and wetland plants was necessary and a section of shale had to be taken from the site, to an allocated site, in order to recreate the exact conditions for rare breeding flies. After extraction had taken place, he was involved with the restoration, involving the creation of lakes and ponds for flood alleviation purposes together with the provision of wetlands, ground-nesting bird habitat, woodland and heathland. He has also dealt with flood alleviation projects with WMDC.
- 5.84 Mr Ripley considers that the application does not satisfy PPS9 objectives. He said there was no mention of the impact of light pollution, from a 24-hour distribution system and stadium, with its knock-on effect and impact on wildlife. Moreover, there was no mention of the type of farmland now in agriculture which would be lost. He stated that 50% of farmland was Grade 2, and the other 50% was Grade 3A and 3B. The most disappointing feature of this application was that there was no consultation with the Biodiversity Group.
- 5.85 **Paul Cubbage**<sup>187</sup> represents Methley Residents Association. Mr Cubbage said that he had heard a great deal about funding this project. He referred to the scale of the development, the claim that disaggregation was inappropriate and the case for very special circumstances. All of these matters he said were tied to the funding of the stadium the need for the B8 development, the hotel and the A3 unit. However, almost 2 years into this proposal he still had no plausible explanation of who would fund the stadium, how it would be built and when it would be built. He referred to different parts of the evidence including that from Mr Francis, the Newmarket Supporting Statement and Sir Rodney Walker. His assessment was that nobody seems to know to what extent the 'enabling development' actually enables, how much additional funding needs to be raised, where it will come from or when. He argued that only Mr Francis

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<sup>186</sup> Mr Ripley's full statement is at IP13

<sup>187</sup> Mr Cubbage's full statement is at IP14

claims that the enabling development provides the full funding required to deliver the stadium.

- 5.86 Mr Cubbage said that without seemingly knowing the mechanics of the process, the Applicant agrees that Yorkcourt would build the stadium with the assistance, to some extent, of the profits generated by the enabling development. However, Yorkcourt are still not contractually obliged to provide a stadium at all. Furthermore, the reliance upon Yorkcourt to fund the majority of the development seems unrealistic considering that their most recent accounts say "*...the directors acknowledge that material uncertainty exists that casts doubt on the company's ability to continue as a going concern.*" Plainly they are a maximum risk with credit agencies and the accounts are for the year ending September 2009. They have since extended their accounting period to March 2011 and have not yet filed more recent accounts.
- 5.87 They have filed more recent accounts for their holding company JBL2007 One Ltd, albeit several months after the filing deadline. The "*going concern*" issue is reiterated in JBL's accounts, which were approved by the directors on 23 October 2011, i.e. the directors of the proposed developer still acknowledge "*material uncertainty*" about their "*ability to continue as a going concern*". A cursory inspection of their accounts shows that they have net assets of about £130k, but only after including an irrecoverable debt of over £15m. Excluding this amount would leave the company technically insolvent to the tune of about £15m. All the assets of the company and those of the other group companies are already mortgaged to Bank of Scotland which limits the company's ability to raise further finance and their options in terms of finance providers.
- 5.88 Mr Cubbage questioned whether WMDC were aware of the precarious state of Yorkcourt's finances and whether Yorkcourt were capable of delivering on their promises. Because Yorkcourt's assets are fully mortgaged to the Bank of Scotland, and given the directors' doubts about their ability to remain in business, the Bank of Scotland becomes crucial to the deliverability of the project. In order to secure support from the bank, Yorkcourt would need to provide a detailed business plan and cashflow projections that demonstrate their ability to deliver the project profitably. The Bank of Scotland would use this information to decide whether or not to advance further capital. No assurances have been given about Yorkcourt's ability to remain in business and to fund the development.
- 5.89 Mr. Cubbage questioned whether the enabling development would provide the level of profits required to fund the stadium and whether the enabling development would provide a reasonable likelihood of profits at all, let alone the cashflow that would be necessary to complete it. In the absence of detailed projections and cashflow forecasts, the only evidence provided regarding enablement is the "appraisal summary" included at the end of Mr. Francis' evidence. This suggests a profit of £9.5m and a return of 10%. It is notable that this is half of the 20% "reasonable developer's return" suggested by the Applicant in the planning application. It is also notable that this assumes 100% utilisation of the site, and that the stadium costs, or certainly the full costs of building the stadium, are not included, whereas the £2m WMDC contribution is. This further reduces the profitability to £7.5m excluding the stadium. Assuming that the "best-case" figures provided by Mr. Francis are accepted,

the first concern has to be how realistic is it that the units would be occupied if they were built.

- 5.90 No letters of intent have been provided, although a letter was produced to say that the development was an 'exciting' opportunity. There is no shortage of existing available B8 units in the area. This was accepted by WMDC at its meeting with Yorkcourt on 8 December 2008. The sheer size of most of the units severely restricts the number of potential takers. It is partly this issue of scale that prompted the SoS to call in the project. Mr Cubbage said that you do not build units of 27,870m<sup>2</sup> and 46,450m<sup>2</sup> speculatively. The reason why they are included in the proposal can be best seen when studying Mr Francis' appraisal summary, and the fact that the larger B8 units, i.e. those over 9,290m<sup>2</sup>, account for 80% of the profit on the enabling B1/B8 development. They also provide a return on cost of 92% compared with 55% for the other units - they are almost twice as profitable. This impact on the 'profit' is only achieved by making the units so large and renting rather than selling them.
- 5.91 It is also notable that this is not 'profit' in any way that would be recognised in a set of accounts, but uses the estimated annual rent to determine a notional market value for these units. The 'profit' is taken as the market value less their build costs. Using the Applicant's own figures but changing the size and/or use has a significant impact on the 'profitability' of the scheme. If the largest unit, Plot 7, were used for 8,361m<sup>2</sup> units like plot 4a(2) and all costs and sale value adjusted accordingly per the Applicants figures, it would wipe £2.3m off the 'profit'. If it were used in the same way as Plot 1B it wipes £4.2m off the profit, and if used in the same way as Plot 1A it would wipe off £5.4m. Slight changes to the rental value also have a huge impact on viability. If it is assumed that Plot 7 is rented at £4.00 per square foot rather than £4.50, it knocks £3.3m off the 'profit' of the scheme.
- 5.92 From a commercial viewpoint, this proposal not only has significant inherent risk – the likelihood of finding buyers and tenants – but also huge vulnerability to even slight changes in scale, use, build costs, rental, and sale valuations. Unfortunately, whilst the large B8 units allow the appraisal summary to show a higher figure for profit, it is these units that are least likely to be occupied in the best of times, let alone current conditions, and the ones that any sensible developer would not build without firm commitments from buyers or long term tenants. They are included in the proposal solely as a mechanism to inflate projected profit, calling into question whether there is any genuine intention to actually build them at all.
- 5.93 It is also notable that Yorkcourt do not own all of the land, and that the part that is owned by the Yorkcourt group is owned by Yorkcourt 2008 Ltd, a company incorporated in June 2008 presumably with the sole intention of purchasing the land in August 2008. The benefit of using a different company to buy the land is that it now provides the opportunity for Yorkcourt Properties Ltd to buy the land – with planning permission – from Yorkcourt 2008 at a significant premium, thus increasing the asset value in their books. Mr Cubbage questioned what cost has been included in the appraisal for the land and how much of that relates to the purchase of land from Yorkcourt 2008 Ltd.
- 5.94 Mr Cubbage concluded firstly that the project was not deliverable financially as Yorkcourt do not have the resources and no other credible funding has been



proposed. Secondly, that the project was not deliverable commercially. The level of risk, vulnerability, estimated returns, and particularly the likelihood of actually finding tenants and buyers at the estimated rates made this a project that was commercially unattractive and therefore highly unlikely to ever be carried out in the manner proposed even if approval were granted. Thirdly, that should the application be approved, there would inevitably be a subsequent application for a change in use.

- 5.95 Mr Cubbage referred to meetings between Yorkcourt and WMDC in 2008 and 2009. He said the discussions at these meetings demonstrated that both parties were discussing ways to remove the land from the Green Belt before uses were even decided and that these discussions influenced the LDF proposals. He also criticised the S106 Planning Obligation including a condition that 60,000m<sup>2</sup> of the B8 units have to be built out and occupied for commercial purposes before the stadium construction contract would be let. He said there was no legal obligation on Yorkcourt Properties to develop anything at all. He maintains that the Applicant has failed to demonstrate that the proposal would be viable or deliverable, has failed to explain the need for cross-subsidy and enabling development, has failed to justify the requirement for the scale of the enabling development and has failed to demonstrate that the whole development could fund a stadium.
- 5.96 **June Fender**<sup>188</sup> is a Methley resident. She represents Methley and Mickletown Residents Association and she also acts as spokesperson for the Wakefield Community Conservation Group.
- 5.97 Ms Fender said that Methley and Stanley fall on either side of the Leeds/Wakefield boundary. The two cities are separated by substantial areas of Green Belt. The areas around the site are largely rural or semi-rural, peaceful and enjoyed by many local people as an amenity. This area is used for walking, running, horse riding and nature observation. The views from all parts of the site are open, long distance and pleasant. This application affects views from the Trans-Pennine Trail which runs parallel to its southern boundary.
- 5.98 She said that around 20 years ago the former Silkstone Pit closed and restoration was undertaken. This brought about several years of noise, dirt and nuisance as heavy wagons transported material to and from the site, resulting in numerous complaints by local people to WMDC. An understanding was reached with WMDC whereby residents agreed to endure the process of restoration in return for the promise that the site would be restored as a green open space and available for local people to use as an amenity. This promise now appears to have been broken by WMDC in its haste not only to remove the area from the Green Belt altogether through their LDF proposals, but to support the destruction of around 97 hectares of Green Belt in order to provide a stadium and enabling warehouse development with this planning application.
- 5.99 Ms Fender said that the Green Belt is protected and rightly so. It justifiably necessitates any attempt to breach it to undergo thorough examination, and demands "very special circumstances" before any breach can be considered. In July 2008 at the preferred option stage in the LDF, WMDC proposed the

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<sup>188</sup> Ms Fender's full statement is at IP15  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

Newmarket site as a Wakefield Nature Area and a Wildlife Habitat Network. By August 2010 at the consultation draft stage the proposed Wakefield Nature Area had become a huge 24 hour distribution centre on the back of this planning application. Numerous national and local policies have been disregarded by WMDC in the decision to support this proposal.

- 5.100 In relation to the environment, Ms Fender stated that local residents have already seen evidence that the M62 impacts upon air quality. The level of traffic on the M62 already produces pollution. The proposal to build B8 units on site would dramatically add to the pollution levels, as large articulated lorries and untold numbers of vans would be present on site 24 hours a day. A 12,000 seat stadium would attract hundreds of cars, resulting in congestion, safety hazards and unwanted additional pollution as the site would be totally unsustainable in terms of access and public transport.
- 5.101 The M62 is already one of the busiest roads in the country and plans are afoot to provide further lanes to cope with the ever-growing number of vehicles. A development such as this could bring complete gridlock to the local road system, particularly on match days. Despite the intention to build a new road system within the site, this would not address the problem of what happens outside. The A642 would still be one of the most dangerous roads in the country and Newmarket Lane/Watergate would still end with a problem junction on a bend with a railway bridge blocking the view of oncoming traffic. Park Lane would still be too narrow for two standard carriageways, and totally unsuitable for any increased level of commercial traffic.
- 5.102 Ms Fender argued that the site was remote and poorly served by public transport which could lead to major problems with parking on match days. Despite 800 parking places being available at the stadium she challenged the adequacy of this provision. She said that a capacity game would seriously compromise the site's ability to cope with all the extra vehicles. Nearby distribution operations would not want overspill cars clogging up their own parking facilities and visitors would have to park somewhere. The most likely parking areas would be the Moorhouses and Bottom Boat residential areas which are narrow and already full of residents' cars at evenings and weekends. Ms Fender referred to parking problems at the existing Belle Vue site and did not want to see a repeat of that situation at Newmarket.
- 5.103 Other environmental aspects that need to be considered are noise and light pollution. The residential area within the site is quiet and peaceful. There are no loud noises or floodlights. There would be considerable change for local residents surrounded by sheds operating on a 24 hour basis with vehicles coming and going, reversing beepers and security lighting operating all night. On match days there would also be many thousands of people cheering, tannoy broadcasts and music, followed by hundreds of cars trying to exit the site. The proposal would be in conflict with the residents' right to continue enjoying the location that they chose to live in.
- 5.104 Much has been made of the job opportunities which development of the Newmarket site would bring but jobs in warehouses would be low grade with minimum pay. Future employees would require the use of a car. Such job opportunities should be located close to areas of high unemployment where people can walk or take short public transport trips to work, and not, as is the

case here, ask them to travel by car to access jobs in a remote area which has one of highest levels of employment in the whole Wakefield District. Newmarket is totally unsustainable in terms of employment for this reason.

- 5.105 As far as alternatives for the stadium Ms Fender said the general consensus of local opinion was that the only sensible option would be a ground share with Castleford Tigers. There is no dispute that Wakefield Wildcats need better facilities nor is there dispute that sport would bring benefits to communities. But the fact that Wakefield Wildcats have neither funds nor assets does not give them the right to demand a £19m stadium of their own. In the current economic climate, with people losing their jobs and families struggling to survive, WMDC should not be supporting the construction of two stadia within 4 miles of each other. Whilst ground sharing is less than ideal it is still an option which is open and Wakefield Wildcats should grasp the opportunity.
- 5.106 Ms Fender gave an account of the public consultation and publicity given to the proposal. She referred to the exhibition held in Stanley in December 2009 and the poor quality of information on display. A further exhibition was arranged in early March 2010 with Yorkcourt after which she organised her own public meetings and information pack. Other communities made contact and the Wakefield Community Conservation Group and Methley and Mickletown Residents Association joined forces to provide comprehensive opposition to the proposal. Ms Fender was critical of WMDC's publicity of the application and referred to the Council's Statement of Community Involvement which gives advice on consultation arrangements for major applications. She cited other cases of inadequate public consultation notably at Wrenthorpe and Hemsworth. She referred to possible conflicts of interest associated with this planning application in relation to the Chief Executive and Leader of the Council.

## 6. WRITTEN REPRESENTATIONS FROM INTERESTED PERSONS

- 6.1 Written representations from interested persons following the issue of the SoS's Direction to call in the application are at INQ/2. Written representations from interested persons submitted at the planning application stage are at INQ/3. It is not intended in this section to describe in detail all aspects of the many written representations which have been submitted. The comments in the following paragraphs are intended to outline the material points of concern rather than provide precise descriptions of every issue raised. If readers wish to follow up certain written representations in more detail then they should refer to the documents mentioned earlier in this paragraph. All written representations and responses have been taken fully into account in my conclusions and recommendations.
- 6.2 At the planning application stage nearly 1,200 letters of objection were received by WMDC.<sup>189</sup> Various local groups and organisations objected to the proposal including: Wakefield and Leeds Resident Groups; Methley Residents Association; Leeds and Wakefield Tax Payers Alliance; Wakefield and Leeds Community Conservation Group; Residents of Watergate and Pinders Green; the Parishes of Oulton with Woodlesford and Methley with Mickletown; Wakefield Voice; The Oulton Society; Wakefield Civic Society; Campaign to Protect Rural England; Wakefield District Biodiversity Group, Kippax and Methley Councillors; Ardsley and Robin Hood Councillors. Normanton Town Council expressed support for the stadium but raised concerns with regard to the industrial and commercial development. Leeds CC objected to the proposal. Some 253 letters of support were received and a petition from Stadium Wakefield Action Group (SWAG) with over 10,000 signatures. A letter of support was also received from Local MPs Ed Balls and Mary Creagh.
- 6.3 Following the SoS Direction to call in the application some 2,848 letters of support and some 192 letters of objection were submitted. Most of the letters of support were from residents who lived within Wakefield District and many within 3 miles of the application site. In the main, the letters of support used a common format. Further letters of support were received from the Local MPs. Many of the local groups and organisations who objected at the application stage submitted further letters of objection including: The Oulton Society; Wakefield Community Conservation Group and the Methley and Mickletown Residents Association; Local Councillors and the CPRE. Turley Associates submitted a position statement in relation to a site in Castleford which was being promoted at the LDF SSDPD Examination. Many local residents submitted individual letters of objection.

### Representations Following Call-In of the Application

- 6.4 ***The Oulton Society*** submitted written representations on 6 November 2011 and further written comments on 18 December 2011. The Society refers to the history of development proposals in the area in the context of the Leeds UDP Inquiry and considers that very special circumstances in favour of release of the site do not exist. It considers that the proposal is not in accordance with a number of policies in the Wakefield LDF Core Strategy and Development

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<sup>189</sup> CD43 is the Committee Report relating to the application  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) Page 106

Policies DPD. It is argued that the site is remote and at the northern edge of the City boundary; is detached from the Stanley and Outwood Urban area and is contrary to the principles of Policy C1. It is claimed that the site is very poorly served and connected by public transport and is not sustainable. Reference is made to the number and frequency of buses, the walking distances from the centre of the site to bus stops on Aberford Road and the difficulties in accessing the site if trains or cycling options are used. It is stated that the location would discriminate against disadvantaged groups. The Society considers that the road network in the area is busy and dangerous and that this proposal would exacerbate existing problems. It is alleged that parking at the stadium would be inadequate and that the Travel Plan only emphasises the fact that the site would be poorly located and unsustainable in terms of accessibility. The Society argues that the site would be car dominated.

- 6.5 The Society maintains that the Stanley and Altofts District has the lowest percentage of unemployed claimants within the 21 Wakefield Wards and that the proposal would be incompatible with the Council's Economic Regeneration Strategy 2007-2015 which states that the average worker should travel no more than 5kms to work. It is argued that developments should be located in appropriate and accessible locations for the unemployed and near the Council's identified regeneration areas.
- 6.6 The Society states that there is no justification for the proposal on environmental grounds pointing out that the CPRE, Wakefield and District Biodiversity Group, West Yorkshire Ecology Group, Natural England and the Councils' Arboricultural Officer are concerned about the proposals. They have highlighted important wildlife species, flora and fauna, trees, hedges and woodland which would be affected by the scheme.
- 6.7 It is argued that the proposal is inappropriate development in the Green Belt, which prevents Wakefield and Leeds from merging and performs a crucial function at this motorway intersection. The Society states that the proposal would lead to harm in a number of areas e.g. loss of agricultural land, loss of woodland and loss of trees. Reference is made to the objectives in PPG2 and it is said that these would not be satisfied by the proposal. The Society says that the presumption against development should apply and that very special circumstances have not been demonstrated.
- 6.8 The Society alleges that the proposal would not deliver a sustainable pattern of development or reduce the need to travel because it is a remote site, unattached to any settlement; it is difficult to access other than by car and has no facilities or services available. Consequently, it is argued that it would inevitably have a negative effect on climate change.
- 6.9 The Society maintains that the site is an important area for biodiversity and is a proposed Wakefield Nature Area in the SSDPD; evidence presented at the Public Examination of the SSDPD illustrates the quality of biodiversity within the site; unless this is protected, the application would clearly have a damaging and detrimental effect on biodiversity and important species in the area. The Society is opposed to the access road which would destroy valuable woodland which is part of a proposed Wakefield Nature Area in the forthcoming DPD.

- 6.10 The Society is also concerned about the S106 Agreement questioning (i) the need for a stadium as very exceptional circumstances when in fact it may not be built first and whether the funding would be available; (ii) the need for a business plan (iii) when the stadium would be completed (iv) the need for cross funding from the Council to deliver the scheme and (v) the viability and sustainability of the stadium run by Wakefield and District Community Trust.
- 6.11 Finally the Society considers that the proposal would be premature until a comprehensive and comparative analysis of all possible sites has been undertaken. It considers that the site proposal W40A in the emerging SSDPD is an unsound proposal and that there are superior alternative sites which perform far better. It considers that the proposal would prejudice the outcome of the SSDPD and that the ancillary elements have not undergone a sequential assessment.
- 6.12 ***Wakefield Community Conservation Group and Methley and Mickletown Residents Association*** submitted written representations. As these were submitted by June Fender there is considerable overlap with the oral evidence she gave to the Inquiry and which is reported earlier at paragraphs 5.96- 5.106. Ms Fender considers that WMDC did not carry out adequate consultation in relation to the planning application. She provides details of public meetings held in connection with the proposal and points out that some 1,200 letters of objection were submitted to WMDC by local residents and such as the CPRE, West Yorkshire Ecology, the Highways Agency and Leeds CC. Reference is made to concern about a potential conflict of interest between the developer and the Leader of WMDC.
- 6.13 Ms Fender refers to the rich biodiversity and ecology on the site stating that the data presented in the ES Addendum is not sound and that the interpretation is flawed. She considers that not enough survey work has been done and the implications for the bird and bat populations are incorrect. She states that valuable acid grassland would be lost and the water vole strategy would be inadequate. Ms Fender notes that in the LDF SSDPD there is a proposal to make a section running through part of the site a Wakefield Nature Area (WNA34) and part of the area would be designated a Wildlife Habitat Network. The area connects to the River Calder corridor and is close to the SSSI at Altofts. She maintains that the connectivity throughout the Nature Area and the Habitat Network should not be broken up with units and buildings.
- 6.14 Ms Fender highlights the loss of Green Belt land and claims that the proposed development does not comprise very special circumstances. The proposal would not relate well to any settlement and would result in the loss of valuable amenity area for local residents. Ms Fender expresses a number of concerns about the S106 Agreement including how the stadium is going to be funded; how the Community Trust intends to run the project; the timescale for completion of the stadium and the implications if the stadium is not viable.
- 6.15 Ms Fender alleges that there would be an increase in traffic congestion and NO<sub>2</sub> and particulate levels. Furthermore, it is argued that noise pollution would increase with a consequent lowering in the quality of life of residents in the area. Additional traffic and noise would be particularly noticeable on match days as would the problem of litter. Much of the area has public footpaths and

bridleways which local residents are keen to retain. The assumptions in the Travel Plans are not considered realistic; car parking would also be a problem notwithstanding the 2km restriction which is proposed.

- 6.16 Ms Fender says that the road network in the area of Newmarket Lane functions at maximum capacity at present. She gives details of the problem areas in her representation and states that any new development would only increase the burden on the road network in the area. She argues that Newmarket Lane is poorly served by public transport. She challenges the support for the stadium including the petition submitted by SWAG. She says that the petition does not present the full picture omitting important information such as the site is within the Green Belt. Alternative sites for warehousing are available within WMDC's remit and a ground share with Castleford Tigers is also possible.
- 6.17 ***The Campaign to Protect Rural England (CPRE)*** submitted letters dated 9 April and 28 April 2010 to WMDC and one dated 6 December 2010 to the Government Office for Yorkshire and the Humber. The CPRE objects to the proposal on the grounds that the Applicant has not shown adequate reasons why the proposal should be a departure from national Green Belt policies; that the proposal is contrary to WMDC's Core Strategy and Development policies and that there is little public transport in the area. It is argued that the proposal would be out of keeping with the character of the surrounding area and would cause traffic congestion.
- 6.18 The CPRE says that the site comprises a mix of agricultural land and a naturally regenerating former colliery site which provides a welcome buffer between the M62 and the Green Corridor to the south and the Air and Calder Canal. Furthermore, it states that despite its former industrial uses, the site has regenerated well and is visually attractive with good views in and out of the site. Its inclusion as part of Wakefield's Green Belt is clearly justified.
- 6.19 Reference is made to WMDC's LDF Core Strategy which states that the extent of Green Belt as previously defined in the UDP should remain unchanged and in Policy CS12 the Core Strategy is clear, "only in exceptional circumstances where there is an overriding need to accommodate what would otherwise be inappropriate development, which cannot be met elsewhere and where Green Belt offers the most sustainable option, will land be taken out of the Green Belt". It is pointed out that paragraph 6.138 of the LDF Development Policies Document further explains that development proposals on land in the Green Belt will be determined in accordance with PPG2 and in particular that there is "a strong presumption against inappropriate which would be ... harmful to the Green Belt" (paragraph 6.139).
- 6.20 The CPRE highlights that one of the main purposes of Green Belt is to assist in safeguarding the countryside from encroachment which accords with the LDF's view that the "main purpose of the Green Belt is to keep land open..." (paragraph 6.139). Reference is also made to LDF Policy D8 on Landscape Character and to the Applicant's case on very special circumstances in the ES. The CPRE considers that the evidence presented on very special circumstances is not sufficient and that the Applicant is confused about objectives and use of land in the Green Belt. It is argued that the proposal would not maintain the openness of the Green Belt as the structures would be large and visually dominant. The proposal would have a dramatic impact on views in, out and

through the site. The CPRE draws attention to the advice in PPG17 on all-seater football league stadia and ANNEX E of PPG2.

- 6.21 The CPRE claims that the cultural heritage aspects of the site have not been adequately dealt with in the ES or the application referring in particular to the significant level of archaeological interest from the Romano-British period which should be further assessed. In the context of PPS5 Policy HE6.1, it is argued that a field evaluation should be submitted as part of the application. The industrial heritage of the site is not given sufficient prominence given the history of coal mining in the Wakefield area and Policy HE7.3 of PPS5.
- 6.22 **Leeds CC Councillors** have submitted representations opposing the proposed development. Reference is made to loss of Green Belt land and the highway implications. It is argued that the site effectively separates the two cities of Wakefield and Leeds and safeguards valued countryside from encroachment. It is stated that protection of the Green Belt in this area would assist urban regeneration elsewhere in Wakefield as well as the Aire Valley in Leeds which has recently been awarded Enterprise Zone status.
- 6.23 The Councillors are worried about the impact of traffic from the proposed development through Rothwell and the villages of Oulton and Woodlesford, all of which it is claimed are already subject to heavy traffic. They are particularly worried that the A642 would be the preferred route for cars and HGV's using the A1/M1 link road going north or south either from or to Newmarket Lane. Reference is made to the concerns of the Rothwell Footpath Group, which regularly walks the informal recreational facilities around Newmarket Lane.
- 6.24 They are concerned that the Trans Pennine Trail, public rights of way and established footpaths would be removed. They are also concerned about the visual impact of the development and that the amenities of the area would be severely diminished. It is claimed that the area is much valued as a high quality accessible informal recreational area full of ecology and biodiversity and that if the site is developed the countryside would be destroyed and good agricultural land would be lost. It is stated that the proposed development would be unsustainable and very special circumstances have not been demonstrated.
- 6.25 **Turley Associates** are promoting a site through the LDF process, at Castleford which was the subject of discussion at the Inquiry. Consequently, they felt that it would assist the Inquiry process if the current situation from their perspective was explained. Turley Associates submitted their position statements for the LDF SSDPD Examination which compares the application site with the one which Turleys are promoting. Reference is made in the submissions to the highways and Green Belt functions of the site. Turleys argue that their LDF submissions would assist consideration of their site.
- 6.26 **Local residents opposed** to the proposal raised a number of common concerns. In broad terms the objections can be grouped as follows: environmental concerns, accessibility concerns, traffic concerns and economic sustainability concerns.
- 6.27 The main environmental concerns raised by objectors were in relation to the loss of Green Belt, that the industrial development was inappropriate and that



very special circumstances had not been demonstrated. There was a strong desire to restrict development sprawl and to allow individual communities to retain their identity. There were objections to the loss of countryside and to the diverse wildlife and flora that exist including trees, woodland and open agricultural land. Some were worried about likely increases in noise, traffic, litter, air pollution and flooding all of which it was claimed would conflict with WMDC and Government policies. Moreover, public footpaths, cycle routes and rights of way would be seriously affected or destroyed.

- 6.28 In terms of accessibility, it was argued that the site is remote and not well served by public transport. It was therefore a poor choice for either a stadium or an industrial estate. Bus services are poor and the nearest railway station is around 4 miles away at Woodlesford. Any development would therefore discriminate against those who do not drive. On match days, most fans would have to travel by car, for which there would be inadequate parking provision. This would inevitably lead to significant congestion and parking violations which would cause problems for local residents.
- 6.29 In terms of traffic, it was argued that the local roads are unsuitable for HGVs, which would form the mainstay once the industrial units were built. It was alleged that this would lead to congestion, pollution and safety concerns on Newmarket Lane, which is quite a peaceful road at present. It was stated that traffic entering the site would, in the main, do so via the extremely busy Aberford Road. HGVs entering and exiting the site would greatly add to the congestion on a road that provides key access to Pinderfields Hospital and a number of local schools. Additionally, slow-moving HGVs would have to cross Aberford Road to gain access to the M62 which is often at a standstill at peak times. The area is heavily used by walkers, cyclists and horse riders all of whom would be placed in real danger from the extra traffic. The Applicant's Travel Plan merely serves to emphasise the problems. It provides no answers.
- 6.30 It is claimed that the economic case for the development is unproven. It is stated that WMDC makes reference to job creation, yet nearby distribution units adjacent to the M62 remain vacant at Whitwood, Normanton and Stourton. It is argued that if employment is to be created by this type of development then it should be located in areas of most need. There are other areas that would benefit far more and WMDC's Regeneration Strategy states that the average worker should travel no more than 5kms to work. WMDC has claimed that it has considered all appropriate alternative sites yet Castleford Tigers, the neighbouring Rugby League team, is seeking to build a new stadium two junctions further down the M62. This site is well served by local infrastructure. It would be suitable for a ground share with Wakefield Wildcats.
- 6.31 ***Local residents in support*** of the proposal development raised a number of common matters. They accept that the proposed site is currently designated as Green Belt in the Wakefield Unitary Development Plan (UDP) which was adopted in 2003. They are also aware that a minimum of 33 hectares of the proposed site is currently being proposed to be re-designated for future B8 development as part of the Wakefield LDF SSDPD document which is scheduled to replace the UDP by March 2012, a recommendation and process that is independent of this application. The main reasons cited in support of the proposal are as follows:

- The majority of the B8 development is on the former site of Newmarket Colliery and while it forms part of the current UDP Green Belt, it is highly likely to be re-designated as an employment zone in the Wakefield LDF SSDPD. The proposed independent re-designation of this site is a direct result of the direction issued to Wakefield by the Planning Inspector to provide 95 hectares of additional B8 development land on the M62 corridor and is a requirement of the LDF Core Strategy, adopted in April 2009.
- The site would provide employment for over 2,500 people in addition to an estimated 500 jobs during construction, at a time when the country is facing a significant increase in job losses as a result of cuts in public spending.
- The site and development would provide much needed community sports facilities and a Community Stadium, which are also required under the Wakefield LDF Core Strategy, adopted in 2009, via a major contribution from the current developer. Given the Local Government budget cuts it is possible that future community sports facilities may not be able to be provided by WMDC alone and certainly not to the standard and extent that this proposal currently proposes to provide.
- As it is highly likely that this site would be developed in the near future, given the current LDF SSDPD proposals, there is concern that if this particular application fails, the community and the district would lose out on the massive community benefits that this current scheme would provide. As such, it is considered that the benefits of allowing this development to proceed on currently designated Green Belt land far outweigh the negatives.

**6.32 Representations at the Planning Application stage** expressed concerns in relation to a number of matters:

- Existing roads cannot accommodate the additional traffic volume
- Contrary to Green Belt policy
- No very special circumstances to allow the development in the Green Belt
- Loss of the Green Belt would have a massive impact
- Application is premature in terms of the LDF site specific document
- The application will reduce land allocation for B8 in other areas of the district
- Doesn't relate to settlement hierarchy
- Includes town centre uses that aren't appropriate
- Concerns regarding the enabling development
- PPS4 not accorded with
- More robust and convincing evidence is needed
- Non stadium development needs to be linked to the financial viability case for the stadium
- Additional sewerage will cause problems as existing sewerage stations cannot accommodate flows
- Flooding due to introduction of hard standing
- Drainage issues

- 12,000 capacity stadium with parking for 800 is not acceptable for such an isolated spot
- Impact on ecology
- Impact on the river
- Congestion at present when there are issues on the M62
- Only 5,000 people will benefit from the scheme
- The impact of the development on people in close proximity — they will be surrounded by industrial development which is currently open land
- Residents' living environment would be ruined by commercial greed
- Noise from the stadium
- Congestion on match days
- Tax payers will end up footing the bill
- Waste of money
- Significantly increased traffic in Methley and surrounding areas
- Impact on the bridge at Watergate which only allows single file traffic
- Will increase on-street car parking in the surrounding area
- Impact on cyclists
- Loss of views
- Will affect properties' foundations
- Plenty of vacant commercial/industrial units in Wakefield and surrounding area
- Development is not in character with the area
- Proposal will impact on emergency services going to Pinderfields
- Loss of recreation area
- The stadium is camouflaging the larger development
- The proposals will destroy the Green Belt
- Traffic noise and pollution
- Lack of sustainable transport links
- Publicity has not been done correctly
- No one expected the size of development - thought it was only for the stadium
- Loss of trees
- Increase in CO<sup>2</sup> and pollution
- Increase in HGVs
- Scale and location inappropriate
- Match days' chaos for the people of Methley
- Council money better spent elsewhere
- Contrary to UDP and LDF
- One unit alone is bigger than the stadium
- Alternative brownfield sites should be used
- Will affect property values
- Should ground share with Castleford
- Failure of the developers to mention the industrial development and lack of consultation
- Increase in litter
- Will form ugly urban sprawl
- Increase in traffic accidents
- Visually horrendous
- Council has a duty to take care of Green Belt
- Lack of availability on the Council's website of information relating to the application
- Development of this area will result in a significant convergence of development along the M62

- Green Belt designation is supposed to prevent convergence of development
- No survey for invertebrates seems to have been undertaken
- It is unclear what areas of existing vegetation will be retained
- No information with regard to the retention of habitats for bird species identified as breeding on the site, including lapwing and skylark. These are ground nesting birds requiring relatively open habitats
- Classification of the land is incorrect
- Archaeological advice needs to be followed
- Site is not sustainable
- Not the right location for employment as the area has the highest rate of employment
- Wakefield Council is not listening to local objections
- Traffic from the proposal will have a negative impact on Royds the neighbouring school in Rothwell.
- Loss of agricultural land

6.33 Letters in support of the proposed development at the planning application stage referred to the following matters:

- Wakefield needs employment; Newmarket is a great opportunity for this
- Will create economic opportunities
- Will benefit sport and leisure
- There is a lack of facilities at present and the proposal would overcome the lack of facilities
- Will help with child obesity problems within the district
- Ideal location
- There is the need for viable professional sport or the City will lose its identity
- The Wildcats need the stadium to stay in the Super League
- The Wildcats are known throughout the world so should have a worthy stadium
- Will benefit the younger teams in the district
- The new stadium will bring more people into Wakefield
- People in Belle Vue will no longer have on street parking on match days
- Will increase tourism
- Wakefield needs the development given the recession
- Will generate revenue for Wakefield
- Wildcats are the only professional sports club in Wakefield and need support
- Belle Vue is outdated
- Will encourage concerts
- Will help Wakefield become a major city
- Positive development in line with Merchant Gate, New Market Hall, Trinity Walk and the Bull Ring
- The proposal will ensure that the Wildcats disabled supporters association will grow
- The proposal will enable disabled supporters to have full access to the stadium and enable them to watch live games

6.34 The reader should note that full details of the replies from consultees at the application stage are set out in WMDC's Committee Report at CD43.

## 7. INSPECTOR'S CONCLUSION

*[In this section the numbers in superscript refer to the preceding paragraphs.]*

- 7.1 Points (a) to (g) set out at paragraph 1.2 above relate to the matters which the SoS particularly wished to be informed about and cover the main considerations of prime significance in this case. There were no other matters relevant under point (i). The conclusions that follow are structured to address each of the points (a) to (g) and reflect the order in which they appear in the call in letter. I then proceed to examine conditions that might be imposed should the SoS determine that planning permission should be granted and then the issue of planning obligations under S106 of the 1990 Act in point (h) before giving my overall conclusions and recommendation.
- 7.2 The site covers an area of approximately 86.53 hectares, incorporating the former Newmarket Silkstone Colliery which closed in 1983, as well as associated waste land and agricultural land. It sits in close proximity to Junction 30 of the M62. Access to the site would be via Aberford Road (A642) which is adjacent to the site to the west and Newmarket Lane which currently runs through the centre of the site. The site is approximately 4 miles to the north east of Wakefield. To the south west of the site are the settlements of Bottom Boat and Stanley and to the east of the site is Methley. To the north of the site is the M62 which adjoins the boundary with Leeds City Council.<sup>[1.4]</sup>
- 7.3 The application seeks outline planning permission for a composite mixed use development comprising a community stadium (with full approval being sought for details of the access, landscaping, layout and scale of the stadium), multi use games area, B8 warehousing and distribution units, B1b and B1c business units, an hotel, an A3 unit, roads, infrastructure and landscaping. The community stadium on Plot 8 would have a 12,000 capacity and there would be parking for 800 cars. The proposed B8 use would comprise 50.66 hectares gross – a total floor area of 146,324m<sup>2</sup> - over Plots 4, 6 and 7. The B1b/B1c use would comprise a total floor area of 14,150m<sup>2</sup> on Plot 1. The 120 bed hotel on Plot 2 would have a floor area of 10,120m<sup>2</sup> and the A3 unit on Plot 3 would have a floor area of 352m.<sup>2 [1.8,1.10,1.17]</sup>
- 7.4 The proposed development falls within the description at paragraph 10 of Schedule 2 to the 1999 Regulations as being an infrastructure project. Paragraph 10 (a) covers industrial estate development projects and paragraph 10(b) covers urban development projects, including sports stadia. Such projects fall within Schedule 2 where the area of the development exceeds 0.5 hectare. Given the scale of the development and the range of possible effects that it may have, it clearly falls within Schedule 2 paragraph 10 (a) and/or 10 (b) and consequently amounts to EIA development requiring the preparation of an ES. The Applicant submitted an ES in 2 volumes with a Non Technical Summary (NTS) dated February 2010.<sup>[1.19]</sup>
- 7.5 An ES Addendum was submitted in September 2010 to deal with the change in the development by the removal of offices from the proposals and the replacement of offices on Plot 5 with landscaping. It also reviewed the environmental effects of the deletion of the B1a offices from the scheme and provided supplementary information in relation to the original ES addressing the representations of consultees.<sup>[1.21]</sup>

- 7.6 The ES concludes that the proposal is a large scale scheme and would have environmental effects which are assessed for significance in the document. There would be a significant alteration in the visual impact of the site and permanent loss of agricultural land, together with regeneration of a former colliery site, ecological benefits through habitat improvement and management and delivery of significant socio economic benefits through meeting needs for the stadium, warehousing and distribution.<sup>[1.22]</sup>
- 7.7 Following examination of the ES, the SoS notified the Applicant, pursuant to Regulation 19 of the 1999 Regulations, that, to comply with Schedule 4 of the Regulations, he required the Applicant to supply further environmental information in relation to the impact of the scheme on protected species, particularly otters and water voles. An ES Second Addendum was submitted in July 2011 and this concluded that there would be some loss of existing water vole habitat but that would be directly compensated for by the conversion of any existing dry ditch into wet ditch water vole habitat, the creation of new wet water vole ditch and a habitat link. Further enhancement of existing dry and wet ditches and provision of swales and attenuation ponds would all be designed to be water vole and wildlife friendly. There would be no identified direct impact from the scheme on otters.<sup>[1.23]</sup>
- 7.8 The ES Second Addendum document concludes that the proposed scheme would have a beneficial impact on water vole as a result of habitat creation and a negligible impact on otter. The overall environmental balance remains unaltered as a result of the scheme amendments and would not alter the overall conclusion of the original ES. Overall, it seems to me that the original ES, together with the further environmental information provided in the ES Addendum and in the ES Second Addendum, are adequate in terms of coverage and that all the necessary steps have been taken in respect of consultation and publicity. I have taken all of the environmental information into account in my conclusions and recommendations.<sup>[1.24]</sup>
- 7.9 I deal first with accordance with the development plan:
- Issue (a) the extent to which the proposed development would be in accordance with the development plan for the area, having regard to the Wakefield Core Strategy and Development Policies DPD adopted in April 2009, together with any relevant saved policies;***
- 7.10 The statutory development plan for the area comprises the Regional Spatial Strategy for Yorkshire and the Humber (RSS); the saved policies of the Wakefield UDP First Alteration (WUDPFA); the Wakefield LDF Core Strategy (CS) and the Development Policies DPD.<sup>[1.25]</sup>
- 7.11 The RSS remains part of the development plan, although the SoS is committed to abolishing it subject to the outcome of an environmental assessment. RSS policies seek to direct new development to sustainable locations, support sustainable development, limit reliance on private cars and encourage sustainable modes of transport and direct most new developments to main settlements in the region, including the Leeds City Region and Wakefield City. They accept that parts of the Green Belt might need to be de-designated to facilitate growth. They encourage strategies that support sport and recreation

including new facilities for such activities. They seek a strong and competitive economy and support new employment projects.<sup>[1.27] [4.2-4.16]</sup>

- 7.12 Paragraph 1.27 above identifies policies in the RSS which are relevant to this proposal. Policies in the RSS which are of particular note include Policy E1 which provides general support to a wide range of economic drivers with the objective of creating a successful and competitive regional economy, including investing in locations where it will have a maximum benefit and secure competitive advantage and investing in development related to important sectors and clusters. Policy E3 of the RSS is also noteworthy. It confirms that plans, strategies, investment decisions and programmes should make use of appropriately located previously developed land and current allocations, and ensure the availability of sufficient land and premises in sustainable locations to meet the needs of a modern economy. Overall, I agree with the main parties that the proposal is broadly in accord with these policies.<sup>[1.27] [4.2-4.16]</sup>
- 7.13 With regard to the WUDPFA, the site is unallocated for any specific land use but is located within an area designated as Green Belt. A Class II archaeological site is also located within the application site (NWS39). Both of these have notation on the Proposals Map. The majority of the policies which formed the WUDPFA have been replaced by new policies forming part of more recent DPDs that make up the Wakefield LDF. A number of WUDPFA policies were saved in 2007 and of the policies which have yet to be replaced two are of relevance to this proposal - Policies L1 and L2.<sup>[1.29] [4.2-4.16]</sup>
- 7.14 Policies L1 and L2 allocate land for indoor and outdoor leisure facilities, urban space and countryside recreation and govern the locations as to where new leisure and tourist development should be located; and seek to permit developments that meet a need, are sustainable and accessible. The need for the new stadium and related uses, particularly when considered in the context of the many benefits that would be delivered for the District suggests to me that the proposal generally accords with them. The proposal would clearly conflict with the existing Green Belt designation in the WUDPFA.<sup>[1.30] [4.2-4.16]</sup>
- 7.15 The CS is relevant and up-to-date. It contains a number of strategic policies setting general principles which new development proposals should follow. The relevant CS policies are identified and explained at paragraph 1.33-1.44 above. Policy CS1 sets out the broad spatial framework for the location and scale of development in Wakefield in order to deliver the spatial development strategy for the District based on the settlement hierarchy. By paragraph 6.10 of the justification it is provided that "this policy is applicable to all development proposals and its implementation is fundamental to achieving the Core Strategy objectives and development strategy."<sup>[1.33-1.34] [4.2-4.16]</sup>
- 7.16 Sub-paragraph f of Policy CS1 provides that in the Green Belt development will conform to national, regional and LDF policies relating to the Green Belt. The proposed development is inappropriate development in the Green Belt, except for the MUGA, and therefore conflicts with Policy CS1f.<sup>[1.36] [4.2-4.16]</sup>
- 7.17 Turning to the employment elements of the proposal, the Applicant and WMDC rely on the CS spatial vision objectives, which seek to support the growth of a dynamic local economy, and Policy CS8 1 which seeks to improve the District's economic performance through a range of measures, including providing an

adequate supply of employment land and bridging the skills gap. Furthermore, it is clear that paragraph 8.29 of the CS indicates that the Council will have to allocate an additional 95 hectares of B8 land. B8 development is subject to a bespoke policy in the CS, namely, Policy CS8 2 c which provides that warehousing and distribution activities will be located:

- (i) within employment allocations along the M62 corridor proposed for this type of use
- (ii) within existing employment zones which are suitable for this type of use, making best use of opportunities for redevelopment.<sup>[1.38] [4.2-4.16]</sup>

- 7.18 Plainly, the proposed development would meet the CS objectives extremely well in that it would make up a substantial proportion of the deficit in B8 land in a location that is unequivocally within the M62 corridor and in a way that meets national, regional and local policies in relation to the location of such uses. However, the proposed B8 development would not be in strict compliance with Policy CS8 2 c. The second limb of the policy is irrelevant and an allocation within the first limb of the policy cannot have development plan status unless and until it is confirmed as such in an adopted DPD. The SSDPD document does not yet command that status and must be approached not as part of the statutory development plan but as an emerging development plan document which is to be treated as another material consideration.<sup>[1.39] [4.2-4.16]</sup>
- 7.19 The B1 aspect of the development, or at least the B1c aspect of it, is also the subject of a bespoke policy in the CS. This is found in Policy CS8 2 b which provides that light and general industrial activities will be located in the urban areas set out in the spatial development strategy on previously developed land, within employment allocations designated on the LDF Proposals Maps or within existing employment zones. The B1 proposals would not comply with Policy CS8 2 b because they are not located in any of the identified areas. Policy CS8 2 refers to “most” new employment development. This allows for an exception to the policy rather than provides a guide to policy.<sup>[1.39] [4.2-4.16]</sup>
- 7.20 There is no dispute between the parties that the proposed hotel and A3 unit represent town centre uses. These uses are the subject of Policy CS2 which directs such uses, not surprisingly, to town centres. These aspects of the proposed development would therefore be contrary to Policy CS2.<sup>[1.36] [4.2-4.16]</sup>
- 7.21 The bespoke policy in relation to stadia is found in Policy CS11 which identifies, in paragraph (c), new stadia development, particularly in Wakefield and Castleford as a key measure. However, the policy is not locationally specific and cannot be taken to sanction a stadium development in the Green Belt for otherwise it would be inconsistent with Policy CS1 (f). The proposed stadium development in the Green Belt at Newmarket Lane does not therefore gain support from Policy CS11.<sup>[1.41] [4.2-4.16]</sup>
- 7.22 Policy CS12 deals with the Green Belt but it is not a development management policy. Rather it is a policy which is designed to guide Green Belt review. It does have some relevance in that it makes clear that there will be a review of the Green Belt boundary in order to inform the delivery of growth that is consistent with the spatial development strategy.<sup>[1.41] [4.2-4.16]</sup>



- 7.23 Based on this analysis the proposed development would not be in accordance with the CS as a whole. The Applicant and WMDC make a case for the accordance of the proposed development with the CS as a whole by seeking to focus on parts of policies which bear generally on aspects of the proposed development but ignore the spatial requirements of the policies. The specific spatial requirements of the policy are important and, if contradicted, place the proposed development in conflict with the policy.<sup>[1.42] [4.2-4.16]</sup>
- 7.24 The Development Policies DPD is relevant and up-to-date. It sets out a number of detailed development management policies to be applied to planning applications. The relevant policies are identified and explained at paragraph 1.42 -1.43 above. In summary, the aim of the policies is to manage and guide specific types of development to different but appropriate locations and to ensure that development is sustainable and assists in contributing to the creation of sustainable communities throughout the District.<sup>[1.42]</sup>
- 7.25 The Applicant points out that a number of these are relevant to detailed development control aspects of the scheme such as Policies D4 - Sites Designated for Biological or Geological Conservation; D5 - Ecological Protection of Watercourses and Water Bodies and D6 - Wildlife Habitat Network. It is argued that all of these particular policies are satisfied.<sup>[2.42]</sup>
- 7.26 Policy D7 gives priority to the protection of trees, woodland and hedgerows. An arboricultural assessment was carried out and the extent of tree removal identified. Wherever possible trees would be retained and new tree planting is proposed including woodland and structural planting to offset the loss of existing trees. Policy D9 sets out a range of detailed design criteria which any reserved matters applications would need to carefully consider.<sup>[2.42-2.48]</sup>
- 7.27 Policies D8 and D12 relate to Landscape Character and Landscape Design. The proposal was accompanied by a landscape and visual assessment as part of the ES. It is acknowledged that the landscape character of the site would be substantially altered. However, the scheme has taken great care to design a development within a comprehensive landscape framework. This means that more than 41% of the development would remain open in green uses with tree lined avenues, hedgerows, woodlands and wetland areas all of which would minimise adverse impact. Plainly the landscape framework would provide a significant mitigation for the development. Long term management and maintenance of landscaped and ecological areas would also be secured by planning condition.<sup>[2.42-2.48]</sup>
- 7.28 Safe and appropriate access to the scheme is provided in accordance with Policy D14 and no one suggests that the technical highways issues are not satisfied. Policy D15 seeks to ensure that proposals are designed to provide a safe and secure environment that reduces the opportunities for crime. The West Yorkshire Police Architectural Liaison Officer has been consulted and made a number of recommendations which can be covered by conditions. Policy D15 is therefore satisfied.<sup>[2.42-2.48]</sup>
- 7.29 The archaeological implications of a development have been assessed within the ES. The likely archaeological interest in the site relates to the former collieries, crop marks and the site of former cottages and a farmhouse. It is recommended that a field evaluation be carried out prior to development. However, these matters are not of sufficient importance that the Applicant should be required to carry out a detailed site investigation prior to

development commencing and the relevant consultee proposes that a planning condition be imposed. It follows that Policy D17 is satisfied.<sup>[2.42-2.48]</sup>

- 7.30 It is accepted that the uses proposed would give rise to more noise and there would be a change in the audible sounds from the site compared to the present situation particularly for nearby residents. An assessment of noise was carried out as part of the ES and the ES Addendum. It is considered that mitigation could be taken to minimise noise through detailed design so that it would not unreasonably impact on the amenity of local residents.<sup>[2.42-2.48]</sup>
- 7.31 Under Policy D20, the site is within an Air Quality Management Area which follows the M62 corridor to the north. An Air Quality Assessment was submitted as part of the ES. A HAQ scheme to the east of Junction 30 would lead to reductions in concentrations of nitrogen dioxide in the wider area. The Travel Plan measures to reduce car borne traffic have been considered acceptable by HAQ and WMDC and would secure a reduction in journey by car to the site. Planning conditions and the Travel Plan would seek to secure the use of low emission vehicles and operators on the site and ensure that electric charging points are available. Overall, it is clear that a reasonable degree of mitigation has been put forward to ensure that any adverse impacts on air quality are kept to a minimum.<sup>[2.42-2.48]</sup>
- 7.32 Analysis of the likelihood of the site to impact upon contamination is set out within the ES and the relevant consultees propose appropriate conditions which would satisfy Policy D22. Policy D24 relates to flood risk and Policy D25 relates to surface water. Both have been considered in this application. A Flood Risk Assessment has been carried out as has a drainage analysis. These show that flood risk is not an issue and it is appropriate to develop the site in accordance with a sustainable drainage strategy. The relevant consultees are satisfied that these matters can be dealt with by conditions.<sup>[2.42-2.48]</sup>
- 7.33 Policy D26 relates to the protection of agricultural land. It states that development involving significant loss from agricultural land graded 3a or higher will not be permitted where land of a lower quality could be developed for that particular purpose. There are a variety of grades of agricultural land from 2 to 3a and 3b on the site. The majority of the agricultural land within Wakefield District between Junction 30 and 32a of the M62 is of grade 3 quality. WMDC has confirmed that no alternative suitable site of a lower grade is available and given the tightness of the Green Belt it is inevitable that some agricultural land will be lost. There is no objection from DEFRA. The Applicant argues the sequential site selection analysis demonstrates that there is no more suitable alternative. It follows that Policy D26 is satisfied.<sup>[2.42-2.48]</sup>
- 7.34 Policy D27 requires major developments to incorporate on site renewable energy generation unless it can be demonstrated this is not technically feasible and Policy D28 requires that new development will require energy and water efficiency measures. As the application is in outline these matters can be considered at the reserved application stage when details of the units' operators and requirements are known. The stadium can also be covered by planning conditions for these issues.<sup>[2.42-2.48]</sup>
- 7.35 In relation to issue (a) I conclude that the proposal would accord with a very wide range and a large number of development plan policies and objectives. However, it would not be in accordance with important policies in the CS and,

interpreting the development plan as a whole, the proposal would therefore not be in accordance with it.

***Issue (b) the extent to which the proposed development is consistent with the Government policies in Planning Policy Statement 1: Delivering Sustainable Development and the accompanying guidance The Planning System: General Principles, with particular regard to the achievement of sustainable development through an integrated approach to social cohesion and inclusion, protection and enhancement of the environment, prudent use of natural resources and economic development;***

- 7.36 The proposal involves an integrated approach to social cohesion and inclusion arising out of the fact that it would bring forward a community stadium which would ensure the preservation of WTWRLFC's Super League status, preserve its Community Trust activities and provide wider community and social benefits via the Wakefield and District Community Trust which would run the stadium and other sporting facilities. Plainly there has been a holistic approach to the design of the whole development and its ability to contribute towards social cohesion via sport, leisure education, health and fitness.<sup>[2.55]</sup>
- 7.37 Furthermore, the development, through the creation of about 2,000 jobs, would support the community by offering employment opportunities which in turn would support families and expenditure within retail and other business within the District. There would also be significant employment creation during the construction phases of the development. All of this would support the community as a whole at a time when the national and international economy is severely challenged, when unemployment is rising and, as the evidence demonstrates, unemployment in Wakefield District is already above the national average. Rugby League is a family sport and the stadium would attract new spectators and provide for excluded groups such as the disabled. The economic benefits of the proposal are dealt with in more detail in relation to issue (d) below.<sup>[2.56]</sup>
- 7.38 It might be argued that certain facets of sustainable development would not be met. All parties recognise that the proposed development constitutes encroachment into the countryside. That in itself is not consistent with protection and enhancement of the environment. The LVIA chapter of the ES records in paragraph 7.1 that the proposed development would have a moderate *adverse* effect on landscape character. Again, that is not consistent with protection and enhancement of the environment. It is a fact that the proposed development would lead to the loss of an area of open land.<sup>[4.18]</sup>
- 7.39 However, there is no alternative available site to meet the composite needs of the development. The site has been chosen via a site selection process in accordance with guidance in PPS4 in relation to sequential analysis. It is apparent from the DAS, the ecological, landscape and visual impact sections of the ES that landscape design, ecological protection, management and enhancement have been at the heart of the evolution of the landscape master plan for the site as a whole. Moreover, it is noteworthy that the areas of land that are being taken out of open use include the former Newmarket Silkstone Colliery site. This comprises some 28.4 hectares of the site as a whole, which the DAS describes as previously developed land although it has been restored to a limited degree. At the site visit it was clearly evident that substantial levels of slag, clinker and shale remain very close to the surface of the site.

Further, the evidence of those with experience of landscaping and restoration of colliery sites demonstrates that the degree of restoration which has been undertaken is limited. It is apparent to the north of Newmarket Lane that there is still substantial evidence of unrestored land including rail lines.<sup>[2.58]</sup>

- 7.40 It is the Applicant's contention that the site should in part be treated as a brownfield site. Whilst I do not share that view it is clearly not to be treated in the same vein as a greenfield site which has never been the subject of industrial activity. This was a long term employment site as historical drawings in the DAS show; there are still at least 13 mineshafts within the development area which would need to be dealt with.<sup>[2.59]</sup>
- 7.41 The bulk of the remainder of the site is agricultural land. This land together with the former colliery land is of limited ecological value. The areas which are of greater ecological significance are substantially retained within the master plan. The scheme has sought as far as possible to preserve areas of ecological interest and to put forward proposals which would result in ecological enhancement. The proposed development would be able to provide a net gain in ecological terms.<sup>[2.60, 4.18]</sup>
- 7.42 The fact that the proposed development involves the loss of some best and most versatile agricultural land would also seem not to be in accordance with an approach which makes prudent use of natural resources. However, it was accepted that such a loss would not represent a particular problem.<sup>[2.60]</sup>
- 7.43 The site is bounded to the north by the M62 and therefore insofar as it is possible views of it are contained. Detailed landscaping proposals and design proposals for the commercial elements of the scheme comprise measures to minimise visual intrusion as far as possible.<sup>[2.60]</sup>
- 7.44 The development is proposed to be subject to conditions which would ensure energy conservation and reduction and use of renewable sources as far as possible. It is also evident that careful design has been taken in the submitted proposal with the supporting landscape framework. The DAS and the ES both show the care given to alternative layouts and options and the intent to address ecological visual and other constraints at the design stage.<sup>[2.63]</sup>
- 7.45 The amenity of existing residents has been carefully considered with the access road diverting development traffic away from Newmarket Lane creating residential enclaves sheltered and screened by woodland planting. The landscape framework seeks to assimilate large buildings into a strongly wooded landscape, whilst creating publicly accessible spaces. Overall the scheme has taken significant steps to protect and enhance the environment and use land which is of the least ecological value. There are wider issues about the sustainability of the location which are dealt with under issue (f). In relation to issue (b) I conclude that the proposal would be broadly consistent with Government policies in PPS1.<sup>[2.63]</sup>

***Issue (c) the extent to which the proposed development is consistent with the Government policies in Planning Policy Guidance Note 2: Green Belts, particularly in relation to assisting in safeguarding the countryside from encroachment;***

- 7.46 All parties are agreed that taken as a whole the proposed development represents inappropriate development in the Green Belt. The fact that the proposed development represents inappropriate development triggers a general presumption against the proposals in accordance with paragraph 3.1 of PPG2 and, by the same paragraph, requires there to be very special circumstances before approval can be forthcoming.<sup>[4.22, 5.70, 5.99, ]</sup>
- 7.47 Paragraph 3.2 of PPG2 provides that “inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.”<sup>[4.23, 5.71, 5.99]</sup>
- 7.48 It is helpful to deal firstly with those factors causing, or potentially causing harm, whether to the Green Belt or to anything else, and then secondly those involving material considerations potentially in favour of the development. It is also helpful to indicate the degree or scale of the harm in each case and the weight to be attached to that and similarly to material considerations weighing in favour of the development.
- 7.49 All parties including the Oulton Society, Methley and Mickletown Residents Association and the CPRE accept that the proposal comprises inappropriate development and therefore substantial weight attaches to the harm to the Green Belt. Paragraph 3.3 of PPG2 provides that “green belt policies in development plans should ensure that any planning applications for inappropriate development would not be in accord with the plan.” Plainly the proposal is not in accordance with the WUDPFA designation nor is it in accordance with the WLDF Core Strategy Policy CS1 which advises that development within the Green Belt will conform to national, regional and LDF policies.<sup>[4.26, 6.7, 6.14, 6.19]</sup>
- 7.50 It is next necessary to consider the question of other harm apart from the harm inherent in appropriateness in this case. This matter is best approached by reference, first, to Green Belt related harm apart from the harm inherent in inappropriateness and then to other harm more generally.<sup>[4.29]</sup>
- 7.51 LCC and others submit that the Green Belt in this area performs four of the Green Belt purposes which are identified in paragraph 1.5 of PPG2 in that it checks the unrestricted sprawl of large built up areas; prevents neighbouring towns from merging into one another; assists in safeguarding the countryside from encroachment and assists in urban regeneration by encouraging the recycling of derelict and other urban land.<sup>[4.31]</sup>
- 7.52 It is accepted that the site represents part of a strategically important break between Oulton in Leeds and Stanley in Wakefield. That judgment was the conclusion of the Leeds UDP Inspector reached in 1999 when dealing with a nearby site and there has been no material change on the ground since then. It is also accepted that the area of Green Belt that would remain north, south,

east and west of the site would be extensive if it was to be developed. A significant amount of weight can be attached to this factor. <sup>[2.68, 4.33]</sup>

- 7.53 All parties accept that the proposal would result in a significant reduction in **openness**. Paragraph 4 of the Town and Country Planning (Consultation) (England) Direction 2009 indicates that the provision of a building or buildings where the floor space created is more than 1,000m<sup>2</sup> has a significant impact on the openness of the Green Belt. If a development which proposes that amount of built floorspace is to be treated as giving rise to a significant impact on openness for the purposes of referral, then it equally must follow that such a development should, once referral has taken place, still be treated as having a significant impact on openness. The built floorspace currently proposed is considerably in excess of the referral threshold and the impact on openness is thereby significantly increased even though a large proportion of the site would remain in open land uses. A significant amount of weight can be attached to this factor. <sup>[2.67, 3.40, 4.36-4.38]</sup>
- 7.54 All parties also agree that the proposal would infringe the third Green Belt purpose in that it represents **encroachment into the countryside**. LCC considers that the proposal would also represent sporadic development. Whilst the proposal would comprise a significant encroachment into the countryside it would not be some disorganised unattractive expansion into the countryside. There are occasions when Green Belt designations must accommodate development either via changes to the development plan demonstrating exceptional circumstances, or via the development control process when an application demonstrates very special circumstances. In this instance there would be a significant loss of openness to the Green Belt, though a large proportion of the site would remain in open land uses. Moreover, the impact on encroachment on the countryside would be mitigated by the extent of landscaping which is to be retained within the site and by the overall extent of the site which would remain in open land uses. A moderate amount of weight can be attached to this factor. <sup>[2.70, 3.40, 4.39, 5.99, 5.103]</sup>
- 7.55 LCC also submits that the proposed development would infringe the first Green Belt purpose of checking the **unrestricted sprawl** of large built up areas. Whilst it is accepted that the scheme would represent development not connected to any existing settlement, defined as such in the development plan, the real objective of this Green Belt purpose is to prevent “unrestricted” growth of existing built up areas. In this sense, the development would not represent unrestricted sprawl: it would have clear and defensible boundaries: Aberford Road to the west; Bottom Boat to the south and the M62 to the north. The structural planting proposed on the eastern boundary would also provide a clear and defined edge to the development. A limited amount of weight can be attached to this factor. <sup>[2.69, 3.38, 4.40]</sup>
- 7.56 LCC further submits that the proposal would infringe the second Green Belt purpose of **preventing neighbouring towns from merging into one another**. However, it is difficult to see how one could conclude that the scheme would result in neighbouring towns merging into one another. LCC relies on the observations of the Leeds UDP Inspector in 1999 that development to the north of the M62 would result in fragmentation of the open break between Oulton in Leeds and Stanley in Wakefield. Setting aside the fact that LCC was actively promoting the UDP site for employment and the obvious

point that that Inspector was considering a different piece of land which was characterised as being “in the middle of a gap,” the use of the application site would not be seen as a leading to the merging of Leeds and Wakefield. Leeds would still remain to the north of the M62 and LCC would remain committed to the protection of its Green Belt. It would be very reluctant to allow any future development there. Limited weight can be attached to this factor.<sup>[2.68, 3.39, 4.43]</sup>

- 7.57 It is agreed that the fourth purpose of including land in the Green Belt - **to preserve the setting and special character of historic towns** - has no relevance in this location.<sup>[2.70, 3.37, 4.32]</sup>
- 7.58 It is also part of LCC’s case that the proposal would conflict with the fifth Green Belt purpose - **to assist in urban regeneration, by encouraging the recycling of derelict and other urban land**. Whilst the site is substantially greenfield and not attached to any existing settlement, defined as such in the development plan, there is no evidence to support the view that the development would somehow prevent urban regeneration schemes from coming forward. On the contrary, the release of the existing stadium site at Belle Vue for a more appropriate scheme would positively assist in regenerating that area of Wakefield.<sup>[2.72, 3.37, 4.44]</sup>
- 7.59 LCC submits that the proposed development would set a harmful precedent for further Green Belt development in the area. It could be argued that such Green Belt development could prejudice the future of a much wider area and set a precedent for the future of the open area between Oulton and Stanley. However, any future use of Green Belt land to the north of the M62 lies fully in the control of LCC as Local Planning Authority for that area so that it could thereby seek to resist any precedent effect. Equally, land to the south of the M62 is a matter for WMDC, who will decide any future case on its own merits and in the light of the circumstances which prevail at the time.<sup>[4.45]</sup>
- 7.60 I deal next with other alleged harm which is non-Green Belt related. LCC maintains that the proposal would have a ‘moderate adverse’ effect on landscape character as recorded in the LVIA and that there would be ‘adverse’ visual impacts. It is accepted that the proposal would result in a moderate adverse impact on the landscape character of the area. However, the conclusions as to visual impact on a limited number of relevant receptors (mainly residential properties) are generally minor to moderate adverse. Impacts of this nature are inevitable if a scheme of this size is to proceed. A limited amount of weight should be attached to this factor.<sup>[3.40, 4.48]</sup>
- 7.61 LCC points out that there would be a loss of best and most versatile agricultural land. Whilst this may be so it is also true that the parties do not regard this as a particular problem albeit the loss nevertheless remains a feature which must be placed on the debit side of the balance. A limited amount of weight should be attached to this factor.<sup>[4.51]</sup>
- 7.62 It is accepted that there would be harm in relation to the spatial development strategy of the CS and its more detailed policies. The proposal as a whole would not be aligned with Policy CS1 and CS2; the proposed B8 development would conflict with Policy CS8 2 c, because it is not within an employment allocation proposed for this type of use but only an emerging allocation; the proposed B1 development would be in conflict with Policy CS8 2b because it is

not in the urban areas set out in the spatial development strategy on previously developed land, within an employment allocation or within an existing employment zone; the proposed hotel and A3 uses would conflict with Policy CS2 and there would be shortcomings in terms of accessibility by sustainable modes of transport. This is dealt with in more detail further under issue (f) below.<sup>[4.52]</sup>

- 7.63 Overall it is clear that there would be a significant amount of additional harm to the Green Belt which should be added to the harm caused by way of inappropriateness. It is this combined harm that must be clearly outweighed by other considerations as advised in paragraph 3.2 of PPG2.
- 7.64 Having dealt with all of the matters weighing against the proposal I turn now to factors which weigh in favour of the proposed development. In essence, the material considerations which the Applicant and WMDC seek to place on the other side of the balance are the need for a new stadium for WTWRLFC and the need to find new B8 land to meet the CS requirement for an extra 95 ha of such land. The benefits which would flow from meeting these needs are also relied on. In broad terms these may be identified, insofar as the stadium is concerned, as the community benefits which would ensue coupled with the sense of civic pride and identity which would be fostered not just by Wakefield having such a stadium but also by the anticipated retention of the Club's Super League status facilitated by a new ground. The benefits of the employment provision are characterised in terms of economic growth and job provision. Importantly, the case is also put that the needs in question could not be met elsewhere.<sup>[4.55]</sup>
- 7.65 Looking at these factors in more detail it is clear that the WTWRLFC has an urgent **need for a new stadium**. This is an extremely significant matter that should attract very substantial weight in its own right. There is very little opposition to the principle of a new stadium from anyone. Alongside this is the desire of WMDC to provide a community stadium with a wider social role than purely to house the WTWRLFC. The need for a new stadium is recognised in spatial planning terms through Policy CS11 of the Core Strategy.<sup>[4.57]</sup>
- 7.66 The supporting information indicates that the Club presently finds itself in difficulty on two fronts: financially and practically. Both are inextricably linked. Practically it is under threat from the Super League due to not having the facilities it requires; and financially because without adequate facilities it cannot generate sufficient revenue to sustain its business model. A new ground would solve both issues and give the Club a viable platform upon which it could move forward.<sup>[2.3]</sup>
- 7.67 The existing stadium at Belle Vue was designed in the 1800s and is no longer fit for purpose. The Club went into administration in 2010. It no longer owns the existing stadium site at Belle Vue and merely has a short term lease. Full planning permission was approved for residential use on the existing stadium site at Belle Vue in 2009. Local residents and groups support the proposal.<sup>[2.13, 5.15, 5.24, 5.34]</sup>
- 7.68 Plainly, the Club must make progress towards the provision of a new stadium or it would certainly lose its Super League licence at the end of the next licensing round. The future of the Club within Super League is clearly threatened unless it can demonstrate its ability to move to a new modern high



quality stadium which would allow it to meet the other Super League licensing criteria and become a viable long term business. The build cost of the stadium alone is £12.5m; the value of land to build it upon would be additional to that, but is being donated by the developer at a peppercorn rent to Wakefield District Community Trust. The Club has no capital and cannot borrow to fund a stadium as it has no collateral; it does not own its existing ground. It cannot contribute towards a new stadium. WMDC has promised a £2 million contribution, but that is nowhere near enough. Grants are very hard to come by in the present economic climate.<sup>[2.33]</sup>

- 7.69 The Applicant argues that there must be a source of funding for the stadium. That is to come from the overall development. The Applicant has indicated that the industrial and commercial development that forms the remainder of the scheme is enabling development to help finance the stadium scheme. I am aware that the concept of using other development to cross subsidise stadia is well established in relation to Rugby League at Warrington and Salford.<sup>[2.33]</sup>
- 7.70 The Applicant has considered a range of possible **Alternative Sites**. However, on the basis of the evidence submitted, there are no other sites which are capable of accommodating the whole development. The application site is the only option before the Inquiry for the whole development. Even if the proposals were to be disaggregated there are still no sites which are suitable, viable, available, and deliverable for the key elements but a disaggregated scheme could not meet the total need.<sup>[2.27-2.28, 3.62-3.65]</sup>
- 7.71 There are no alternative sites that would be more acceptable for the employment development than the application site. At the Inquiry evidence was submitted in relation to the N159 site at Castleford. However, this is a Green Belt site in a far more sensitive location than the Newmarket site. The N159 site is not suitable, available, viable or deliverable for the whole scheme. The developer of the N159 site has submitted LDF representations but these do not promote the site for a stadium, or even exclusively for B8 use. The written representations from Turley Associates are directed to the LDF issue of soundness and not to the issues before this Inquiry. In my view, it is not an alternative site for this proposal and no weight can be attached.<sup>[2.31, 3.62-3.65, 5.7]</sup>
- 7.72 There is strong evidence to suggest that a ground-share with the Castleford Tigers at Glasshoughton is a non-starter. The proposed Castleford Tigers' stadium would not be a community stadium with wider benefits. A ground-share at Glasshoughton would not make financial sense for the WTWRLFC and would risk the very thing the Club is trying to protect, namely, its Super League status. There is no evidence that Castleford Tigers have the funds to enable their new stadium to be constructed. On the contrary, not only do they have to sell the existing ground, which has not happened, but they must construct a link road of greater than 1km prior to any development on the new stadium. The ground-share option is also a less sustainable transport option.<sup>[2.30, 3.62-3.65, 5.7, 5.105]</sup>
- 7.73 WTWRLFC is the only professional sports club in the City of Wakefield. Plainly the status of the Club and its current retention of **Super League status** make a vital contribution to the socio-economic well being of the City. This contribution ranges from the money that comes into the City during match days, to the community programmes organised by the Club, to the general

sense of pride and ownership that Wakefield's inhabitants feel in relation to the Club. It is noteworthy that in PPS1 the Government is "*committed to developing strong, vibrant and sustainable communities and to promoting community cohesion in both urban and rural areas.*" Clearly the existence of the Club and the contribution it makes reflects the Government's commitment in this regard.<sup>[3.46, 5.49]</sup>

- 7.74 Given the acknowledged importance of the Club to the community, its retention as a Super League entity - with all of the socio-economic benefits that that brings with it - is clearly a very considerable factor. Should WTWRLFC lose its Super League status then, in my view, it is likely to have a significant adverse socio-economic impact on Wakefield. In the absence of a new stadium and the enabling development to fund it there is a very real prospect that (a) the Club will have to leave Belle Vue, which it does not own; (b) that, as a consequence, it will lose its Super League status; and (c) that it would become an amateur club without the funds or the prestige that goes with playing in top flight rugby. If that occurs, then clearly the Government's commitment in PPS1 would be significantly undermined.<sup>[3.46]</sup>
- 7.75 If planning permission is granted, the socio-economic benefits that currently exist would be retained and, in all probability, enhanced and the Club's future secured. A new stadium would generate greater revenues and would thereby provide much more certainty that the WTWRLFC would remain in the Super League. I am aware from the economic chapter of the ES predicted that the stadium would produce an annual visitor expenditure of £2.6m. Taken together with the hotel and restaurant, the total projected economic benefit to Wakefield is predicted as being over £10m. These figures were not challenged by anyone. Their importance should not be underestimated, especially in today's economic climate and in light of the Council's commitment to encouraging more visitors to Wakefield and the Government's commitment to delivering economic growth. Very considerable weight therefore should be given to the need for a new community stadium, to the woeful inadequacy of the Club's existing facilities, to the social inclusion for the disabled and to the community cohesion and civic pride that derives from the Club.<sup>[3.46, 5.54, 5.60]</sup>
- 7.76 **The Community Benefits:** the stadium would be operated by a Community Trust, not the WTWRLFC. It follows that the stadium would serve the community, in a very real sense. On the basis that the stadium and associated MUGA are used by the wider community, this would accord with the WMDC's Sport and Active Lifestyles Strategy, PPS1, insofar as the commitment to promote community cohesion is concerned, and PPG17, which promotes social inclusion and community cohesion and health and well being. The Applicant and WMDC submit that this is a very powerful material consideration in favour of the development and helps to explain the general level of support for a new stadium. Considerable weight therefore should be attached to the wider sporting, health and lifestyle opportunities that would be delivered through the Wakefield and District Community Trust for the whole community.<sup>[3.47, 5.60]</sup>
- 7.77 **Delivery of the Core Strategy target for employment growth.** The CS is committed at all levels to delivering economic growth, entirely in line with the Government's current objectives. The Spatial Vision, which is to be delivered through the LDF, is to ensure that the District will make a significant contribution towards the "*prosperity and diversity of the region.*" Spatial

Objective 7 seeks to support the growth of a dynamic local economy and criteria 1 of Policy CS8 seeks to improve the District's economic performance through a range of measures, including providing an adequate supply of employment land and bridging the skills gap. Although LCC criticises reliance on the Spatial Vision objectives in circumstances where there is not strict compliance with Policy CS8, I consider that at a time of increasing unemployment these objectives should attract considerable weight.<sup>[3.48, 5.60]</sup>

- 7.78 To achieve these objectives, WMDC will have to find additional employment land. The need identified in the recently adopted LDF Core Strategy is to find an additional 95 hectares of land within the plan period suitable for B8 warehousing and distribution uses preferably within the M62 corridor.<sup>[3.50]</sup>
- 7.79 The grant of planning permission for the proposal would meet these objectives extremely well. The proposal would make up a substantial proportion of the deficit in B8 land in a location that is unequivocally within the M62 corridor and in a way that meets national, regional and local policies in relation to the location of such uses. It would deliver a minimum of 1,363 permanent jobs, but perhaps up to 2,000 if more optimistic projections about job creation are deployed. Given that around 1,700 jobs were lost in the local economy between 2009 and 2010, these jobs would result in a very significant boost for those in search of work in the area and would contribute towards achieving the spatial objectives of promoting prosperity and a dynamic local economy. Plainly the proposal would support the key objective of economic growth. As such, very significant weight should be attached to this factor.<sup>[3.51]</sup>
- 7.80 **Prematurity.** LCC submits that little weight can be placed on those matters relied on by the Applicant and WMDC and in particular that some 50 ha of B8 land needs to be located at Newmarket Lane. It is argued that little weight can be placed on the proposed allocation W40A in the SSDPD document bearing in mind that the Newmarket Lane allocation has yet to be the subject of examination and is the subject of objection by LCC, Barton Wilmore (on behalf of Newmarket residents) and Turleys on behalf of the promoters (de Villiers) of site N159 in Castleford, who promote that site for B8.<sup>[2.53-2.54, 3.8-3.11, 4.58]</sup>
- 7.81 Bearing in mind the advice in paragraphs 17 to 19 of The Planning System: General Principles I consider refusal on prematurity grounds would not be justified for several reasons. Firstly, decisions on location and scale have already been strategically determined by the needs identified in Policy CS8 which directs B8 allocations to the M62 corridor. It is common ground that the application site lies within the M62 corridor. Secondly, a substantial part of the application site (some 50 ha) is being promoted by WMDC as allocation W40A for B8 uses and therefore would be in line with the emerging SSDPD. Whilst not an allocation at present, due to consistency with the SSDPD, considerable weight can be attached to the emerging B8 allocation against the extensive evidence provided by WMDC in justification of the allocation.<sup>[2.53-2.54, 3.8-3.11, 4.58, 6.11]</sup>
- 7.82 Thirdly, around **60%** of the application site would be taken out of the Green Belt as a result of the SSDPD proposal. Fourthly, in many respects this proposal would complement the SSDPD so there would be no prejudice to the outcome of the DPD process. In coming to this position little weight is given to arguments which suggest that the Applicant's sequential assessment is flawed, that the quantum of B8 development in this location is unnecessary and that

the enabling development does not have to come forward on the site.<sup>[2.53-2.54, 3.8-3.11, 4.58-4.68]</sup>

- 7.83 **Other positive aspects of the proposal.** There are many other positive aspects of the proposal put forward by the Applicant which need to be considered. These include the manner in which the site would operate as a whole with its network of footpaths, cycleways and open spaces, together with its relationship to the community stadium and other sporting facilities. It would provide access and linkages to the Trans Pennine Trail, surrounding footpaths, and cycleways and therefore would provide opportunities to enter the open countryside. Furthermore, the site is located close to the urban area of Wakefield and would clearly provide opportunities for outdoor sport and recreation both formal and informal. The most important elements of the landscape framework within the site would be retained and there would be a landscape management plan and a long term management and maintenance programme which would seek to deliver quality landscape management and ecological enhancement. All of these factors attract significant weight.<sup>[2.71]</sup>
- 7.84 Furthermore, the site comprises the former Newmarket Silkstone colliery which it is agreed contains land which is inadequately remediated and contains mineshafts. The proposed development would contribute to regeneration by enabling the redevelopment of the Belle Vue site within Wakefield for more appropriate uses. The development would also secure nature conservation interest. The enhancements to biodiversity and ecology due to habitat increase and ecological management plans would not only comply with but go beyond PPS9 requirements in linking externally to wildlife corridors and habitats. It is accepted that no other site has been proposed which is not in the Green Belt and which is capable of accommodating the whole development. All of these other matters attract considerable weight.<sup>[2.72]</sup>
- 7.85 I have considered all of the matters weighing against the proposal together with any other matters which cause harm and also those matters which weigh in favour of the development, it is necessary to return to the overall balance – see paragraph 7.135 onwards. I now turn to other issues identified by the SoS.

***Issue (d) the extent to which the proposed development accords with Government policies in Planning Policy Statement 4: Planning for Sustainable Economic Growth, particularly in relation to:***

***(i) delivering more sustainable patterns of development, reducing the need to travel, especially by car and responding to climate change; and***

***(ii) promoting the vitality and viability of town and other centres as important places for communities;***

- 7.86 The SoS focuses on two important aspects of PPS4: the encouragement of sustainable patterns of development and the promotion of town centres. However, it is noteworthy that the fundamental objective of PPS4, now given greater weight by more recent Government policy announcements, is to achieve sustainable economic growth. It is the Applicant's case in the context of the evidence taken as a whole, and supported by WMDC, that significant weight should be attached to the need to secure economic growth and employment in accordance with the Ministerial Statement: Planning for

Growth. It is relevant to highlight in this regard that decision makers are required to adopt a positive and constructive approach to proposals that deliver economic development as Policy EC10 of PPS4 confirms.<sup>[2.77]</sup>

- 7.87 In respect of sub-paragraph (i) above the evidence has shown that although the site is not ideally located in terms of its accessibility to modes of transport other than the private car, it is critical to note that HAg has withdrawn its objection subject to the delivery of Travel Plans for the stadium and the employment uses. Moreover, given the location of the development site, close to the M62, it is ideally located for the B8 elements of the scheme.<sup>[3.56]</sup>
- 7.88 In terms of the other factors under Policy EC10.2 it is clear that: (i) the development has been planned to limit carbon dioxide emissions by locating B8 uses immediately adjacent to the M62 motorway (ii) the evidence demonstrates that a high quality approach has been taken to overall site design and (iii) there would be a very positive effect on economic and physical regeneration through the redevelopment of the existing Belle Vue stadium site and (iv) there would be a positive impact on local employment with the creation of some 2,000 jobs.<sup>[2.78]</sup>
- 7.89 No party to the Inquiry seeks to suggest that it would be appropriate, let alone possible, to locate the proposal within or on the edge of the City Centre of Wakefield. With regard to PPS4's requirements in relation to town centre uses, it is clear that the hotel and A3 unit which are to be provided as part of the proposed development consist of main town centre uses. That is apparent from paragraph 7 of the introduction to PPS4. No one argues otherwise. Plainly these aspects of the proposal fall within the ambit of PPS4.<sup>[2.79]</sup>
- 7.90 The Applicant and WMDC maintain that they are an integral part of the wider development and relate to the operational needs of the stadium and also the wider employment generating development i.e. they are complementary. I appreciate that they are proposed in order to create a more cohesive and functioning mixed use development and also because they provide a significant element of finance towards the overall commercial viability profile which is required to deliver the entire development. It seems to me from the evidence that these uses on this site would not have any adverse impact at all upon the City Centre or its vitality and viability or that they would prevent development from occurring within the City Centre given that they are clearly intended to serve a very different market place.<sup>[2.80, 3.56]</sup>
- 7.91 I accept that the hotel and A3 unit do not escape the need for the application of the town centre policies in PPS4 on the basis that they are ancillary to other uses as provided in Policy EC14.2 of PPS4. Plainly these uses would not be ancillary in the context of the example provided in the latter part of the paragraph. It follows that Policy EC14.3 is relevant. This provides that "a sequential assessment (under Policy EC15) is required for planning applications for main town centre uses which are not in an existing centre and not in accordance with an up to date development plan." The hotel and A3 unit are not in an existing centre and not in accordance with an up to date development plan. Therefore they need to be sequentially assessed.<sup>[4.72-4.76]</sup>
- 7.92 Both the Applicant and WMDC seek to say that the need for a sequential assessment does not apply by virtue of the concluding words of Policy EC15.1

d iv. However, as LCC points out, the last sentence of Policy EC15.1 d iv does not come into play in this case. Firstly, Policy EC15.1 d applies only to sites in or on the edge of existing centres which the application site is plainly not. Secondly, Policy EC15.1 d iv applies only to the disaggregation of specific parts of a retail or leisure development. It has nothing to say about the question of the disaggregation of mixed use development into its component parts.<sup>[4.77-4.78]</sup>

- 7.93 The Applicant has provided a sequential assessment for the entirety of the proposed development and has not sought to disaggregate it, an approach which it is claimed is entirely in line with the approach to be taken for the sequential test within Policy EC15 of PPS4 which makes it clear in paragraph EC15.2 that the developer should not be required to arbitrarily subdivide proposals. However, it seems to me that Policy EC15.2 is quite clearly set in the context of Policy EC15.1 which I have already referred to above.<sup>[2.73-2.88]</sup>
- 7.94 It is next necessary to consider Policy EC17.1 of PPS4. This is clear and unambiguous in its terms: "Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where: a. the applicant has not demonstrated compliance with the requirements of the sequential approach (Policy EC15)".<sup>[2.79-2.88, 4.80]</sup>
- 7.95 WMDC points out that the "town centre" uses put forward as part of the scheme would not be proposed unless they formed part of a holistic development proposal. It is claimed that there is a symbiotic relationship between the hotel, the A3 unit and the stadium as part of a holistic development. Furthermore, WMDC relies on paragraph 5.7 and 6.9 of the PPS4 Practice Guidance which it is argued requires a decision maker to consider the application as a whole (including the town centre elements) to consider their operational and market requirements and to take a view as to what the overall scheme is trying to achieve.<sup>[2.79-2.88, 3.56]</sup>
- 7.96 I appreciate that paragraph 5.7 must be read in the light of paragraph 5.4 of the PPS4 Practice Guidance which makes it plain that where sequential site assessment is required by Policy EC14, (as it is here) the policy requirements for that assessment are set out in Policy EC15. However, there is merit in WMDC's approach and it is abundantly clear that there would have been absolutely no utility in WMDC requiring stand-alone sequential assessments for the restaurant and hotel. Although WMDC accepts that sites in sequentially more favourable locations could be found for the hotel and A3 unit, I accept there is not a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet.<sup>[2.79-2.88, 3.56, 4.81-4.82]</sup>
- 7.97 The Applicant also relies on paragraph 6.9 of the PPS4 Practice Guidance. The opening words of that paragraph indicate the sequential approach applies to all main town centre uses. Thereafter it suggests that LPAs should consider the relevant priorities and needs of different main town centre uses, particularly recognising their differing operational and market requirements. In this case no empirical evidence of need or demand for hotel accommodation is submitted. However, there is specific evidence in terms of the economic appraisal and the supporting information which indicates that the entire development is needed to provide the cross subsidy for the stadium and

community elements. Plainly, without the entire development the finance simply would not exist to bring the development forward.<sup>[2.79-2.88, 3.56, 4.83]</sup>

- 7.98 Overall, in relation to issue (d), I conclude that the proposal would not be in strict compliance with Government policies in PPS4 particularly in terms of the requirements of the sequential approach to town centre uses but I consider that an exception should be made to PPS4 on the basis that the hotel and A3 units are necessary components of a wider scheme all elements of which must be provided in order to enable the funding of the stadium.

***Issue (e) the extent to which the proposed development is consistent with Government policies in Planning Policy Statement 9: Biodiversity and Geological Conservation, particularly in relation to giving appropriate weight to protected species and to biodiversity interests within the wider environment;***

- 7.99 The Applicant maintains that the expert evidence which has been submitted on this issue demonstrates the commitment which it has to supporting the Government's objectives for biodiversity and geological conservation. I recognise that the Applicant has conducted numerous surveys of the site to identify all items of biological and biodiversity interest. The layout has also been carefully designed so as to maximise the use of the land which is of least biological and biodiversity interest - the former colliery land and farm land. Moreover, the layout seeks to preserve areas of greater biological interest, such as the woodland, the pattern of which is retained.<sup>[2.93, 3.59, 4.66]</sup>

- 7.100 It is also evident to me that the Indicative Landscape Master Plan has taken account of biological diversity and it is clear that steps have been taken to seek to ensure that biological interest is conserved and enhanced. It is noteworthy that the aim is to restore and improve the diversity of wildlife and biological interest by enhancing the quality and quantity of natural habitats within the application site. Although the Oulton Society and local residents groups disagree, I consider that the development would result in significant biological and biodiversity benefits including significant enhancement of important habitats.<sup>[2.94, 3.59, 4.86, 5.76, 5.82, 5.83, 6.9, 6.13]</sup>

- 7.101 Natural England has been consulted and closely involved at all stages of the proposals. Detailed regard has been had to any possible effects of the development on protected species, particularly water voles and otters. The application has proceeded in accordance with Natural England's Standing Advice regarding otters and water voles. A Water Vole and Otter Conservation Strategy has been prepared which would result in significant enhancement for both species. Water voles have been recorded using part of the site and there would be a net increase of suitable habitat for them which would be beneficial. There has been no record of otters using the site although they are known to be in the River Calder and have been found off site near drainage ditches. The existing habitat on site does not suit otters. The drainage strategy demonstrates that there would be no changes in flow rates from the site into those ditches but that water quality draining from the site would be improved which would be beneficial to the environment generally and to otters.<sup>[2.95, 3.60, 4.86, 5.76, 5.82, 5.83]</sup>

- 7.102 Overall I conclude on issue (e) that the proposed development, together with the proposed ecological mitigation, would comply with Government policies in

PPS9 particularly in relation to protected species and to biodiversity interests within the wider environment. Indeed the proposals go beyond the requirements of national and local planning policies in relation to biodiversity and would provide a net enhancement, qualitatively and quantitatively, of biodiversity and habitat interest. The proposals would allow retention of existing wildlife habitat networks and linkages on, through and off the site and enhanced quality of retained habitats creating in particular new woodlands and water bodies. There would also be a management regime for the newly created habitats which would result in long term ecological benefit.

***Issue (f) the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note 13: Transport, in particular on the need to locate development in a way which helps to:***

***(i) promote more sustainable transport choices;***

***(ii) promote accessibility to jobs, leisure facilities and services by public transport, walking and cycling;***

***(iii) and reduce the need to travel, especially by car***

7.103 The matters which the SoS has highlighted in this issue represent the objectives of PPG13 which are set out in paragraph 4 of that document. Other paragraphs of PPG13 which have received particular attention in the course of the Inquiry are paragraphs 18, 19 and 45-47. <sup>[4.88-4.90]</sup>

7.104 Paragraph 18 of PPG13 provides that the overall approach on jobs, shopping, leisure and services should be applied by all authorities in the preparation of regional planning guidance, when preparing or amending their development plans, and in determining planning applications for such uses. However, the same paragraph goes on to provide that the overall approach does not apply to warehousing and distribution uses, which is the largest element of the scheme, in respect of which guidance is provided in the section on freight in paragraphs 45 to 47. <sup>[4.90, 4.95-4.96]</sup>

7.105 Paragraph 19 of PPG13 provides that a key planning objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling. The paragraph also states that, in preparing their development plans, local authorities should give particular emphasis to accessibility in identifying the preferred areas and sites where such land uses should be located, to ensure they offer realistic, safe and easy access by a range of transport modes, and not exclusively by car. However, this general approach is disapplied in relation to warehousing and distribution proposals. <sup>[3.17, 4.91, 4.95- 4.96]</sup>

7.106 This relaxation of the general approach is explained by paragraphs 45 – 47 of PPG13. Paragraph 45 indicates that local authorities should, where possible, locate developments generating substantial freight movements such as distribution and warehousing, particularly of bulk goods, away from congested central areas and residential areas, and ensure adequate access to trunk roads. Paragraph 46 refers to the “*need to strike a balance between the interests of local residents and those of the wider community, including the need to protect the vitality of urban economies, local employment opportunities and the overall quality of life in towns and cities*”. <sup>[3.18]</sup>



- 7.107 In other words, PPG13 requires an internal, transport related, balance to be struck between the requirement to locate B8 uses away from congested urban areas and residential development, but to encourage – so far as is possible in this context – access by non-car modes. This approach is reflected by the RSS, especially Policy T4(B), which requires the location of B8 uses close to distributor roads. In saying this it is accepted that paragraph 18, in the case of warehousing and distribution uses, does not disapply the objectives found in paragraph 4 of PPG13. LCC, the Oulton Society and local residents maintain that the proposal would not adequately promote the objectives of PPG13.<sup>[3.18, 5.100-5.103, 6.4, 6.15, 6.16]</sup>
- 7.108 Overall it is clear that the only issue between the main parties is whether the site is sufficiently accessible in transport terms. There are no technical highway issues than cannot be resolved by condition or planning obligation: more particularly, there are no technical objections in relation to the capacity of the local or motorway road network to accommodate this development, nor are there any technical concerns as to the internal road layout.<sup>[3.13]</sup>
- 7.109 It is noteworthy that historically a substantial part of the application site was an employment site up to and until the Newmarket Silkstone Colliery closed. It was a destination in its own right where hundreds of people went to work. It is also true that the B8 site is located close to the M62 and within 4 miles of the City Centre. Plainly the site is not in a City Centre next to a bus and railway interchange, but that does not mean it is inaccessible.<sup>[2.98]</sup>
- 7.110 LCC did not express any view in relation to the accessibility of the stadium itself. The focus of the debate was on the accessibility of the employment uses. As such, this focus makes sense given the fact that the employment elements of the proposal would be used all year round, whereas the stadium would be used on far fewer occasions. It was also agreed that accessibility is but one element of a sustainable development; it is not synonymous with it. Thus, a proposal can be a sustainable one even if it suffers from limitations in terms of its accessibility by walking, cycling or public transport.<sup>[3.15]</sup>
- 7.111 There are bus services on Aberford Road and Newmarket Lane. The Aberford Road services are limited. They operate with spare capacity at present and link the regional city of Leeds with the sub regional centre of Wakefield. Bus services would increase once a site becomes a destination. The Passenger Transport Authority Metro has indicated that if demand grew it would increase the level of services within this corridor. There are also services along Newmarket Lane itself linking with Castleford. At present the Newmarket Lane service does not provide a link to Wakefield City Centre nor does it run on Sundays. Bus stops would be enhanced but there are no formal proposals to improve bus services either by way of upgrading existing services or by way of the introduction of new services, save for shuttle buses on match days.<sup>[2.102, 4.98]</sup>
- 7.112 Whilst the B8 development would lie in excess of the IHT guidance maximum walking distance of 400m from the bus stops on Aberford Road I do not regard this as a realistic hindrance bearing in mind that it is acceptable to walk 800m to a train. A sensible and holistic approach should be taken to these matters. As far as walking is concerned there are a network of public footpaths within the application site which link to the national Trans Pennine Trail and other paths. There are footways along adjacent roads. The settlement of Bottom Boat is next to the site and there are 700 houses within 2km. However, the

railway stations in the vicinity - Outwood and Woodlesford - lie well beyond an acceptable walking distance and only Woodlesford has a bus link to the site with a walk of some 100m between the railway station and the bus stop.<sup>[2.103, 4.97]</sup>

- 7.113 In relation to cycling the Trans Pennine Trail is a cycle route. From evidence submitted to the Inquiry it is clear that it is possible to cycle to Leeds and Wakefield City Centres within 20 minutes. Despite some concerns about cycling on Aberford Road, there are at least 4 possible alternative ways of safely and securely cycling to Wakefield City Centre and there are some 30,000 people within the 5kms cycle ride range. That is a very significant quantum. The site would be readily accessible by cycle from Wakefield, Leeds, Castleford, Methley, Mickletown, Stanley, Lofthouse, Outwood, Oulton, Woodlesford, Rothwell, Bottom Boat and from the proposed Aire Valley Eco-Village which forms part of LCC's recent Enterprise Zone initiative and lies less than 3kms from the site.<sup>[2.104, 4.9, 4.99]</sup>
- 7.114 It is accepted that the application site has limited accessibility by modes of transport other than the private car. The location of the site would not fully meet the needs for a sustainable development. It is recognised that both LCC and WMDC promote car sharing as a sustainable mode of transport in their travel guidance. Whilst one of the key objectives of PPG13 is to reduce the need to travel by car, an equally valid objective is to promote sustainable transport choices for the movement of freight. It is necessary to consider the appropriateness of the site for the uses which are proposed upon it.<sup>[2.105, 3.15, 4.93, 4.99]</sup>
- 7.115 Based on the evidence the site is perfectly located for B8 warehousing and distribution development. The benefits of locating B8 warehousing and distribution here are evident and are entirely in line with the approach taken to these matters within national, regional and local policy. The site is located away from the congested centre of Wakefield and, save in respect of a number of houses that will remain close to the B8 uses, is not next to residential development: it therefore complies with paragraphs 45 – 47 of PPG13. It is situated with ready access to the M62, a key European trans-national route and a traffic distributor: it satisfies RSS Policy T4. It is within the M62 corridor. Whilst not an allocation yet, the location of the site meets the locational requirements of Policy CS8(2) and has been endorsed by WMDC in the preparation of the SSDPD. Given that this location is fully supported by that policy background, it should provide the context for considering how accessible the site needs to be.<sup>[2.106, 3.17, 3.18]</sup>
- 7.116 No party to the Inquiry disputes that it is unsustainable to locate warehousing and distribution uses within the urban area. They are clearly better located adjacent to the strategic road network where the adverse effects of noise, fumes, emissions, air quality impacts, vibration, residential amenity impacts, delay and mileage increases are minimised. The B8 component is the largest element of the proposal. It seems to me that it is inevitable that such uses are likely to be located outside of the central urban area and consequently in areas which have a lesser immediately available choice of alternative transport modes. It is axiomatic that the jobs that relate to the B8 component are not going to be located within an urban area but on the site where the B8 warehousing and distribution is to be developed.<sup>[2.107]</sup>

- 7.117 Recognising that, the Applicant, in discussions with the HA<sub>g</sub> and with WMDC, has taken steps to address those matters by bringing forward Travel Plans for the stadium and employment uses to promote sustainable transport choices, promote accessibility and reduce the need to travel by car. These are detailed Travel Plans which provide for such matters as: a travel plan co-ordinator; measures to encourage walking, cycling, motorcycling and public transport; parking measures to manage/reduce car usage; freight management; match day shuttle bus to the City Centre; match day parking strategy and on street parking control.<sup>[2.109, 2.110]</sup>
- 7.118 Significantly, the HA<sub>g</sub> has agreed the Travel Plans which can be secured by a planning condition. This means that the HA<sub>g</sub> is satisfied that the modal split which governs both Travel Plans is acceptable and that the measures set out in the Travel Plans are sufficient to ensure that the modal splits would be achieved. In my view this is an important consideration and one that serves to mitigate the “limited” accessibility of the application site. Whilst it is accepted that the modal split embodied in the Employment Travel Plan Framework would be challenging, it seems to me that there would be sufficient control by way of monitoring the Travel Plan and the restriction placed on further development occasioned by any failure to meet trip generation targets.<sup>[3.21, 4.100-4.103]</sup>
- 7.119 LCC and others raised concerns about overspill parking (both on match days and from employment uses) and the impact of HGVs on certain parts of the road network. Insofar as there would be any overspill parking, particularly on match days, this can be resolved by the making of Traffic Regulation Orders (TRO) restricting the parking of vehicles on the surrounding roads. The Applicant has agreed to pay for the TRO and this is covered in the draft Section 106 Planning Obligation. It is accepted, with particular reference to paragraph 50(2) of PPG13, that there is no reason to refuse planning permission for reasons connected with parking. Any objection related to the routeing of HGVs along Newmarket Lane can be resolved by the making of a TRO banning HGVs from travelling further east along Newmarket Lane. In this context an outline freight management plan has been put forward to address concerns raised over the suitability of that route and the impact upon residents. The freight management plan could be secured by means of a planning condition.<sup>[2.116-2.112, 3.14, 4.104-4.105]</sup>
- 7.120 Overall I conclude that in relation to issue (f), the site as a whole is not as accessible as one would normally expect. However, any deficiency in this respect is substantially mitigated by reference to the policy balance between the very specific locational requirements of the largest element of the proposal (B8) and the general objective of encouraging non-car modes of travel. The provisions of the Travel Plans and the fact that the HA<sub>g</sub> raises no objections to the proposal means that this transport related balance is struck in the best possible way, having regard to the particular circumstances of this case.

***Issue (g) the extent to which the proposed development accords with Government policies in Planning Policy Guidance 17: Sport, Open Space and Recreation, particularly in relation to:***

- (i) meeting the sport, open space and recreation requirements of the whole community by securing appropriate new provision; and***

***(ii) ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are in locations well served by public transport;***

7.121 With regard to sub paragraph (i) in this issue, it is accepted that the scheme as a whole, including the stadium and the community sport elements of it and the wider footpaths, cycleways and other connections, has been designed on the basis of ensuring social inclusiveness and availability to the entire community given that the community sport elements would be operated by the Wakefield and District Community Trust.<sup>[2.117]</sup>

7.122 With regard to sub paragraph (ii) the Applicant indicates that the operation of the stadium is designed to ensure accessibility by public transport by the provision of coach parking, by the operation of a shuttle bus and that the facilities would be accessible by walking or cycling. The objectives of PPG17 together with paragraphs 21 and 22 of that guidance indicate, in essence, that stadia and major sports developments, such as is proposed here and which would accommodate large numbers of spectators, should be located in areas with good access to public transport.<sup>[2.118, 4.109-4.113]</sup>

7.123 The Applicant indicates that PPG17 dates back to 2002 and fails to have regard to the fact that it is very rare these days for such facilities to be delivered on a stand alone basis without accompanying development which is necessary to cross subsidise them. That clearly goes to the weight which should be attached to PPG17 given that in this and indeed many other instances the stadium could simply not be brought forward without the other development to fund it.<sup>[2.118]</sup>

7.124 Overall I conclude on issue (g) that the site as a whole is not as accessible as one would normally expect. Nevertheless it is the most appropriate and sustainable location for the B8 development being adjacent to the M62 motorway and the Travel Plans proposed can ensure accessibility to the stadium by alternative modes of transport. This means that the transport related balance is struck in the best possible way, having regard to the particular circumstances of this case. It is entirely appropriate insofar as PPG17 is pertinent to locate the stadium with the enabling development. There is simply no alternative to site it anywhere else.

***Issue (h) 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;***

7.125 **Planning Conditions.** WMDC submitted a list of suggested conditions and these were discussed at the Inquiry at a round table session. These conditions were subsequently revised and document WMDC15 represents a high level of agreement between the Applicant and WMDC as to the conditions which should be imposed in the event that planning permission is granted. I have considered the suggested conditions in the light of the tests of Circular 11/95.<sup>[2.121, 3.66]</sup>

7.126 Conditions 1-8 are necessary to ensure that the development will not start until all reserved matters are approved, that the development is carried out in accordance with the approved delivery strategy and phasing plan, within the

parameters of the ES and the approved plans. With regard to Condition 4 only a limited timescale (4 months) is required for the approval of reserved matters for the stadium as details of access, landscaping, layout and scale are already considered as part of this application. Condition 9 requires that an appropriate boundary scheme is submitted in the interests of visual amenity. Conditions 10-13 deal with drainage matters. Discussions took place about the need for a condition relating to sewer diversion which was requested by Yorkshire Water. Given that there is a local public sewer which crosses the site and some uncertainty how that sewer would be impacted by the proposal, it is necessary to include an additional drainage condition to safeguard the position. <sup>[2.121, 3.66]</sup>

7.127 Conditions 14 and 15 are necessary to ensure the protection of wildlife and supporting habitats and to protect water voles. Condition 16 is required to reduce the risk of flooding. Conditions 17-23 are necessary to ensure a suitable access and layout is provided in the interests of highway safety. Specific conditions are required in relation to cycle storage; the improvement and relocation of bus stops; measures to restrict the HGVs using Newmarket Lane and to ensure that the development is carried out in accordance with the Freight Management Plan. Conditions 24-28 are necessary in the interests of residential amenity and to mitigate the impact of construction works. The measures specified are required to control noise from construction, road traffic, deliveries and the operation of the development. <sup>[2.121, 3.66]</sup>

7.128 Conditions 29-37 are necessary in relation to archaeology, contaminated land, security, woodland planting, climate change, litter, waste and recycling. Conditions 38-40 impose restrictions in relation to the B8, B1b and B1c developments and are necessary to ensure that the impact of these components do not exceed that set out in the TA and ES. Conditions 41-46 relate to the stadium development and are necessary in the interests of visual and residential amenity and to protect the vitality and viability of Wakefield City Centre. Condition 47 is necessary and requires a scheme for external lighting to be submitted. Conditions 48-52 are also required to ensure that the stadium is delivered as early as possible. <sup>[2.121, 3.66]</sup>

7.129 A draft unilateral **Planning Obligation** pursuant to S106 of the Town and Country Planning Act 1990 (YC37) is put forward in relation to the delivery of the stadium. The Applicant agreed to submit an engrossed version of the planning obligation by 23 January 2012 but this was not received by PINS on that date and the Inquiry was closed in writing. Unlike other stadium decisions this is not a negative obligation that prevents something else from happening before the stadium is provided, but does actually secure the delivery of a stadium. This is a positive obligation that says the stadium contract must be let by a particular point in time. <sup>[2.119, 3.66-3.67, 4.115-4.116]</sup>

7.130 The trigger point for the letting of the contract for the construction of the stadium is agreed between the Applicant and WMDC. WMDC is satisfied that the appropriate stage at which the contract should be let is when 60,000m<sup>2</sup> of the B8 floorspace has been built and occupied. LCC, Mr Cubbage, the Oulton Society and others are critical of the planning obligation and query the start date. However, LCC does not say that the stadium will not be built. I note that there is a demand from the market for B8 uses as evidenced by the Colliers International letter and schedule of requirements submitted to the Inquiry. <sup>[2.119, 3.66-3.67, 4.115-4.116, 5.85-5.95, 6.10]</sup>

- 7.131 In the circumstances, and having regard to the close link between the financial viability of the employment development and the funding of the stadium, WMDC is prepared to accept that this represents an acceptable trigger point, although the SoS will note that Sir Rodney Walker (Chair of the Community Trust) understands that the developer is committed to delivering the stadium as soon as possible. In my view the draft planning obligation would ensure the delivery of the stadium. That is a very significant and weighty factor for the SoS to take into account. [2.119, 3.66-3.67, 4.115-4.116, 5.85-5.95]
- 7.132 The ability of the developer to deliver the scheme was questioned by LCC and others. However, from the evidence submitted to the Inquiry it is clear that the developer has experience of delivering major B8 warehousing and distribution developments, the Paragon Business Village and also a major arena (the Manchester Evening News Arena in Manchester). The SoS can therefore be assured that the developer has the necessary experience and expertise to deliver the entirety of the development. [2.119, 3.66-3.67, 4.115-4.116, 5.85-5.95]
- 7.133 The provisions of the planning obligation meet the three tests set out in Regulation 122 of the CIL Regulations 2010 and the tests of Circular 05/2005. More importantly however, the obligation secures the delivery of the stadium after 60,000sqm of B8 units have been built and occupied for commercial purposes. To that extent it is an important and relevant safeguard. Without it there is no certainty that the stadium would in fact come forward - this would be to the detriment of the scheme as a whole. As I say in paragraph 7.129 above, I was assured that an engrossed version would be provided and I shall frame my recommendation on that assumption. If in fact no such obligation comes forward, the Secretary of State will no doubt wish to bear in my thoughts on this matter. In the meantime I have had regard to the planning obligation as a material consideration in my conclusions and recommendation.

***Issue (i) any other matters that the Inspector considers relevant***

- 7.134 I consider there are no other matters which need to be addressed.

**Overall Conclusion**

- 7.135 At paragraph 7.85 above I referred to the need for a Green Belt balancing exercise. It is important to clearly show that all material considerations including all those in favour of the development and all those against the development have been taken into account and weighted accordingly before concluding whether or not the total weight of the "other considerations" clearly outweighs the totality of the harm to give rise to very special circumstances which are referred to in paragraphs 3.1 and 3.2 of PPG2.
- 7.136 On the negative side of the balance it is evident that the proposal as a whole comprises inappropriate development in the Green Belt. Although it would accord with a very wide range and a large number of development plan policies and objectives the proposal would conflict with the existing Green Belt designation in the WUDPFA and sub paragraph f of Policy CS1 which provides that in the Green Belt development will conform to national regional and LDF policies relating to Green Belt. First, there would be harm that would be caused by reason of inappropriateness which must be given substantial weight in accordance with national advice contained in PPG2 paragraph 3.2. Secondly,

the proposal would cause significant harm to some of the purposes of including land within the Green Belt, in particular safeguarding the countryside from encroachment. However, the impact on encroachment would be mitigated by the extent of landscaping which would be retained and by the overall extent of the site which would remain in open uses. A moderate amount of weight can be attached to this factor. Less harm and therefore less weight should be attached to the impact on other identified purposes. The proposal would not represent unrestricted sprawl nor would it lead to neighbouring towns merging into one another. The proposal would neither prevent urban regeneration nor affect the setting of historic towns.

7.137 Thirdly, with regard to openness, there would be a substantial amount of new built development. This would have a significant and negative impact on the overall openness of the site, particularly in the areas of the site where built development is proposed. The stadium and large warehouse buildings would be large structures in their own right. There would also be a number of other new structures including the B1 units, the hotel and the A3 unit and there would also be other elements which would impact adversely upon openness including new roads, lighting, large areas of car-parking and substantial activity. There would be a moderately adverse effect on landscape character but this is not a protected or sensitive landscape. There would be a moderate visual impact on a limited number of relevant receptors, mainly residential properties. The objectors do not dispute the need for the stadium or the need for the B8 development but they do object to the location. Overall a significant amount of weight can be attached to these factors.

7.138 Fourthly, there are additional factors that must be considered. There would be some loss of agricultural land but there is no DEFRA objection and a limited amount of weight should be attached to this factor. There would be some loss of woodland water vole ditch habitat but there is no Natural England objection. There would be some harm in relation to the spatial development strategy of the CS and its more detailed policies. The proposal as a whole would not be aligned with Policy CS1 and CS2; the proposed B8 development would conflict with Policy CS8 2 c, because it is not within an employment allocation proposed for this type of use but only an emerging allocation; the proposed B1 development would be in conflict with Policy CS8 2b because it is not in the urban areas set out in the spatial development strategy on previously developed land, within an employment allocation or within an existing employment zone; the proposed hotel and A3 uses would conflict with Policy CS2 and PPS4 but an exception should be made on the basis that the hotel and A3 units are necessary components of a wider scheme. There would be shortcomings in terms of accessibility by sustainable modes of transport but given the proposed mitigation measures the transport balance is struck in the best possible way. All of these factors would provide some additional harm to the Green Belt and should be added to the harm caused by way of inappropriateness. However, all of these additional factors attract little weight because there is no alternative site and because the effects are not significant.

7.139 I now turn to consider each of the factors which are relied upon by the Applicant, WMDC and supporters of the proposal on the other side of the balance. Firstly, the Club has a clear and urgent need for a new stadium to create a viable business to secure its Super League status which makes a vital contribution to the socio economic well being of the City and the community as

illustrated in the Warrington example. WTWRLFC is the only professional club in the City and the need for the new stadium is recognised in spatial planning terms in Policy CS11. The failure to secure the new stadium would leave the Club without a home once the lease expires and to lose its Super League status would be a damaging blow to the City of Wakefield. The woeful inadequacy of the Club's existing facilities, the lack of any security of tenure at Belle Vue and of any finance to fund a new stadium are all factors of acknowledged importance and attract very considerable weight.

7.140 Secondly, the benefits of a Community Stadium and the wider sporting, health, lifestyle opportunities that this would create delivered through the Wakefield and District Community Trust and the activities of the Wildcats Community Trust would provide enhanced possibilities for the whole community. Clearly sport is seen as an important socio-economic driver in the context of this proposal. The benefits would accord with the Council's Sport and Lifestyles Strategy, PPS1 (so far as the commitment to promote community cohesion is concerned) and PPG17 which promotes social inclusion and community cohesion, health and well being. There would be particular benefits for the disabled, for families, for young people and for other sectors of society from the Club and the two Trusts. The stadium has attracted many thousands of letters of support from a cross section of the community. Unequivocally the community benefits which would derive from the proposal through the Club and the Trusts attract considerable weight.

7.141 Thirdly, the proposal would help to deliver the CS which is committed at all levels to delivering economic growth, entirely in line with the Government's current objectives. It would make a significant contribution towards the prosperity and diversity of the region in accordance with Spatial Objective 7 which seeks to support the growth of a dynamic local economy and criteria 1 of Policy CS8 which seeks to improve the District's economic performance through a range of measures including the provision of an adequate supply of employment land and bridging the skills gap. There would be an economic investment of £119m, a boost to the visitor economy of £10m and the creation of up to 2,000 jobs. The provision of so many jobs suitable for the unskilled and/or part time in nature would be beneficial in an area which is so seriously deprived of employment opportunities and especially at a time of increasing unemployment and economic hardship in a District with above average unemployment. The number of Job Seeker Allowance claimants continues to be high in Wakefield East, Wakefield Central and Wakefield North Wards and youth unemployment remains a significant local issue.

7.142 The proposal would help to implement the Council's emerging SSDPD. It would make up a substantial proportion (over 50 hectares) of the need for an extra 95 hectares of B8 land to create jobs building upon the District's strength in the logistics sector. The proposal would therefore provide a valuable opportunity for securing important economic benefits. There is little evidence to suggest that these benefits would be gained in other ways if the proposal did not go ahead at this location next to the M62 trans-national highway where it would meet identified market demand. Overall, the economic benefits of the proposal attract very considerable weight.

7.143 Fourthly, the regeneration of an inadequately restored former colliery including dealing with 13 mine shafts, bringing poorly remediated land back into beneficial use and the opening up of land to public access for sport, walking,



cycling and general recreation attracts significant weight. Fifthly, the enhancements to biodiversity and ecology due to habitat increase and ecological management plans complying with and going beyond PPS9 requirements and linking externally to wildlife corridors and habitats attract considerable weight.

- 7.144 Sixthly, the fact that there is no other site capable of accommodating the whole development or even part of it which is not in the Green Belt is a very important factor. There is a positive commitment from the landowner and developer in the S106 Agreement to build the stadium with a cross subsidy package from the enabling development alongside the WMDC's contribution of £2m. The scheme cannot be disaggregated, because to do so would mean it could not fund the community stadium elements. It is the clear publicly stated intention of the developer, WMDC, the Club and the Trust to build the stadium as soon as possible. The developer has a track record of building major B8 and leisure projects (including the MEN Arena in Manchester, the UK's largest indoor arena). Its last site, the Paragon Business Village on the A650 between Wakefield City Centre and the M1, demonstrates the scale and quality of development that can be delivered. The Jones Lang Lasalle appraisal confirms the funding arrangements notwithstanding the concerns expressed by LCC, Mr Cubbage and others. There is a proven market for B8 uses as evidenced by Colliers International. All of these matters carry considerable weight.
- 7.145 Finally, there are other miscellaneous factors. The proposal would make a considerable contribution to inner urban area regeneration by creating the opportunity to redevelop Belle Vue for more appropriate purposes (probably housing); the benefits of travel planning for the employment and stadium uses, particularly the enhanced transport opportunities for stadium visitors and the removal of the residential amenity implications of playing at Belle Vue and the lack of any technical traffic issues.
- 7.146 Overall there are very many factors in favour of the development, most of which carry considerable or very considerable weight. Set against these factors is the substantial harm presumed to the Green Belt, the weight to landscape and visual impact and the little weight attributed to the other factors. Overall in my view, the combined weight of the 'other considerations' very clearly outweighs the totality of the harm from inappropriateness and other identified harm. It follows, therefore, that very special circumstances are demonstrated, justifying the carrying out of the development in the Green Belt.
- 7.147 The Club is the focal point of the community of the City of Wakefield. Uniquely, this scheme would enable it to continue to be so, but in modern first class facilities so that it could enhance its Community Trust activities, welcome more families and properly meet the needs of the disabled. The outreach into the community would be extended by the wider sports, health, leisure and fitness opportunities afforded by the design of the site as a whole and the MUGAs, and the commitment of the Wakefield and District Community Trust. Great social inclusion and cohesion benefits would arise. The scheme would contribute to the overall urban renaissance of Wakefield, would create jobs, facilities, sports and leisure opportunities and would secure the future of the Wakefield Wildcats thereby retaining a fundamental part of the City's heritage. There would be huge social and cultural benefits. The scheme represents a major opportunity to deliver new employment alongside wider public benefit.

## **INSPECTOR'S RECOMMENDATION**

8.1 I recommend that planning permission be granted subject to conditions.

*Harold Stephens*

INSPECTOR

**APPEARANCES****FOR YORKCOURT PROPERTIES LTD**

Mr Andrew Piatt Partner of HBJ Gateley Wareing  
(Manchester)LLP. Instructed by Yorkcourt  
Properties Ltd

He called:

Sir Rodney Walker C Eng FRSA FInstD LLD (Hons) KJT	Chairman of Wakefield & District Community Trust
John Dennis BSc (Hons) MSc (Dist) FGS MIMMM	Chartered Geologist & Chartered Engineer
James Elston	Chief Executive of Wakefield Trinity Wildcats Rugby League Football Club
Francis Hesketh BSc (Hons) CMLI CEnv MIEEM MICFor	Founder Member of The Environmental Partnership (TEP)
Peter Blair BEng CEng FICE FCIHT	Operations Director of Haskoning UK Ltd
John Francis BA (Hons) MRTPI	Equity Partner with DPP LLP

**FOR WAKEFIELD METROPOLITAN DISTRICT COUNCIL**

Mr Jonathan Easton of Counsel Instructed by Bernadette Livesey - Service  
Director Legal and Governance WMDC

He called:

Richard Hollinson BA (Hons) DipTP DipMS MRTPI	Team Leader, Spatial Policy, Wakefield MDC
Tracey Brewer HNC Civil Engineering	Group Engineer, Highways Development Control, Wakefield MDC
Andrew Wallhead BSc (Hons) RICS	Corporate Director, Regeneration and Economic Growth, Wakefield MDC
Lisa Dodd, BSc (Hons) RSA ACSM	Service Director, Sport and Culture, Wakefield MDC
Ian Thomson MRTPI Dip TP LLB	Service Director, Planning, Transportation and Highways, Wakefield MDC

Gary Blenkinsop BSc DipNC MIA <sup>190</sup>	Communities Manager, Environmental Health
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**FOR LEEDS CITY COUNCIL**

Mr Alan Evans of Counsel

Instructed by City Solicitor, Leeds City Council,  
Legal Services

He called:

David Stainsby HNC Civil Engineering	Senior Highways Development Control Officer, Leeds CC
Sue Speak BA (Hons) MCD	Team Leader, Forward Planning and Implementation, Leeds CC

**INTERESTED PERSONS**

John Allott MA MBA	Managing Partner Cedars Partnership
Jason Wilsher – Mills	Wakefield Trinity Disabled Supporters Association
Jonathan Stone	Chairman - Residents FOR Newmarket
Martin Shevill	Principal of Ossett Academy
Phil Townsend – National Diploma in Horticulture	Spokesman for SWAG -Stadium Wakefield Action Group
Ian Bramley – BSc FRICS MAPM	Chairman of the Wakefield Trinity Supporters Trust
Clive Hudson	Wakefield District Councillor -Stanley
Mohammed Ayub	Managing Director Next Generation Youth and Community Project
Peter Bevils	Head of Strategic Development, Wakefield Football Club
Mark Jones BSc (Hons) MA MRTPI	Barton Willmore on behalf of Wakefield Residents
Robert Beards	Local Resident
Dennis Mattinson	Methley Residents Association
A W Ripley	Methley Residents Association

<sup>190</sup> Mr Blenkinsop was not called but he answered questions from the Inspector on noise issues  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) Page 146

Paul Cubbage	Methley Residents Association
June Fender	Methley & Mickletown Residents Association – Wakefield Community Conservation Group.

## INQUIRY DOCUMENTS

INQ/1	Notification Letter
INQ/2	Written representations received submitted following the issue of the SoS's Direction to call-in the application
INQ/3	Written representations received at the application stage

## CORE DOCUMENTS

CD1 PPS1	Delivering Sustainable Development (2005)
CD2 PPS1	Supplementary Guidance: Planning and Climate Change (2007
CD3	The Planning System: General Principles (2005)
CD4 PPG2	Green Belts (1995) amended March 2001
CD5 PPS4	Planning for Sustainable Economic Growth (2009)
CD6 PPS7	Sustainable Development in Rural Areas (2004)
CD7 PPS9	Biodiversity and Geological Conservation (2005)
CD8 PPG13	Transport (2011) (first published March 2001)
CD9 PPG16	Archaeology and Planning (1990)
CD10 PPG17	Planning for Open Space, Sport and Recreation (2002)
CD11 PPG24	Planning and Noise (1994)
CD12 PPS25	Development and Flood Risk (2010)
CD13	Circular 11/95 Use of Planning Conditions and Planning Permissions
CD14	Circular 05/05 Planning Obligations
CD15	Planning Inspectorate Model Conditions (2010)
CD15A	National Planning Policy Framework Draft
CD15B	Ministerial Statement – Planning Growth (2011)
CD15C PPS12	Local Spatial Planning
CD15D	The Town and County Planning (Consultation)(England) Direction 2009 – 02/2009
CD16	Yorkshire and Humber Regional Spatial Strategy to 2026 (2008)
CD17	Relevant saved policies of the Wakefield Metropolitan District Unitary Development First Alteration (saved after the 27 <sup>th</sup> September 2007)
CD18	Core Strategy and Development Plan Document Examination – Inspector's Report (March 2009)
CD19	Wakefield LDF Core Strategy – Adopted 15 <sup>th</sup> April 2009
CD20	Wakefield LDF Development Policies Document – Adopted 15 <sup>th</sup> April 2009
CD21	Wakefield LDF Site Specific Proposal Submission Document – February 2011
CD21A	Wakefield LDF Site Specific Proposal Maps – December 2011
CD22	Wakefield Annual Monitoring Report in respect of Local Development Framework 2010
CD23	Empty Employment Land Technical Paper – January 2008 (prepared for Core Strategy Inquiry)

CD24	Supplementary Planning Guidance (SPG)5 - Sustainable Development Guide
CD25	Supplementary Planning Guidance (SPG) 7 – District Wide Parking Standards
CD26	Wakefield District Sports Strategy
CD27	Wakefield District Playing Pitch Strategy
CD27A	Wakefield LDF Sites Assessment Technical Paper, Volume 2 – Rejected Land Allocations
CD27B	Wakefield LDF Sustainability Appraisal Report for the Site Specific Proposals Development Plan Document
CD27C	Wakefield LDF Site Specific Proposal Development Plan Document Maps
CD28	Planning Application Forms, Cover Letter and Notices (Not supplied)
CD29	Application Drawings
CD30	Design and Access Statement (January 2009)
CD31	Supporting Statement
CD32	The Case for a New Stadium for Wakefield Trinity Wildcats RLFC
CD33	Environmental Statement Non Technical Summary
CD34	Transport Assessment
CD35	Addendum to Transport Assessment (1 of 2)
CD36	Addendum to Transport Assessment (2 of 2)
CD37	Design and Access Statement Revision Document (August 2010)
CD38	Environmental Statement Volume 1 (undated)
CD39	Environmental Statement Volume 2 (undated)
CD40	Environmental Statement Addendum (September 2010)
CD41	Environmental Statement Addendum (July 2011)
CD42	Environmental Report – Geotechnical and Environmental Site Assessment Report
CD43	Committee Report relating to the Application
CD44	Secretary of State Call In Letter
CD45	Notes of Pre Inquiry Meeting
CD46	Statement of Common Ground
CD46A	Stadium Travel Plan Framework (version 02Q)
CD46B	Employment Travel Plan Framework (version 04)
CD47	Natural England Standing Advice Species Sheet: Otters
CD48	Natural England Standing Advice Species Sheet: Water Voles
CD49	West Yorkshire METRO document – "Local Transport Plan 3 – My Journey West Yorkshire, Connecting People and Places"
CD50	Yorkcourt Properties Limited - Statement of Case
CD51	Wakefield Metropolitan District Council – Statement of Case
CD52	Leeds City Council – Statement of Case

## YORKCOURT PROPERTIES LTD DOCUMENTS

YC1	Proof of Evidence of Sir Rodney Walker
YC2	Appendices to Proof of Evidence of Sir Rodney Walker
YC3	Proof of Evidence of John Dennis
YC4	Appendices to Proof of Evidence of John Dennis
YC5	Proof of Evidence of James Elston
YC6	Appendices to Proof of Evidence of James Elston
YC7	Proof of Evidence of Peter Blair

YC8	Appendices to Proof of Evidence of Peter Blair
YC9	Proof of Evidence of Francis Hesketh
YC10	Appendices to Proof of Evidence of Francis Hesketh
YC11	Proof of Evidence of John Francis
YC12	Appendices to Proof of Evidence of John Francis
YC13	Opening Statement
YC14	Letter from Sir Rodney Walker – 2.09.09 to various sports clubs
YC15	Stadium Site Plan/Belle View Overlay – 09.11.11– 2009-039/851A
YC16	Letter from Andy Gatcliffe CEO Warrington Wolves – 07.11.11
YC17	Map of Greenspace – 2009-039/852 – 02.02.10
YC18	Stadium Travel Plan Framework Summary
YC19	Employment Travel Plan Framework Summary
YC20	Letter from Steven Mitchell – Colliers International – 08.12.11
YC21	Letter from Curtis Jones – Yorkcourt Properties Ltd – 08.12.11
YC22	Statement on Visual Impact of Stadium Floodlighting and Illustrative Plans
YC23	Jones Lang Lasalle – Appraisal Summary
YC24	B8 Development Experience and supporting documents.
YC25	Travel Plans – Leeds LDF – Supplementary Planning Document – Consultation Main Report – August 2011
YC26	Guidelines for Public Transport in Developments
YC27	Examples of housing adjacent to employment locations
YC28	Map of Green Belt
YC29	Email from Chris Higgins (Probarc Welding) regarding parking
YC30	Note of effect of proposal on Green Belt - Newmarket Colliery
YC31	Note from Colliers International on Industrial & Warehousing Requirements
YC32	Freight Management Plan
YC33	Correspondence from Jones Lang Lasalle (Richard Harris) Re: Statement of figures.
YC34	Correspondence from Rodger Lambert (Specialist Ceiling Services) regarding car parking on match days.
YC35	Closing Submissions
YC36	Appendices to Closing Submissions: (A) SoS decision relating to Winwick Road, Warrington (B) Supreme Court decision relating to Sainsburys Supermarkets Ltd v Wolverhampton City Council and another.
YC37	Section 106 Unilateral Planning Obligation

## WAKEFIELD METROPOLITAN DISTRICT COUNCIL DOCUMENTS

WMDC1	Proof of Evidence of Richard Hollinson
WMDC2	Summary of Evidence of Richard Hollinson
WMDC3	Proof of Evidence of Tracey Brewer
WMDC4	Summary of Evidence of Tracey Brewer
WMDC5	Proof of Evidence of Andrew Wallhead
WMDC6	Summary of Evidence of Andrew Wallhead
WMDC7	Proof of Evidence of Lisa Dodd
WMDC8	Summary of Evidence of Lisa Dodd
WMDC9	Proof of Evidence of Ian Thomson
WMDC10	Summary of Evidence of Ian Thomson
WMDC11	Opening Statement
WMDC12	Methodology Paper
WMDC13	Castleford Tigers Stadium Briefing Note –

	7.12.11
WMDC14	Highways Consultation Comments on Site N98 Land fronting Stainburn Avenue, Glasshoughton
WMDC15	Suggested Conditions by WMDC
WMDC16	Note regarding publicity for planning application 10/00225/OUT
WMDC17	Statement by Councillor Peter Box – Leader of the Council
WMDC18	Confirmation of representations received by Wakefield MDC at Consultation Draft Stage and Submissions Stage of the SSPDPD in relation to ESW40A
WMDC19	Briefing Statement – New Hollywell Farm
WMDC20	Closing Submissions

### LEEDS CITY COUNCIL DOCUMENTS

LCC1	Summary of Evidence of Mr Stainsby
LCC2	Proof of Evidence Mr Stainsby
LCC3	Appendices to Proof of Evidence of Mr Stainsby
LCC4	Summary of Evidence of Mrs Speak
LCC5	Proof of Evidence of Mrs Speak
LCC6	Appendices to Proof of Evidence of Mrs Speak
LCC7	Opening Statement
LCC8	Highways Consultation Response 07.06.10 in relation to Newmarket Lane
LCC9	Closing Submission

### INTERESTED PERSONS' DOCUMENTS

IP1	Statement of Mr John Allott
IP2	Statement of Jason Wilsher-Mills
IP3	Statement of Jonathan Stone
IP4	Statement of Martin Shevill
IP5	Statement of Phil Townsend
IP6	Statement of Ian Bramley
IP7	Statement of Cllr Clive Hudson
IP8	Statement of Mohammed Ayub
IP9	Statement of Pete Bevils
IP10	Statement of Mark Jones
IP11	Statement of Robert Beards
IP12	Statement of Denis Mattinson
IP13	Statement of A W Ripley
IP14	Statement of Paul Cabbage
IP15	Statement of June Fender



## **ANNEX: RECOMMENDED CONDITIONS**

### **All Elements**

1. The development hereby permitted shall be carried out in accordance with the following plans:  
2009-039/200B – Proposed plan, ground floor  
2009-039/201B – Proposed plan, first floor  
2009-039/202B – Proposed plan, second floor  
2009-039/203A – Proposed plan, third floor gantry  
2009-039/204A – Proposed sections – Sections A & B  
– Developable plot areas  
2009-039/834B – Stadium Site Plan
2. The development hereby permitted shall be begun before the expiration of three years from the date of the last of the reserved matters to be approved.
3. Development shall not commence until a delivery strategy and phasing plan has been submitted to and approved in writing by the Local Planning Authority for the overall development. The development shall be carried out in strict accordance with the approved delivery strategy and phasing plan.
4. Application for approval of all the reserved matter(s) for the Stadium shall be made before the expiration of four months from the date of this permission.
5. Development shall not commence on the Stadium hereby permitted until details of the following reserved matter(s) have been submitted to and approved in writing by the Local Planning Authority:  
External appearance.
6. Application for approval of all the reserved matter(s) for the B8 and B1b and B1c elements of the scheme shall be made before the expiration of five years from the date of this permission.
7. Application for approval of all the reserved matter(s) for the Hotel and A3 unit elements of the scheme shall be made before the expiration of three years from the date of this permission.
8. All reserved matters and other schemes and details are required to be submitted pursuant to the conditions attached to this planning permission and shall accord substantially with the submitted Environmental Impact Assessment submitted 22.02.2010, addendum 16.09.2010 and addendum 19.07.2011, amended Design and Access Statement dated August 2010, Indicative Landscape Master Plan D2232.003C, Parameters Plan 2009-039/828 Rev E, Developable Plots Area 2009-039/808K and Outline Foul and Drainage Strategy LDS/435/SK07/P4

### **Boundary Treatment**

9. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for the boundary treatment for that phase has been submitted to and approved in writing by the Local Planning Authority.  
The approved scheme for each phase of the development as approved under

condition 3 of this permission shall be completed in accordance with the approved plans for that phase before any building within that phase is occupied.

## **Drainage**

10. Development shall not commence on any phase approved under condition 3 of this permission until a detailed scheme of foul drainage for that phase, including an analysis of the off site sewerage and treatment capacity, details of balancing works and off site works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that there is capacity in the local sewerage and waste water treatment system to properly dispose of and treat the foul water arising from that phase of the development to the required standard. No phase approved under condition 3 of this permission shall be brought into use until the scheme for that phase has been implemented and shall be retained for the lifetime of the development.
11. Development shall not commence until a scheme to divert or otherwise formally close the sewer that is laid within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented before any construction of buildings or other structures at the site takes place.
12. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
13. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for the outfall for surface water for that phase has been submitted to and approved in writing by the Local Planning Authority. No piped discharge of surface water from any phase approved under condition 3 of this permission shall take place until the scheme for that phase has been implemented. Each scheme shall be retained for the lifetime of the development.
14. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor with capacity prior to discharge. Roof drainage shall not be passed through any interceptor.

## **Ecology**

15. Development shall not commence on any phase approved under condition 3 of this permission until a landscape and ecological management plan has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall include details of the long-term design objective, management responsibilities, maintenance schedules for all landscape areas and the following elements:
  - Plans showing the extent and layout of the buffer zones around water bodies
  - Details of the full extent and type of new planting (using native species)
  - Details of maintenance regimes
  - Plans showing areas of new habitats created on site and enhancements

- of existing habitats
- Details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term (including enhancements).
- Details of any treatment of site boundaries and /or buffers around water bodies

The scheme for each phase shall be implemented in accordance with the approved scheme.

16. The development hereby approved shall be carried out in accordance with the Water Vole and Conservation Strategy and Avoidance of Otter Conflicts document 1998.006 submitted 19.07.2011 for each of the phases approved under condition 3 of this permission.

### **Flood Risk Assessment**

17. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) LDS435/FRA Revision C dated 21 January 2010 and FRA Addendum DH/LW/LDS435/FRA-RevC-Addendum, prepared by BWB Consulting and the following mitigation measures detailed within the FRA and Addendum:

(i) Finished ground floor levels of any development to be set a minimum of 600mm above the 100-year plus climate change flood levels for the watercourse at its nearest location. The 100-year plus climate change flood levels shall be determined by detailed unsteady state modelling of the existing and proposed watercourses.

(ii) All building footprints to be sited outside the 100-year plus climate change floodplain.

(iii) Installation of storm water flow attenuation limiting surface water run-off to a rate of 2.5 litres/second/hectare with an "on site" storm water storage facility designed to accommodate the calculated flows for a 1 in 100 year return period plus an allowance of 20% for climate change.

### **Highways**

18. No development shall take place on any phase as approved under condition 3 of this permission until a scheme detailing new access, speed reducing features and arrangements and specification for layout and parking that are to be carried out on that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all aspects of temporary traffic management, schedule of works, signing and lighting, temporary bus stop arrangements (if any), access to adjacent properties, street cleaning and safety arrangements for all users of the public highway. Before any building on any phase approved under condition 3 of this permission is occupied the scheme shall be completed in accordance with the details shown on the approved plans and retained thereafter.
19. No building on any phase as approved under condition 3 of this permission shall be occupied until the areas to be used by vehicles and/or pedestrians for

that phase have been surfaced, sealed and drained in accordance with details that have previously been approved in writing by the Local Planning Authority.

20. Development shall not commence until a scheme detailing arrangements and specification for the improvements to the existing junction at Newmarket Lane and Aberford Road, including the installation of traffic signals (which shall include the system MOVA), a CCTV camera, all ducting, kerbing, ancillary lining and cycling facilities have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, surfacing details, kerbing details, ducting details and white lining works on that phase. Before the development is brought into use, the proposed works shall be constructed in accordance with the layout shown on the approved scheme and retained thereafter.
21. Development shall not commence on any phase approved under condition 3 of this permission until cycle storage facilities for that phase have been provided in accordance with details that have been previously approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained for that phase.
22. Development shall not commence on any phase approved under condition 3 of this permission until a detailed scheme for the improvement and relocation of bus stops 14664 and 14666 on Newmarket Lane and the improvement of bus stops 29053 and 14680 Aberford Road, has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall include a new bus shelter which shall include seating, lighting and bus information. All of the approved works shall be implemented in accordance with the approved scheme before the development is first brought into use and retained and maintained for the lifetime of the development.
23. Development shall not commence until details of measures to restrict HGV's using Newmarket Lane have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained in accordance with any approved timescales.
24. The development hereby approved shall be carried out in accordance with the Freight Management Plan reference 9V1992/R0001B/304187/Man submitted 16.12.2011.

## **Construction**

25. No development shall take place on any phase approved under condition 3 of this permission, including any works of demolition, 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 phase on any phase approved under condition 3 of this permission. The statement shall provide for:
  - (a) The parking of site operatives and visitors vehicles
  - (b) Loading and unloading of plant and materials
  - (c) Management of construction traffic and access/haul routes
  - (d) Condition surveys and maintenance of all access/haul routes
  - (e) Storage of plant and materials used in constructing the development

- (f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (g) Wheel cleaning facilities
- (h) Measures to control the emission of dust and dirt during construction
- (i) A scheme for recycling/ disposing of waste from demolition and construction works
- (j) a signage strategy for construction traffic

26. Development shall not commence on a phase approved under condition 3 of this permission until a noise and vibration management and monitoring plan relating to the control of noise and vibration from construction, including piling operations, of that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The details of the plan shall include:

(i) all construction plant items to be fitted with effective silencers and comply with EC regulatory noise limits where relevant;

(ii) plant to be located so as to minimise impact on sensitive properties;

(iii) definition of the responsibilities for managing noise and vibration emissions, the mitigation measures proposed, the methodology of specifying and procuring quiet plant and equipment, the methodology for the verification of noise emission levels from plant and equipment and the consultation and reporting process of matters of noise and vibration between the developer and the Local Planning Authority;

(iv) issues such as site notices which advise the general public of contact names and numbers both during and out of hours in the event of noise problems and include information exercises such as leaflet drops;

(v) a Noise Monitoring Protocol detailing the monitoring to be undertaken to show that the LAeq,T levels are not exceeded.

Noise from construction, clearance and site remodeling phases of the development (specified as site noise) (LAeq,T) shall not exceed a noise level of 55dBI Aeq(1hour) at the site boundary at any time on Monday to Friday 0800 to 1800 hours and Saturday 0800 to 1400 hours and L Aeq,T shall not exceed the existing background level (La90T) at anytime on Sundays or Bank Holidays at any point 1 metre from the boundary of any noise sensitive properties, which shall be approved in writing by the Local Planning Authority. The existing background noise levels must be agreed at noise sensitive properties with the Local Planning Authority prior to the commencement of any development works on the site.

All approved measures identified shall be implemented and maintained throughout the duration of the works they mitigate during the construction phase.

## Noise

27. Development shall not commence on any phase approved by condition 3 of this permission until a scheme for the noise control from Road Traffic

associated with that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following measures:

- Measurement or calculations of the LAeq 16 hr from road traffic on the site at noise sensitive receptors. Full details of calculation / measurement methodology should be provided
- Proposed mitigation measures to achieve 55dBLAeq at those points
- Details of any proposed mitigation e.g. barrier and bund, should include full details of design and layout height differences and calculations
- A statement regarding proposals for future maintenance of any physical mitigation measures

The scheme shall be implemented before any phase as approved under condition 3 of this permission is brought into use and retained and maintained for the lifetime of the development.

28. No external construction works or related deliveries shall take place outside 0800 to 1800 hours on Mondays to Fridays or 0800 to 1300 hours on Saturdays not at any time on Sundays or Bank and National Holidays except in an emergency.
29. Before development shall commence on any phase of the development approved under condition 3 of this permission a noise management and monitoring plan relating to the control of noise and vibration from the operation of that phase of the development other than highway works shall be submitted to and approved in writing by the Local Planning Authority. The plan will define:

- (i) the responsibilities for managing noise emissions;
- (ii) the mitigation measures proposed;
- (iii) details of physical measures
- (iv) details of plant and equipment

The noise management plan shall also include matters such as site notices which advise the general public of contact names and number both during and out of hours in the event of noise problems and include information such as leaflet drops.

The plan shall ensure that the noise emitted from site activities shall not cause an increase in the existing L Aeq(1 hour) during the hours of 0700 to 2300 and shall not cause an increase in the existing L Aeq(5 mins) between the hours of 2300 to 0700 at the nearest noise sensitive properties.

If any noise source has an annoying feature or character (as described in paragraph 8.2 of BS4142:1997 Method for rating industrial noise effecting mixed residential and industrial areas) a notional 5dBA weighting shall be added to the sound level from that source when determining whether the existing L AeqT noise level would be exceeded.

The scheme shall include a Noise Monitoring Protocol detailing the monitoring to be undertaken to show that the L Aeq,T levels are not exceeded.

The existing LAeq,T noise levels must be agreed at noise sensitive properties with the Local Planning Authority prior to the commencement of any development works on the site.

All measures shall be implemented before the development is brought into use and retained and maintained for the lifetime of the development.

### **Archaeology**

30. Development shall not take place on any phase approved under condition 3 of this permission until a scheme for the implementation of a programme of archaeological recording has been submitted to and approved in writing by the Local Planning Authority for that phase. The recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation. The scheme shall be implemented before construction commences at the site on any phase approved by condition 3 of this permission.

### **Contaminated Land**

31. Development shall not commence on any phase approved under condition 3 of this permission until that phase has been subject to a detailed scheme for investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings including proposals and a programme for the remediation of any contaminated areas and protective measures to be incorporated into the buildings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for the disposal of surface water during remediation. The remediation works shall be carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. If during the course of the development further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures, approved in writing by the Local Planning Authority have been implemented.

### **Security**

32. Development shall not commence on any phase approved under condition 3 of this permission until a security and crime prevention strategy including details of all physical security measures for that phase has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this shall include all fencing positions, heights, design, materials and colour treatment; provision of CCTV for the Stadium and Multi Use Games Area elements of the scheme; vehicle and pedestrian access gates and barriers; access controls, site management and liaison with the relevant police authorities. The scheme shall be implemented in accordance with the approved details and before any phase approved under condition 3 of this permission is brought into use.

## Woodland Planting

33. Development (including any arboricultural or engineering operation carried out in connection with the development) shall not commence on any phase approved under condition 3 of this permission until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include:

- Implementation, supervision and monitoring of a Tree and Woodland Protection Scheme
- Implementation, supervision and monitoring of Tree Works
- Implementation, Supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree and Woodland Protection Scheme
- Timing and phasing of arboricultural works in relation to the approved development.

Development shall take place in accordance with the AMS, or any other revision of it approved by the Local Planning Authority. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within 5 years from the occupation of any building or the development hereby permitted brought into use shall be replaced with trees, shrubs or hedge plants of number, size and species deemed appropriate by the Local Planning Authority. Development shall take place in accordance with the approved AMS.

## Climate Change

34. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for incorporation of on site renewable energy generation technology for the development has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall be implemented in accordance with the approved details on any phase approved under condition 3 of this permission and retained thereafter for the lifetime of the development.
35. Development shall not commence on any phase approved under condition 3 of this permission until a scheme for incorporation of energy and water efficiency within the development has been submitted to and approved in writing by the Local Planning Authority for that phase. The scheme shall be implemented in accordance with the approved details on any phase approved under condition 3 of this permission and retained thereafter for the lifetime of the development.
36. Before development is brought into use under any phase approved under condition 3 of this permission a scheme shall be submitted to and approved in writing by the Local Planning Authority for electric vehicle charging points to be incorporated at a number of locations within each phase. The scheme shall be



implemented before the phase of development is brought into use and retained for the lifetime of the development.

### **Litter, waste and Recycling**

37. The Stadium and A3 unit hereby approved shall not be brought into use until details of a scheme of litter control has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the extent of the litter management area. The approved scheme shall be implemented before the stadium and A3 unit are brought into use and retained and maintained for the lifetime of the development.
38. No part of the development approved under condition 3 of this permission shall be brought into use until details of a scheme of refuse and recycling storage areas for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before that phase of development is brought into use and retained and maintained for the lifetime of the development.

### **B8 and B1b and B1c Restrictions**

39. The B8 development hereby approved shall not exceed a maximum floor space of 146,324m<sup>2</sup> and shall be used for no other purpose.
40. The B1b and B1c development hereby approved shall not exceed a maximum floor space of 14,150m<sup>2</sup> and shall be used for no other purpose.
41. The B8 development hereby approved shall not include any ancillary retail space or trade counter.

### **Stadium**

42. Development shall not commence on the stadium until a detailed landscaping scheme for the Stadium has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the submitted Indicative Landscape Master Plan D2232.003C. The approved landscaping scheme for the Stadium shall be completed not later than the first planting season following occupation of the Stadium. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
43. Development shall not commence on the Stadium until a scheme for the control of noise from the public address system in the Stadium has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the hours of use and noise levels. The scheme shall be implemented before the stadium is brought into use and retained and maintained for the lifetime of the development.
44. Development shall not commence on the Stadium until a scheme for the artificial lighting for the stadium has been submitted to and approved in

writing by the Local Planning Authority. The scheme shall include details of the flood lighting and the times and days of use. The flood lighting shall be switched off no later than 30 minutes after the end of any match played at the stadium. The scheme shall be implemented before the stadium is brought into use and retained for the lifetime of the development.

45. Development shall not commence on any of the Stadium, Hotel and A3 unit until a scheme for odour control for that particular building has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented for the particular building before it is brought into use and shall be retained for the lifetime of the development.
46. Notwithstanding the provisions of Article 3, Schedule 2, Part 4, Class A and B of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the stadium, its car parking and servicing area, the bus and coach parks, shall not be used for any festival, concert and open air music events, whether or not incidental to the approved use.
47. The retail sale of goods within the stadium building shall be restricted to the sale of sports related goods and merchandise only.

#### **B8, B1b, B1c, Hotel, A3 unit and MUGA (Multi Use Games Area)**

48. Development shall not commence in relation to any of the buildings forming part of the B8 warehousing and distribution units, B1b and B1c units, hotel, A3 unit and multi use games area until a scheme for artificial external lighting of each building and the multi use games area has been submitted to and approved in writing by the Local Planning Authority. The scheme for each unit shall be implemented before the unit is brought into use and retained for the lifetime of the development.

#### **Miscellaneous**

49. Within 4 calendar months of the date of the approval of the final reserved matter relating to the proposed stadium, MUGA and related infrastructure the developer shall produce to the LPA:
  - (i) a full tender construction pack including a form of construction contract and contract completion period for the proposed stadium, MUGA and related infrastructure within the area shown on drawing 2009-039/834B – Stadium Site Plan; and
  - (ii) a draft of the proposed lease of the stadium and related facilities (as shown on drawing 2009 – 039/834B – Stadium Site Plan) to the Wakefield and District Community Trust.
50. No part of the A3, hotel and no more than 4,716m<sup>2</sup> of the B1b and B1c units shall be occupied prior to the letting of a construction contract for the proposed stadium, MUGA and related infrastructure within the area shown on drawing 2009 – 039/834B – Stadium Site Plan.

51. No more than 60,000m<sup>2</sup> of the B8 development shall be occupied prior to the completion of the stadium, MUGA and related infrastructure within the area shown on drawing 2009 – 039/834B – Stadium Site Plan.
52. The Stadium shall be operated at all times in accordance with the submitted Stadium Travel Plan Framework dated the 31 May 2011 prepared by Royal Haskoning (Reference 04I9V1992).
53. No part of the B8, B1b and B1c development hereby permitted shall be occupied until an Operational Travel Plan for that part of the development has been submitted to and approved in writing by the Local Planning Authority. Any Operational Travel Plan submitted under this condition shall be in accordance with the Newmarket Employment Travel Plan Framework (reference Royal Haskoning – 02Q9VV1992 dated 31 May 2011). No part of the B8, B1b and B1c development shall be operated except in accordance with the approved Operational Travel Plan for that part of the development.