

21 June 2012

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Our refs:
APP/M2325/A/09/2103453

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APP/Q2371/V/11/2157314

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 77 & 78:
(A) APPEAL BY KENSINGTON PT PARTNERSHIP – LAND SOUTH OF
QUEENSWAY, ST ANNES, LYTHAM ST ANNES, LANCs; REF: 5/2008/0058; &
(B) CALLED-IN APPLICATION BY LANCs CC – LAND AT LYTHAM MOSS,
LYTHAM ST ANNES, LANCs; REF: 5/10/0779**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, P J Asquith MA(Hons) MA MRTPI, who held a public local inquiry between 10 and 19 January 2012 into:
 - A. the appeal by Kensington PT Partnership against a failure by Fylde Borough Council ("FBC") to give notice within the prescribed period of a decision on an application for outline planning permission for a development of 1150 dwellings, provision of a 1.1ha school site and 34ha of parkland ("the Queensway scheme") in accordance with application ref: 5/2008/0058; and
 - B. the application by Lancashire County Council (LCC) for the construction of a new highway (completion of M55 to Heyhouses Link) and improvements to existing highways ("the M55 Link Road scheme") in accordance with application ref: 5/10/0779.

Preliminary procedural matters

2. The Secretary of State issued a decision in respect of the Queensway scheme appeal in his letter dated 30 June 2010. That decision letter was the subject of an application to the High Court and was subsequently quashed by order of the Court dated 14 December 2010. The appeal has therefore been re-determined by the Secretary of State. In redetermining it, the Secretary of State has taken account of all the evidence submitted prior to his earlier determination of the

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appeal, including the first Inspector's Report, as well as the documents before the Court and the letters received in response to his letter of 23 February 2011 announcing his intention to redetermine the Queensway scheme appeal.

3. Furthermore, to enable him to consider the relationship between the Queensway scheme and the M55 Link Road, the Secretary of State directed on 7 July 2011, in pursuance of section 77 of the Town and Country Planning Act 1990, that the M55 Link Road scheme application be referred to him instead of being dealt with by the relevant planning authority, LCC.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that the appeal be allowed and planning permission granted for both the appeal and the application, subject to conditions. For the reasons given below, including the consideration of post-inquiry representations, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) on the second inquiry is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. The Secretary of State has taken account of the Environmental Statement (ES) (dated September 2009) which accompanied the planning application for the Queensway scheme in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and which was updated in November 2011 to take account of the M55 Link Road scheme (IR11). He has also taken account of the ES submitted by LCC as part of its application for the Link Road (IR10). He considers that the environmental information as a whole meets the requirements of the above regulations and that sufficient information has been provided for him to assess the environmental impact of the two schemes.
6. The Inspector reports at IR9 that an updated Master Plan for the Queensway scheme was circulated to interested parties prior to the Inquiry. This deleted the eastward-projecting ribbon of housing development which had been criticised by the previous Inspector; and increased the amount of land reserved for the primary school to 1.5 ha and the area of parkland to some 34.8 ha. The Secretary of State agrees with the Inspector that, as all parties agreed at the Inquiry that consideration of the appeal scheme should progress on the basis of the updated plan, no interests would thereby be prejudiced; and he has determined the appeal on that basis.

Matters arising after the close of the Inquiry

7. Following the close of the Inquiry, the Government published the National Planning Policy Framework (March 2012) (NPPF). This document replaces a raft of planning policy documents as set out in its Annex 3 and, following its publication, the Secretary of State wrote to interested parties on 19 April 2012 seeking their views on its implications, if any, for this appeal and application. 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, and copies of these representations may be

obtained on written request to the address at the foot of the first page of this letter.

8. The Secretary of State has carefully considered all of these representations in his determination of this appeal and application. He considers that, for the most part, the issues raised in relation to the NPPF 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 NPPF or development plan documents, and which have therefore already been addressed in the IR, unless the approach adopted in the NPPF leads him to give different weight to any of them.

Policy considerations

9. In determining this appeal and application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the North West of England Plan Regional Spatial Strategy to 2021 (RS), which was published on 30 September 2008, and the saved policies of the Fylde Borough Local Plan (2005) (LP) (IR20-24). The Secretary of State has also taken account of Lancashire County Council's Local Transport Plan as a material consideration; and has noted that FBC published its Issues and Options Document to 2030 for consultation in June 2012. However, he has given little weight to that document as it represents an early stage in the Local Plan preparation process.
10. The Secretary of State considers that the revocation of RSs has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the North West RS is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining these cases.
11. Other material considerations which Secretary of State has taken into account include the NPPF (see paragraph 7 above), Circular 11/95: *Planning Conditions*; and the Community Infrastructure Levy Regulations (CIL) 2010 and 2011. The Secretary of State has also taken account of the Written Ministerial Statement of the Rt Hon Greg Clark MP, on *Planning for Growth*, dated 23 March 2011.
12. Furthermore, the Secretary of State has taken into account Circular 06/2005: *Biodiversity and Geographical Conservation – Statutory Obligations and their Impact within the Planning System*, which provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. This is reflected in paragraph 118 of the NPPF and, taken together with *Planning for Biodiversity and Geological Conservation: A Guide to Good Practice*, provides guidance on the application of the *Conservation (Natural Habitats &c) Regulations 1994* ("the Habitats Regulations") (now replaced by the *Conservation of Habitats and Species Regulations 2010*) which, in turn, transpose EU Directive 92/43/EEC (21 May 1992) on the conservation of natural habitats and of wild fauna and flora ("the Habitats Directive").

Main issues

13. The Secretary of State agrees with the Inspector that the main considerations in this appeal and application are those set out at IR405.

The Queensway Scheme

The development plan

14. For the reasons given at IR407-412, the Secretary of State agrees with the Inspector (IR413) that reliance on LP policy SP2 to prevent the appeal proposal would thwart the national policy requirements that, where possible, applications should be approved where plans are out-of-date and that local planning authorities should consider favourably applications for housing where they are unable to demonstrate an up-to-date five year supply of deliverable sites. These requisites have recently been reinforced in the NPPF, and the Secretary of State therefore gives little weight to the fact that the appeal site is not allocated for housing in the LP – especially having regard to the agreement between the appellants and FBC (IR20) that there is currently only a 1.4 year supply of housing land in the Borough against RS requirements.

Prematurity

15. For the reasons given at IR414-428, the Secretary of State agrees with the Inspector's conclusion at IR429 that the appeal scheme should not be refused on prematurity grounds. In particular, the Secretary of State agrees with the Inspector (IR419) that, as it is likely to be at least the end of 2014 before the Core Strategy could be produced, FBC's future intentions at this stage can be no more than speculation with no evidence that St Annes would not continue to be the principal focus for housing development in the future. He also agrees with the Inspector (IR423) that, while permitting the appeal scheme would pre-empt decisions on revised settlement boundaries and on the release of agricultural land, these need to be balanced against the ability of the appeal scheme to secure the implementation of the Link Road, the fact that Queensway is the only location where major housing for St Annes could be accommodated and the fact that there is no substantive objection to the appeal scheme on the basis of impact on character and appearance. He considers that, taken together, the factors in favour of developing the appeal site now outweigh the risk of thereby pre-empting decisions in an indeterminate future.

Housing matters

16. For the reasons given at IR430, the Secretary of State agrees with the Inspector that there is no reason why the proposal should be any less acceptable in terms of its overall design and effect on the character and appearance of the locality than would be normal for an urban extension. The Secretary of State also notes (IR431) that, irrespective of the RS housing requirement, the appellants and FBC agree that there is much less than a five-year land supply identified in the Borough and that the first phase of housing, which is not dependent on the completion of the Link Road, would make a contribution to the five-year supply, with the remainder of the site contributing to the six-ten year period. Furthermore, for the reasons given at IR432, the Secretary of State agrees with the Inspector that the appeal scheme would make an appropriate contribution towards the

substantial affordable housing needs of the area and that the scheme would result in an appropriate mix and range of market housing types and sizes.

Transport issues and connectivity

17. For the reasons given at IR433-435, the Secretary of State agrees with the Inspector that a high quality bus service would be provided for at least 10 years with only modest impact on existing users and, assuming the completion of the Link Road, the scheme would not have an adverse impact on the safety or convenience of users of the existing highway network with some benefits in terms of reduced traffic flows and improved environmental conditions on some existing roads. Furthermore, for the reasons given at IR436-439, the Secretary of State agrees with the Inspector's conclusion at IR440 that, although greater connectivity would have been desirable and the shortfall is a negative to weigh in the overall balance, it is not so serious as to be an overriding objection to the appeal scheme.

Relationship of the Queensway scheme to the Link Road

18. For the reasons given at IR441-447, the Secretary of State agrees with the Inspector that the Queensway scheme provides - through the commitment to funding in the Unilateral Undertaking (UU) - the only realistic means by which an important beneficial road scheme could realistically come to fruition in a timely manner. In particular, the Secretary of State has taken account of the fact that the provision of the Link Road has an assessed benefit-to-cost ratio of 4.6, representing high value for money (IR441); that all the land required for its construction is in the ownership of the appellants and LCC (IR443); and that the proposal has policy backing, the support of FBC, significant local support and the benefit of a previous planning permission (IR444).

Green Belt considerations

19. In considering the Green Belt issue, the Secretary of State has had regard to the guidance in the NPPF that local transport infrastructure which can demonstrate a requirement for a Green Belt location is not inappropriate in the Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purpose of including land in the Green Belt. However, as the Secretary of State agrees with the Inspector (IR453) that, for the reasons given at IR448-452, both the T5 road (which forms part of the Queensway appeal scheme) and the M55 Link Road scheme would reduce the openness of the Green Belt and, in the case of T5, would reduce, to a limited degree, the separation of St Annes and Blackpool, he also agrees that both road schemes would be inappropriate Green Belt development. He therefore further agrees with the Inspector that it is necessary to consider whether the substantial harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify these road proposals.
20. In concluding on that matter, the Secretary of State has had regard to the Inspector's overall conclusions and assessment of the planning balance at IR472-486. In particular, he agrees with the Inspector (IR486) that the ability of the Queensway appeal scheme to fund the provision of the Link Road (whose provision would itself result in considerable planning benefits) and to make a

positive contribution to housing provision are very significant and weighty considerations in favour of both schemes. He therefore agrees with the Inspector that they clearly outweigh the totality of harm of inappropriate Green Belt development together with the other harm identified, and he is satisfied that very special circumstances exist to justify the use of Green Belt land for the construction of the road schemes.

Nature conservation/ecology

21. As indicated in paragraph 12 above, the Secretary of State accepts that, as he is minded to allow the appeal and grant planning permission for the two proposals, it is first necessary for him (as the 'competent authority') to be able to conclude that neither scheme – alone, in combination, or in combination with other projects – would be likely to have a significant adverse affect on the integrity of the Ribble and Alt Estuaries Special Protection Area (SPA). If such a conclusion cannot be reached, he must carry out an appropriate assessment of the implications for the SPA's conservation objectives.
22. For the reasons given at IR454-461, and taking particular account of the fact that NE continues to support the conclusion that the original appropriate assessment remains robust (IR458), the Secretary of State agrees with the Inspector at IR458 that there is no reason for withholding planning permission for either proposal under the Habitats Regulations. The Secretary of State is therefore satisfied that, taking account of the mitigation measures proposed in the UU including the Habitat Management Plan (IR459-460) and the Ecological Phasing Plan (IR460), there is no need for him to undertake a further appropriate assessment to be satisfied that the two schemes – individually, in combination, or in combination with other projects – would not be likely to have a significant adverse affect on the integrity of the Ribble and Alt Estuaries SPA.
23. For the reasons given at IRF462-463, the Secretary of State agrees with the Inspector's conclusion that there are no outstanding unresolved airport-related issues to weigh against the two schemes.

Flooding and related matters

24. For the reasons given at IR464-468, and having regard to government policy on flooding as set out in the NPPF, the Secretary of State agrees with the Inspector's conclusion at IR469 that, in the light of the continuing lack of objection from the Environment Agency (subject to the imposition of appropriate conditions), together with the conclusions of the previous Inspector and agreement between the main parties, there are no justifiable reasons why planning permission for either of the schemes should be withheld on the basis of flooding and related issues.

Conditions and Planning Obligation

25. The Secretary of State has considered the proposed conditions as set out in Annex A to the IR and the Inspector's comments at IR396-400. He is satisfied that the conditions recommended by the Inspector are reasonable and necessary and meet the tests of Circular 11/95.

26. With regard to the UU (IR402-403) and the planning obligations agreed between the landowners, prospective developers and LCC (IR404), the Secretary of State notes that FBC and LCC are satisfied with their terms and he agrees with the Inspector that they meet the statutory requirements. The Secretary of State also agrees with the Inspector (IR445) that the funding of the Link Road proposal by the Queensway scheme would be CIL compliant in that it would assist in making the scheme acceptable in planning terms, directly related to the development and fairly and reasonably related to it.
27. The Secretary of State notes the fact that a typographical error was identified in the UU during the course of the Inquiry (IR403) and that the letter submitted as Inquiry document INQ78 clarifies the position. The Secretary of State agrees with the Inspector that the intention, as explained in the letter, is clear and that this error does not nullify the obligation. He therefore sees no need to take any further action on the matter although, for the avoidance of doubt, the parties may wish to attach the letter of clarification to the completed UU.

Overall Conclusions

28. The Secretary of State concludes that, overall, both the Queensway appeal and the Link Road scheme are in accordance with national policy including the NPPF, and that the Link Road is in accordance with the Development Plan. He acknowledges that the Queensway appeal site is not allocated for housing in the 2005 LP, but balances this against the fact that the proposed scheme would make an appropriate contribution towards the substantial housing needs of the area, including the need for affordable housing, and he considers this to be an important material consideration to which he gives considerable weight. He also considers that, as the Link Road scheme will not only provide access to the appeal site but also provide wider planning benefits, there are very special circumstances to justify the harm which it will cause to the openness of the Green Belt.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State hereby allows the appeal by Kensington PT Partnership and grants planning permission for a development of 1150 dwellings, provision of a 1.5ha school site and 34.8 ha of parkland in accordance with application ref: 5/2008/0058 (as amended by Master Plan ref 7230:00:02D – see paragraph 6 above), subject to the conditions listed at **Annex B(i)** of this letter.
30. He also grants planning permission for the construction of a new highway (completion of M55 to Heyhouses Link) and improvement to existing highways in accordance with application ref: 5/10/0779, subject to the conditions listed at **Annex B(ii)** of this letter.
31. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

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

33. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decisions may be challenged by making an application to the High Court within six weeks from the date of this letter.

35. A copy of this letter has been sent to FBC. A notification email/letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Post inquiry correspondence.

John Ashworth	25.4.12 and 15.5.12
North Lancs NHS	02.5.12
McAteer Associates	03.5.12 and 16.5.12
Natural England	03.5.12 and 11.5.12
Lancashire CC	03.5.12
CPRE	03.5.12
Fylde BC	04.5.12 and 16.5.12
Queensway Environmental Defenders	04.5.12 and 15.5.12

CONDITIONS: QUEENSWAY

1. Details of the appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission, and the development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
3. Except as provided for by other conditions the development hereby permitted shall be carried out in substantial accordance with the layout shown on Illustrative Master Plan drawing 7230:00:02 D.
4. The details submitted in accordance with condition 1 above shall include details of existing and proposed levels across the site and finished ground floor levels of all buildings. The development shall be carried out in accordance with the approved details.

Ecology

5. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall be avoided between the months of March to August inclusive unless the absence of nesting birds has been confirmed by further surveys or inspections. Such surveys shall be carried out by a suitably qualified and experienced ecologist. If nesting birds (or dependant young) are found to be present, works shall be delayed until such time as nesting is complete and young have fledged.
6. Prior to the commencement of phases numbered A, D, E and F on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development), full details of measures for the creation of habitats in the areas specified in drawing number D1879.01.001L (Habitat enhancement scheme) shall be submitted to the local planning authority for approval in writing. The approved details shall be implemented in full. Details shall be in accordance with sections 9.6, 9.7 and 9.11 of the report ‘Land at Queensway St Annes Environmental Statement’ (updated November 2011) and section B4 of the report ‘Proposed residential and mixed-use development at Queensway, Lytham St Annes, Environmental Statement updated Technical Annex: Ecology, Biodiversity and Nature Conservation, September 2009 Parts A & B’ and details relating to the Queensway development within the report ‘M55 Heyhouses Link Road, summary of impacts and mitigation for all biodiversity-priority features’ (TEP report ref 2599.022, January 2011).
7. Prior to the commencement of any development phase identified on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development), a construction environment management plan corresponding to the development phase shall be submitted to the local planning authority for approval in writing. The approved plan shall be implemented in full. The plan shall provide for:
 - Details of measures to mitigate impacts on biodiversity including a timetable of mitigation works relative to site investigation, site preparation and site clearance.
 - Updated surveys to be carried out for features of biodiversity value to inform mitigation proposals.

- Surveys for species listed in schedule 9 of the Wildlife and Countryside Act 1981 (as amended) shall also be undertaken and measures to prevent the spread of any such species shall be implemented if necessary.
- Supplementary feeding of swans within the Farmland Conservation Area if Farmland Conservation Area monitoring indicates this is necessary for the purposes of attracting/habituating swans to the refuge following a change in field pattern and commencement of development.

The Plan shall be in accordance with details provided in:

- Chapter 9 of the report 'Land at Queensway St Annes Environmental Statement' (McAteer Associates Ltd, updated November 2011); and
- Section B4 of the report 'Proposed Residential and Mixed-Use Development at Queensway, Lytham St. Anne's Environmental Statement updated Technical Annex: Ecology, Biodiversity and Nature Conservation, September 2009, Parts A & B'.

8. Prior to any works affecting ditches or watercourses, or within 5m of the top of any associated watercourse bank, the developer shall submit the results of a survey for water voles to the local planning authority for approval in writing. The survey shall have been carried out in accordance with established survey guidelines and shall have been carried out within the preceding 24 months. If water voles are found to be present, a method statement detailing measures that will be implemented for the protection of water voles and their habitat shall also be submitted for approval in writing. Approved details shall be implemented in full.

9. Prior to the commencement of development or site clearance works a further water vole survey shall be carried out in accordance with a methodology that has been approved in writing by the local planning authority. If water voles are found to be present on the site, details of appropriate measures for mitigation and compensation, including appropriate timetables for implementation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable.

Landscaping and soil

10. Prior to the commencement of development phases numbered B and C, E and F, and G and H on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development) landscaping schemes of the residential development area, T5 roadside, school and playing fields shall be submitted to the local planning authority for approval in writing. The approved schemes shall be implemented in full. Schemes shall include details of seed and plant specifications, seeding rates, planting densities, establishment methods, aftercare, design of culverts to facilitate wildlife connectivity, swales and embankments.

11. Prior to commencement of development details of measures for soil conservation, including stripping, storage, movement and replacement shall be submitted to the local planning authority for approval in writing. Details shall be in accordance with section 8.4.4 of the report 'Land at Queensway, St Annes Environmental Statement'. Approved details shall be implemented in full.

Drainage and flood compensation

12. The development hereby permitted shall be drained on a separate system, with only foul drainage connected into the existing public sewer.

13. No development hereby permitted shall be commenced until a surface water drainage strategy for the development has been submitted to and approved in writing by the local

planning authority. The strategy shall include: measures to attenuate surface water discharges to existing 'greenfield' rates by means of a Sustainable Urban Drainage System (SUDS); a timetable for implementation of the SUDS and any other proposed drainage measures; and details of how these are to be maintained. The strategy shall be implemented and commissioned in accordance with the approved details (including the timetable) and shall thereafter be retained in the approved form.

14. Prior to the commencement of development, details of the piling of the proposed pipe work and measures to be incorporated to prevent the drying out of the underlying peat shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

15. No development shall take place until a scheme for the provision and implementation of compensatory flood storage works and associated flood flow culverts through the proposed highway embankments in accordance with the Flood Risk Assessment by Cole Easdon Consultants (November 2011, ref: 3330) has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

Access

16. No development hereby permitted shall commence until a scheme for the implementation of all site access measures and off-site highway works/improvements have been submitted to and approved in writing by the local planning authority. The measures, works and improvements shall include the following: details of the Queensway Roundabout junction (including pedestrian, cycling and equestrian provision); all other pedestrian, cycling and equestrian provision on the B5261; the proposed east-west access road (TR5) and its junctions including that with the proposed M55 Link Road with supporting pedestrian, cycling and equestrian infrastructure; signalisation measures at the St Annes Road East/St Davids Road North and St Annes Road East/Church Road junctions; and improvements to the St Annes Road East/Heyhouses Lane junction. The scheme shall be implemented as approved.

17. Before the development hereby permitted commences, a movement strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include details of the road hierarchy within the site, emergency access (and its management/enforcement), and the footway, cycleway and bridleway networks together with their linkages to the existing networks. The development thereafter shall be carried out in accordance with the approved strategy.

18. No other development hereby permitted, or any site preparation, shall commence until the new Queensway Roundabout junction (including all pedestrian, cycling and equestrian provision), all other pedestrian, cycling and equestrian provision on the B5261, the western section of the east-west access road (TR5) up to and including the second (development) access and the bridleway to the south of the access road, together with all supporting infrastructure required to link into existing routes at either end, have been completed in accordance with the approved scheme.

19. No more than 375 dwellings shall be occupied on the site until improvement schemes/works at the signalised junctions of St Annes Road East/St Davids Road North and St Annes Road East/Church Road and the priority junction of St Annes Road East/Heyhouses Lane have been completed and made operational in accordance with the approved schemes.

20. No more than 375 dwellings shall be occupied on the site until the east-west T5 road including bridleway and the section of the M55 Link Road from, and including, the Moss Sluice Roundabout to the modified Cropper Road/Whitehill Road/Lytham St Annes Way

Roundabout are completed and open to traffic in accordance with details that have been approved in writing by the local planning authority.

21. Prior to any dwelling hereby permitted being occupied, a Travel Plan shall be submitted for the written approval of the local planning authority. The Plan shall include objectives and targets and shall make provision for monitoring as well as promotion, marketing, and provision of a travel coordinator for at least an initial five year period. The approved Travel Plan shall be implemented, audited and updated at intervals as approved.

22. No dwelling hereby permitted shall be occupied until vehicular and other access has been provided to it in accordance with the approved details.

Construction

23. No site clearance or demolition shall commence until a site preparation plan has been submitted to and approved in writing by the local planning authority. The site preparation plan shall include the method and details of clearance, vehicle routeing to the site, wheel cleaning and any proposed temporary traffic management measures. The site preparation plan shall be implemented as approved and adhered to throughout site preparation.

24. No construction works shall commence on the site until a construction plan has been submitted to and approved in writing by the local planning authority. The construction plan shall include vehicle routeing to the site; parking for construction vehicles; any temporary traffic management measures; and times of access. The construction plan shall be implemented as approved and adhered to throughout construction of the development.

25. Details of any cranes to be operated on the site during construction works, including their height and area of operation, shall be submitted for the written approval of the local planning authority at least 28 days prior to any crane being brought onto the site. All crane operations shall be carried out in accordance with the approved details.

26. Prior to the commencement of development or site clearance works, details of measures to prevent air pollution or pollution of local ground and surface water during construction shall be submitted to and approved in writing by the local planning authority. All construction works shall be carried out in accordance with the approved details.

27. Prior to the commencement of development, details of a scheme setting out the use of secondary and recycled aggregates shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

Lighting

28. All street lighting within the development shall be in accordance with details, including details of post heights, design, construction, lighting head form and light emissions, which have been approved in writing by the local planning authority. The details shall include measures to minimise artificial light spillage to wildlife habitats including the Nature Park and Farmland Conservation Area and measures to prevent perching birds.

Renewable Energy

29. Prior to the commencement of development, details of a scheme of on-site renewable energy production, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

CONDITIONS: LINK ROAD

1. The development shall commence not later than five years from the date of this permission.
2. Written notification of the date of commencement of the development shall be sent to the County Planning Authority within seven days of such commencement.

Working Programme

3. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

- a. The Planning Application submitted dated 29 October 2010 as amended by the additional information submitted on 18 January 2011, 16 February 2011 and 21 November 2011.

- b. Submitted Plans:

Drawing No. 13445/PA1 Rev A – Completion of M55 to Heyhouses Link

Figure 9.4 – Landscape Strategy Sheet 1 of 3

Figure 9.5 – Landscape Strategy Sheet 2 of 3

Figure 9.6 – Landscape Strategy Sheet 3 of 3

Figure 9.7 – Typical Cross Sections Sheet 1 of 2

Figure 9.7 – Typical Cross Sections Sheet 2 of 2

Drawing No. 3073/103/02 – Proposed T5/Link Road Roundabout and TR5/TR6 Link Roads Longitudinal Sections Sheet 2 of 2

Drawing No. 3073/504 – M55 Heyhouses Link Road (TR6) Typical Cross Sections

Drawing 3073/503 – Proposed T5/Link Road Roundabout Arrangement and Moss Sluice Crossing.

Drawing No. 3073/SK502/01 Rev B – M55 Heyhouses Link Road Highway Drainage Strategy (Sheet 1 of 2)

Drawing No. 3073/502/02 Rev B – M55 Heyhouses Link Road (TR6) Highway Drainage Strategy (Sheet 2 of 2)

Drawing No. 3073/512 – M55 Heyhouses Link Road (TR6) Compensatory Floodplain Storage Works

Drawing No. D1879.01.011A – Farmland Conservation Area Management Plan Drawing

Drawing No. D1879/01.001L – Habitat Enhancement Scheme (Habitat Creation and Management Proposals)

Drawing No. D2559.004 – Farmland Conservation Area (Habitat Creation and Management Proposals)

Drawing 3073/508 – Typical Section through Highway Culvert

Drawing 3073/520 – Topographical Survey October 2011

All schemes and programmes approved in accordance with this permission.

Control of Construction Operations

4. No development of any construction site compounds shall commence until a scheme and programme for any site compound areas has been submitted to and approved in writing by the County Planning Authority. Development shall be carried out in accordance with the approved scheme and programme. The scheme and programme shall include the following details:

- a) The location of the site compounds and details of their construction including stripping of soil materials and laying of surfacing materials.
- b) Details for site restoration including removal of all surfacing materials, temporary buildings and plant, re-spreading of soil materials, cultivation and seeding.

No construction compounds shall be located within 200 metres of the following areas:

- a) the proposed Lytham Moss Biological Heritage Site;
- b) the area of the Farmland Conservation Area shown on drawing TEP 1879.01011A or
- c) within the land designated as swan feeding clusters on drawing TEP 1879.01.003A.

The restoration works contained in the approved scheme shall be completed within six months of the Heyhouses to M55 Link Road being opened to traffic including removal of the temporary buildings, plant, compounds and any boundary treatment.

5. All plant, equipment and machinery used in connection with the construction of the proposed highway shall be equipped with effective silencing equipment or sound-proofing equipment to the standard of design set out in the manufacturers' specifications and shall be maintained in accordance with these specifications at all times throughout the development.

6. Measures shall be taken at all times during the highway construction operations to minimise the generation of dust. Such measures shall include the watering of all haul and access roads, the spraying of stockpiles containing dust generative materials and the suspension of activities during dry windy conditions when other mitigation measures are ineffective.

7. No highway construction operations shall commence until a scheme and programme describing the types of reversing alarms to be fitted to mobile plant used on the site have been submitted to and approved in writing by the County Planning Authority. The scheme and programme shall provide for the fitting of non-audible reversing systems or should include details of alternative measures that will be adopted should non-audible warning systems fail to operate or be unsuitable. Following the written approval by the County Planning Authority the approved reversing alarms shall be fitted to all mobile plant used on the site and thereafter shall be utilised at all times during the construction of the development. *with Policy EP27 of the Fylde Borough Local Plan.*

8. No road construction operations including the delivery or removal of materials associated with pre-loading shall take place except between the hours of:

0730 to 1830 hours Mondays to Fridays, (except Public Holidays),

0730 to 1330 hours on Saturdays.

No such construction development including the delivery or removal of materials associated with pre-loading shall take place at any time on Sundays or Public Holidays. This condition shall not, however, operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential repairs to plant and machinery used on site.

9. No construction works or works associated with pre-loading shall commence until details of the access points from the road construction site to the public highway have been submitted to and approved in writing by the County Planning Authority. The details shall include:-

- a) The location and construction of each access point from the construction site to the public highway.
- b) The wheel cleaning measures to be provided at each of the access points identified in part a) above including design and location of wheel cleaning facilities to be provided.

The approved wheel cleaning facilities shall be provided in their approved locations prior to the commencement of road construction or pre-loading operations and shall be used by all heavy goods vehicles leaving the site to ensure that no mud, dust or other deleterious materials are tracked onto the public highway by heavy goods vehicles leaving the site.

10. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double-skinned tanks may be used as an alternative only when the design and construction has been approved, in writing, by the County Planning Authority.

11. Repair, maintenance and fuelling of plant and machinery shall, where practical, only take place on an impervious surface drained to an interceptor and the contents of the interceptor shall be removed from the site completely.

Highway Design

12. No development shall commence until details of the materials to be used for the surfacing of the Link Road (Central Section) have been submitted to and approved in writing by the County Planning Authority. The details shall include provision for the use of low-noise road surfacing materials. The development shall be carried out in accordance with the approved details and thereafter maintained with materials of a similar nature. Thereafter such low-noise materials shall be used in the maintenance of the wearing course of the highway.

13. No development shall commence until details for the creation of the bridleway along the line of the existing North Houses Lane/Wild Lane have been submitted to and approved in writing by the County Planning Authority. The details shall include:-

- a) Information on how the proposed bridleway/cycleway will link into the Cropper Road/Whitehill Road/Lytham St Annes Way roundabout at the northern end of the Link Road
- b) details of signage to other rights of way
- c) any measures to secure the segregation of pedestrians, horse riders and cyclists
- d) Details of any resurfacing required to provide a surface suitable for the intended users.

The development shall be carried out in accordance with the approved details.

14. The intermediate roundabout shown on drawing 13445/PA1 Rev A shall not be constructed unless planning permission for the Queensway housing development is granted and implemented. In the event that planning permission for the Queensway housing development (appeal ref APP/M2325/A/09/2103453) is refused, no development of the road scheme shall take place until a drawing has been submitted to the County Planning Authority showing a revised road design omitting the intermediate roundabout. Such a drawing shall include information on the revised public rights of way provision, street lighting arrangements, speed limits and landscaping arising from the omission of the intermediate roundabout. The approved revised design and details shall be implemented as part of the Link Road development if the Queensway development is not implemented with it.

15. Notwithstanding the road design shown on drawing No. 13445/PA1 Rev A, the proposed bridleway adjacent to the eastern side of the proposed road between the intermediate roundabout and the junction with Anna's Lane shall not be constructed as part of the development hereby approved.

Site Operations

16. All available topsoil and subsoil shall be stripped from any part of the site before that part is excavated or is traversed by heavy vehicles, or before plant or machinery, or roads, buildings, plant yards or stores are constructed on it.

17. No movement of topsoil or subsoil undertaken for the purposes of road construction or the construction of the flood mitigation area shall occur during the period 1 October in one year to the 30 April of the following year (inclusive) without the prior written consent of the County Planning Authority. At other times the stripping, movement and re-spreading of top and subsoils shall be restricted to occasions when the soil is dry and friable and the ground is sufficiently dry to allow the passage of heavy vehicles, plant and machinery over it without damage to the soils.

18. No soils or peat shall be sold or otherwise removed from the site without the prior written approval of the County Planning Authority. All such soil and peat shall be retained for use in the landscaping measures shown on figures 9.4, 9.5 and 9.6 referred to in condition 3 to this planning permission.

Safeguarding of Watercourses and Flood Mitigation

19. Provision shall be made for the collection, treatment and disposal of all water entering on or arising from the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

20. No development, including any pre-loading operations, shall take place until the flood mitigation area shown on drawing 3073/512 has been provided in its entirety in accordance with a scheme and programme to be first submitted to and approved in writing by the County Planning Authority. The scheme and programme shall contain the following information:-

- a) Details for the stripping of soils from the areas of land labelled Area 2, Area 3 and Area 4 on drawing 3073/512 and their storage and re-spreading for use in the restoration of the land. The details shall include information on the soil handling techniques to be used to ensure that the quality of the soils is preserved as far as possible.
- b) Details for the soil deposit area shown hatched brown on drawing 3073/512 including proposed contours, stripping and re-spreading of existing soil materials.
- c) The phasing for the construction of the flood mitigation works to ensure that they are undertaken prior to any works being carried out to create the Farmland Conservation Area.

Archaeology

21. No development shall commence until a scheme and programme, including a timetable, of archaeological investigation, research and mitigation has been submitted to and approved in writing by the County Planning Authority. The archaeological mitigation measures contained in the approved scheme shall be implemented at all times during the stripping of soils for the development of the road.

22. At least 14 days of written notice of commencement of a soil stripping programme shall be given to the County Planning Authority. Access shall be afforded at any time during the development to an archaeologist nominated by the County Planning Authority to enable him/her to undertake a watching brief and observe the excavation and to record finds, items of interest and archaeological interest.

Landscaping

23. The landscaping shall be carried out in accordance with the details shown on figures 9.4, 9.5 and 9.6 referred to in condition 3 to this planning permission.

The landscaping for phases 1, 2 and 3 shall be carried out in the first available planting season following the completion of phase 3 of the development and shall thereafter be maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures. The landscaping for phase 4 shall be carried out in the first available planting season following the completion of phase 4 of the development and shall thereafter be maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures.

24. Prior to the commencement of development, including any pre-loading works, the existing trees and hedgerows identified for retention on figures 9.4, 9.5 and 9.6 referred to in condition 3 of this permission shall be identified and protected from damage by means

of fencing or other suitable means of demarcation which shall be retained in position throughout the duration of the highway construction works.

25. All areas of the site left undisturbed, and all topsoil, subsoil and soil-making material mounds shall be kept free from noxious weeds throughout the construction phases of the development.

Ecology

26. No development shall commence until a detailed scheme of the mitigation measures to be incorporated into the highway design in order to protect ecological interests have been submitted to and approved in writing by the County Planning Authority. The details shall include:-

- a) Details of the mitigation for water voles including design of the culverts and bridges over existing watercourses to maintain habitat for water voles and details for the creation of new ditches to replace those lost to the road development.
- b) Details of road design and landscaping to minimise impacts on barn owls.
- c) Details of bat roosting opportunities to be incorporated into the design of the new bridge over the Moss Sluice.
- d) Details of street lighting design and control in order to minimise impacts on SPA birds and the nature conservation interests within the Farmland Conservation Area. The details shall include measures to minimise artificial light spillage and measures to prevent perching birds.

The mitigation measures contained in the approved scheme shall be implemented and maintained in accordance with the approved scheme.

27. No development, including the pre-loading works, shall take place until the habitat creation measures within the Farmland Conservation Area as shown on Drawing ref D1879.01.0111A have been undertaken in accordance with a scheme and programme to be first submitted to and approved in writing by the County Planning Authority. The scheme and programme shall contain details of the habitat creation works to be undertaken based upon the Farmland Conservation Area Management Plan Drawing ref D1879.01.0111A.

28. No road construction operations, including the pre-loading works, shall take place within 200 metres of the Farmland Conservation Area between 31 October in one year and 30 March the following year.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

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



Report to the Secretary of State for Communities and Local Government

by P J Asquith MA(Hons) MA MRTPI

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

Date: 21 March 2012

TOWN AND COUNTY PLANNING ACT 1990 (AS AMENDED)

**APPEAL BY KENSINGTON PT PARTNERSHIP
REGARDING THE FAILURE TO DETERMINE AN OUTLINE APPLICATION
FOR PLANNING PERMISSION FOR 1,150 DWELLINGS, A 1.1HA
SCHOOL SITE AND 34HA OF PARKLAND**

at

LAND SOUTH OF QUEENSWAY, ST ANNES , LYTHAM ST ANNES

and

**APPLICATION BY LANCASHIRE COUNTY COUNCIL FOR THE
CONSTRUCTION OF NEW HIGHWAY (COMPLETION OF M55 TO
HEYHOUSES LINK) AND IMPROVEMENT TO EXISTING HIGHWAYS AT
LAND**

at

LYTHAM MOSS, LYTHAM ST ANNES, LANCASHIRE.

Inquiry held on 10-13 and 17 & 19 January 2012
Site visits made on 18 January 2012

Land south of Queensway, St Annes, and Lytham Moss, Lytham St Annes, Lancashire

File Refs: APP/M2325/A/09/2103453 & APP/Q2371/V/11/2157314

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Abbreviations used in the report

AA.....	Appropriate Assessment
AOD	Above Ordnance Datum
BHCP	Bird Hazard Control Plan
BHS.....	Biological Heritage Site
BMV	Best and Most Versatile Land
BPO	Borough Planning Officer
CIL	Community Infrastructure Levy
CS.....	Core Strategy
Dpa	Dwellings per annum
DPD.....	Development Plan Documents
EA	Environment Agency
ES	Environmental Statement
FBC	Fylde Borough Council
FCA	Farm Conservation Area
FZ	Flood Zone
IHP.....	Interim Housing Policy
JLSP	Joint Lancashire Structure Plan
KPT	Kensington PT Partnership
LCC	Lancashire County Council
LDF	Local Development Framework
LP	Fylde Borough Local Plan
LTP.....	Local Transport Plan
PPS	Planning Policy Statement
PPG	Planning Policy Guidance
RSS	Regional Spatial Strategy
SFRA	Strategic Flood Risk Assessment
SHLAA	Strategic Housing Land Availability Assessment
SoS	Secretary of State
SPA	Special Protection Area
SUDS.....	Sustainable Urban Drainage System
XX.....	Cross-examination

File Ref: APP/M2325/A/09/2103453

Land south of Queensway, St Annes, Lytham St Annes, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Kensington PT Partnership against Fylde Borough Council.
- The application Ref. 5/2008/0058 is dated 22 January 2008.
- The development proposed is described as the development of 1,150 dwellings, provision of a 1.1ha school site and 34ha of parkland¹.
- The appeal was originally recovered for decision by the Secretary of State by letter dated 7 May 2009.

Summary of Recommendation: That the appeal be allowed and planning permission granted subject to conditions.

File Ref: APP/Q2371/V/11/2157314

Land Lytham Moss, Lytham St Annes, Lancashire

- 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 7 July 2011.
- The application is made by Lancashire County Council to itself.
- The application Ref. 5/10/0779 is dated 29 October 2010.
- The development proposed is described as the construction of new highway (completion of M55 to Heyhouses Link) and improvement to existing highways.
- The reason given for making the direction was that the SoS had decided to re-open the Inquiry into the above appeal by Kensington PT Partnership before proceeding to re-determine that appeal following the quashing of his earlier decision by the High Court on 14 December 2010. One of the issues he wished to pursue was the relationship between the Queensway scheme and the completion of the M55-Heyhouses Link. As part of his deliberations on the Queensway case he wished to examine this relationship as this amounted to a material change in circumstances and constituted new evidence that was not available to the first Inquiry into the Queensway appeal.

Summary of Recommendation: That planning permission be granted subject to conditions.

PROCEDURAL MATTERS

1. An outline planning application with all matters reserved, except for access, for the development of 1,150 dwellings and the associated provision of a school site and parkland was considered at an Inquiry held in November and December 2009 by Inspector Phil Grainger. The appeal followed Fylde Borough Council's failure to determine the application within the prescribed period. Jurisdiction for the appeal was recovered by the Secretary of State (SoS)². This was on the basis that the appeal involved a proposal for residential development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. The Inspector's report to the SoS following the Inquiry

¹ This development is hereafter referred to as the Queensway scheme/proposal

² A list of abbreviations used throughout the report is at the front of the report

concluded with a recommendation that the appeal should be allowed and that permission be granted subject to appropriate conditions³.

2. By letter dated 30 June 2010 the SoS dismissed the appeal and refused planning permission for the development. Whilst recognising the need for more housing in the Borough, including affordable housing, the SoS considered the release of the site would conflict with extant Fylde Borough Local Plan (LP) policies as well as restricting opportunities for identifying other greenfield developments as part of the Local Development Framework (LDF) process; the site was also considered to be a less than ideal location in terms of connectivity with the rest of the settlement. He went on to consider whether there would be any other particular benefits to be derived from allowing the proposal.
3. The Queensway scheme offered the ability (through the mechanism of a Unilateral Undertaking (UU) under s106 of the Town and Country Planning Act 1990) to make a contribution sufficient to pay for the construction of the M55-Heyhouses Link Road⁴ and supply all the necessary land. Whilst the Inspector had believed the delivery of the Link Road to be the weightiest consideration in favour of the scheme, the SoS did not feel able to give any weight to this consideration. This was on the basis that the road scheme neither benefited from an extant planning permission nor formed part of the appeal application and there could be no certainty that planning permission would be forthcoming. He also considered that, as the road was not directly related to the development or that the proposed functions of the road would be fairly or reasonably related in scale and kind to the development, there would not be compliance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.
4. The appellant, Kensington PT Partnership (KPT), challenged the decision and this was quashed by the High Court on 13 December 2010; the SoS accepted that there had been an error in law when determining the weight to be attached to the requirement in the Regional Spatial Strategy (RSS)⁵ for Fylde Borough to provide 306 new houses per year. This followed from the judgement in the case of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council (2010) EWHC 2866 (Admin)*⁶ which held that in July 2010 the revocation of regional strategies was unlawful.
5. In light of this, the SoS invited representations for his further consideration of the appeal. LCC had also made a planning application in October 2010 for the provision of the Link Road. Having considered the further representations made and having regard to the application for the Link Road the SoS decided that:
 - The Inquiry into the Queensway proposal would be re-opened in order for that appeal to be re-determined.

³ The Inspector's report, (hereafter referred to as IR) is at CD98

⁴ Hereafter referred to as the Link Road

⁵ CD8

⁶ CD111

- The application for the Link Road should be called-in for his determination.
 - To enable all relevant aspects of both applications to be considered, the re-determination of the appeal and consideration of the called-in application should be heard at a single Inquiry.
6. The above decisions were on the basis that the re-opened Inquiry would allow a full examination of updated evidence of current housing need in the area and allow the parties the opportunity to raise any new matters or changes of circumstance. It would also allow the examination of the relationship between the Link Road proposal and the appealed Queensway scheme⁷, the Link Road proposal being a factor amounting to a material change in circumstance and new evidence that was not available at the previous Inquiry.
7. By letter of 7 July 2011 the SoS set out a statement of matters he wished to be informed about in re-determining the Queensway appeal and considering the called-in Link Road application⁸. These matters are:

Queensway

- *Relationship and relevance to the Queensway proposal of the requirement in the North West of England Plan Regional Spatial Strategy to 2021 for Fylde to provide 306 new houses per year having regard (i) to the Judgement in the High Court on 10 November 2010 on the matter of Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council [2010] EWHC 2886 (Admin) which held that the revocation of the regional spatial strategies by the Secretary of State on 6 July was unlawful; and (ii) to the related subsequent decision of the Court in Cala Homes (South) Ltd v Secretary of State for Communities and Local Government [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration.*
- *The extent to which the proposed Queensway development would be consistent with Planning Policy Statement (PPS) 3 Housing, including the provision of a sufficient quantity and proper mix of housing in suitable locations with good access to jobs and facilities and the efficient and effective use of land, including previously developed land.*

Link Road

- *The extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note (PPG) 2 Green Belts, with particular regard to whether the proposed development is inappropriate development in the Green Belt and, if it is inappropriate, whether very special circumstances exist which clearly outweigh the harm to the Green Belt caused by reason of its inappropriateness and any other harm to justify the grant of planning permission.*

⁷ CD107

⁸ Ibid

In relation to both schemes

- *Whether any planning permission granted for either Queensway or the Link Road should be accompanied by any planning obligations under s106 of the Town and Country Planning Act 1990, having regard to the statutory tests set out in regulation 122 of the CIL Regulations 2010.*
 - *The extent to which the Appropriate Assessment prepared by LCC under the terms of the Habitats Regulations 2010 in relation to the construction of the Link Road would enable the SoS, as the competent authority in determining both the application and the Queensway appeal, to verify that the schemes - including mitigation - would not, either individually or in combination with other projects, adversely affect the integrity of the Ribble and Alt Estuaries (sic) Special Protection Area.*
 - *Whether any permission for either scheme should be subject to any conditions and, if so, in the case of the Queensway scheme, the extent to which those set out in the Inspector's Report of 29 January 2010 would require modification.*
 - *Any other material change in circumstances, fact or policy, which may have arisen since the SoS decision of 30 June 2010 on the Queensway scheme was issued, whether or not they pertain to the matters set out above.*
 - *Any other matters which the Inspector considers to be relevant.*
8. Having regard to the last matter I held a Pre-Inquiry Meeting on 21 October 2011 to discuss the administrative arrangements for the Inquiry. At this I indicated that from my preliminary reading of the documentation I would also wish to hear evidence at the Inquiry on the following matters:
- *The need for the Link Road and its relationship to planning policy.*
 - *Landscape, ecological and flooding/drainage impacts of both schemes.*

Queensway Plan

9. The Queensway scheme considered at the last Inquiry was accompanied by an illustrative Master Plan. An updated Master Plan (Ref 7230:00:02D)⁹ has been produced and was circulated to interested parties prior to the Inquiry. It was updated in light of the previous Inspector's comments and the need to reflect additional information arising from the detailed application for the Link Road. In particular, it does not now show an eastward-projecting ribbon of housing development that was criticised by Inspector Grainger¹⁰. The scheme would also now provide some 1.5ha of land reserved for a primary school (compared with 1.1ha originally) and parkland of some 34.8ha (compared with 34ha originally). There was agreement at the Inquiry that consideration of the Queensway scheme should progress on the basis of the updated Master Plan

⁹ Plan A

¹⁰ IR, paras 24 & 310

and that no interests would be substantially prejudiced on this basis. I have no reason to disagree.

Environmental Statements

10. LCC submitted an Environmental Statement (ES) as part of its application for the Link Road. The requirement for the provision of compensatory floodplain to mitigate the impact of the road emerged during the processing of the application. The plans for the Link Road were subject to ecological assessment, primarily through the mechanism of Appropriate Assessment. Following the decision to call-in the application, and subsequent amendments to the design of the compensatory floodplain, the ES was updated in November 2011¹¹. This also allowed updating of the evidence base with recent bird survey data from Lytham Moss and the Ribble and Alt Estuaries Special Protection Area (SPA). Although Lytham Moss is not a European site, swans associated with the Ribble and Alt Estuaries SPA and Martin Mere SPA use the area for winter foraging. LCC is content that the ES contains sufficient and adequate information to enable determination and Appropriate Assessment under the Habitat Regulations¹² of the Link Road application, by itself, and in combination with the Queensway development¹³.
11. An ES accompanied the Queensway application¹⁴. This was updated prior to the 2009 Inquiry with a detailed mitigation proposal to address concerns raised in respect of SPA birds and other species of biodiversity priority¹⁵. Following the detailed design of the Link Road, including its proposed compensatory flood plain, and taking account of additional survey information which emerged in 2010 and 2011, the Queensway ES was again updated in November 2011¹⁶. I am satisfied that the necessary procedures, including publicity, have been carried out in relation to the updating of these ESs.

Planning Obligations

12. The Queensway application is accompanied by a Unilateral Undertaking¹⁷. This is considered in more detail in paragraphs 402-403 below. In brief, if permission is granted it would secure the provision of a bus service through the site, the provision of the Nature Park, Farmland Conservation Area (FCA), education provision, a green Travel Plan, the financing of the Link Road and the provision of the east-west connecting road (T5) that would link Queensway with the Link Road.
13. There is also an obligation in the form of an agreement between the owners and developers of the Queensway site and LCC¹⁸. This would ensure funding

¹¹ CD96

¹² This term is used as a shorthand for The Conservation of Habitats and Species Regulations 2010. At the time of the 2009 Inquiry the Conservation (Natural Habitats &c.) Regulations 1994 applied. The 2010 Regulations do not alter the requirements of the 1994 Regulations in respect of European sites

¹³ CD106, para 3.5

¹⁴ CD2

¹⁵ CD4

¹⁶ CD97

¹⁷ CD147

¹⁸ CD144

of the Link Road, the payment for carrying out of works to create the compensatory floodplain, payment for landscaping adjacent to the Link Road and the carrying out of obligations in respect of the FCA. It too is more fully detailed in paragraph 404 below.

Other matters

14. Queensway Environmental Defenders (QED), described in the IR as a community group opposing the Queensway development, were a 'Rule 6' party at the previous Inquiry. They did not seek such status within the context of this Inquiry, instead relying on written representations¹⁹ to voice their continuing concerns.
15. In respect of these proposals the Secretary of State is now the competent authority and will need to make an Appropriate Assessment under the Habitats Regulations in terms of the potential impact of the proposals in respect of the European site of the Ribble and Alt Estuaries SPA.

THE SITES AND THEIR SURROUNDINGS

Queensway

16. The appeal site and its surroundings are described in the previous IR²⁰ at paragraphs 8-14. Since that report was written the No. 14 bus service described at paragraph 13 has been replaced by the No. 17. This service operates between St Annes town centre and central Blackpool along Queensway and Kilnhouse Lane. Whilst the former No. 14 service operated between St Annes, Blackpool and Fleetwood to the north, those wishing to visit Fleetwood (and vice versa) would now need to change service at Blackpool centre²¹.

The Link Road

17. The road would run from the Heyhouses area of Lytham St Annes in a northerly direction to the existing roundabout at the junction of Lytham St Annes Way, Cropper Road and Whitehill Road, which lies some 1km to the south-west of Junction 4 of the M55 motorway²².
18. The road of about 2.5km in length would cross the flat, mainly agricultural land of Lytham Moss and would occupy an area of about 16.2ha in a predominantly linear strip about 50m wide. The most southerly 45% of the road would lie within the Green Belt. The road and associated engineering/landscaping works would run parallel to the existing North Houses Lane/Wild Lane, which is a single track road with passing places linking Cropper Road/Whitehill Road/Lytham St Annes Way and the northern edge of Lytham St Annes. The nearest dwellings to the road are over 150m distant at the southern end of the proposed road. A national air traffic control radar station is located directly to the west of the existing Wild Lane and a former landfill site at Midgeland Farm would be directly to the west of the proposed

¹⁹ INQ80 & 81

²⁰ CD98

²¹ KPT13a, para 2.12

²² CD105, section 2. See drawing No. 13445/PA1 Rev A in CD95

road at its northern end. A number of farm tracks, which are also bridleways, would be affected by the proposal including Anna's Road, West Moss Lane and Sluice Lane.

19. An area of some 27ha of farmland to the west of the road and to the south of Moss Sluice would act as a flood compensation area for the road. Land to the east of the proposed road forms part of the Lytham Moss proposed Biological Heritage Site (BHS).

PLANNING POLICY

20. At the time of the Inquiry, and of writing this report, the development plan for the area comprised the North West of England Plan: Regional Spatial Strategy to 2021 (RSS)²³ and the Fylde Borough Local Plan (LP) (As Altered) (October 2005) saved policies²⁴. RSS Policy L4 requires Fylde Borough to provide for 306 new dwellings per year. There is agreement between the KPT and FBC that there is not currently a five-year housing land supply within the Borough, the latest appraisal indicating a 1.4 year supply against the RS requirements²⁵.
21. LP saved Policy SP1 is permissive of development within defined settlement limits, whilst saved Policy SP2 seeks to protect countryside areas outside defined settlements from development. The SP2 designation includes the Queensway site. Saved Policy SP3 seeks to protect the Green Belt.
22. To help address housing supply before Development Plan Documents (DPDs) are produced, FBC has produced and adopted an Interim Housing Policy (IHP)²⁶. However, despite having been the subject of consultation, the IHP does not have formal Supplementary Planning Document status as there is no policy in the LP to which it can be tied back.
23. LP Policy TR13 seeks to safeguard the route for a Link Road between St Annes and the M55 following roughly the line of Wild Lane/North Houses Lane. The LP indicates that as Lytham St Annes is a main urban area in which substantial amounts of new growth needs to be accommodated, a new direct link to the motorway is required to replace the existing routes which are circuitous or otherwise unsatisfactory. LCC's Local Transport Plan 3 (LTP), covering the period between 2011/12 and 2013/14 makes the same commitment and both this and the LP make clear that construction of the new road is to be funded by developers.
24. Lists of other development plan policies which KPT, FBC and LCC consider relevant or potentially relevant to the proposals are contained in Statements of Common Ground²⁷ (SoCG) and are dealt with as necessary in my conclusions.

²³ CD8

²⁴ CD7

²⁵ CD104, para 6.1

²⁶ CD10

²⁷ CDs 104 & 105

PLANNING HISTORY

Queensway

25. A previous proposal for the erection of 350 dwellings on part of the site is detailed in paragraphs 20 – 22 of the IR.
26. Following the quashing of the SoS decision and notification of the re-opening of the Inquiry, FBC received Counsel's advice on what stance it should take at the re-opened Inquiry. A report was presented to the Council's Development Management Committee in October 2011 at which the Committee resolved to continue to oppose the Queensway proposal²⁸. Its reasons for so doing were:
- Connectivity – the proposal would conflict with national advice on integrating new housing areas and is of unsatisfactory design due to lack of a vehicular access from the south-west.
 - The scheme conflicts with LP Policies SP1 and SP2 and these policies now carry more weight due to the progress of the Localism Bill (now Act) through the parliamentary process and the stated intention to abolish regional strategies. The scale of the development is inappropriate and would reduce the Council's available options in the LDF drafting process by pre-determining a decision about the scale and locality (sic)²⁹ of housing development in the locality of the settlement of St Annes and is therefore premature. (Members considered that recent SoS appeal decisions emphasised the importance attached to the need to not pre-empt the LDF process by individual decisions).
 - The proposal would be inappropriate development in the Green Belt and contrary to PPS2 and LP Policy SP3. The contribution that the proposal would make to meeting housing need in the Borough and the funding of the Link Road do not outweigh the substantial harm that would be caused to the Green Belt.

Link Road

27. Planning permission has been previously granted by LCC for the central section of the Link Road in 2002, an application that was not called-in for determination by the SoS. The provision of this section of road was dependent upon developer funding, which did not materialise. The planning permission accordingly lapsed³⁰.

²⁸ The full report is at KPT10c, Appx 6 and the Minute of the Committee's resolution is at CD127

²⁹ It is assumed this should be 'location'

³⁰ CD100, section 2

THE PROPOSALS

Queensway

28. The proposals remain essentially as described in the IR, paragraphs 23-29. However, for ease of reference the scheme is described in summary below, suitably updated to account for changes proposed since the last Inquiry.
29. It is proposed that there would be 1,150 dwellings on about 30ha of the site, giving a density of 38 dwellings per hectare. The proposed housing mix would be: 20% apartments (two-bed); 50% mews houses (two, three and four bed); and 30% detached houses (three, four and five bed). What was an eastward projecting ribbon of houses shown on the previous Master Plan (Ref: 7230:00:02C) has been omitted from the updated Master Plan (Ref: 7230:00:02D) in light of the previous Inspector's comments on this aspect.
30. Some 10% of the proposed dwellings would be initially guaranteed as affordable housing. As set out in the UU, the overall percentage of affordable housing may vary between 10% and 30% from phase to phase of the development dependent upon viability. It is proposed that affordable dwellings would be provided by a Registered Social Landlord (RSL) as social rented property, with 3% of the affordable dwellings provided to the RSL for shared ownership, as also set out in the UU³¹.
31. Funding would be provided for the diversion of the No. 17 bus service through the development. This service has replaced the No. 14 service referred to within the IR and as described in paragraph 16 above.
32. Within the 64.8ha of the total site area the scheme provides for the provision of a new primary school site and playing field on approximately 1.5ha. There would also be a financial contribution to the Local Education Authority for the provision of secondary school places.
33. Through the mechanism of the UU the development would fund the completion of the Link Road. It would also see the construction of a new roundabout at the junction of Queensway and Kilnhouse Lane and the provision of a road, referred to as T5, from Queensway to the Link Road, which would provide access to the development and act as a by-pass for Heyhouses Lane. This would provide the only vehicular access to the development but pedestrian, cycleway and bridleway links would be provided both into the built-up area of St Annes to the south and the countryside to the north and east. These links would include enhanced connection for non-vehicular movements to Wild Lane which, on completion of the Link Road proposal, would be retained for pedestrian, cycle, equestrian and farm access³².
34. The scheme provides for the creation of a Nature Park of about 12ha and a 91ha FCA, the latter being on agricultural land both to the north of the proposed T5 and east of the Link Road. This land would be retained in agricultural use but would be managed through the provisions of the UU to

³¹ KPT10a, para 4.9

³² CD104

enhance its conservation and biodiversity value, in particular, to cater for continued winter foraging areas for whooper and Bewick swans³³.

Link Road

35. The proposal relates to the provision of the remaining middle section of the M55 to Heyhouses Link Road. The road would be a single carriageway of some 2.5km in length built on a shallow embankment of between one and two metres in height. It would be mainly constructed in parallel with the existing North Houses Lane/Wild Lane³⁴.
36. Towards its southern end a new roundabout would be provided to link to the proposed T5 which would serve the Queensway proposal³⁵. From the roundabout the Link Road would cross Moss Sluice on an open span bridge and cross over the existing North Houses Lane/Wild Lane to run parallel to its eastern side up to the roundabout at the Cropper Road/Whitehill Road/Lytham St Annes Way roundabout junction to the north. South of the T5 junction roundabout the Link Road would be lit but the longest section between this and the Cropper Road/Whitehill Road/Lytham St Annes Way roundabout would be un-illuminated, apart from the roundabouts themselves.
37. The whole of the existing North Houses Lane/Wild Lane would be retained for use as a dedicated cycleway/bridleway apart from the southern section which would be incorporated into the improved highway. There would be landscaping to the proposed embankments and false cuttings with additional landscaping habitat creation and ecological management as part of the FCA associated with the Queensway scheme.
38. As part of the road falls within a flood zone, mitigation for lost flood storage capacity would be provided by very minor lowering of land levels within the farmland area to the west of the proposed road.

OTHER AGREED MATTERS

39. Various agreed matters between the principal parties (KPT, FBC and LCC) are set out in the SoCG³⁶. In summary, some of the principal points of agreement are set out below.
40. The Queensway site is a greenfield site as defined in Annex B of PPS3. The proposed housing area is designated in the LP as Countryside Area and the proposal conflicts with LP Policy SP2.
41. There is not currently a five-year housing land supply in the Borough, the latest appraisal indicating this to be a 1.4 year supply against RS requirements.

³³ Ibid

³⁴ CD105, section 1

³⁵ The agreed position between FBC and LCC is that planning permission for the Link Road should be granted but subject to a condition that the roundabout to provide access to the T5 road should not be constructed unless planning permission for the Queensway scheme is granted and the permission implemented. See the Addendum to the SoCG on the Link Road (CD105)

³⁶ CDs 104-106

42. The appeal site is physically capable of being developed for housing without causing detriment in terms of flooding, subject to the implementation of proposed compensatory flood storage and the imposition of planning conditions to ensure the implementation of necessary flood risk mitigation measures.
43. The development could not be built-out in its entirety (effectively not beyond the occupation of 375 dwellings) without the completion of the Link Road. Funding from the Queensway development for the completion of the Link Road would be compliant with the CIL Regulations.
44. FBC agrees that planning permission for the Link Road should be granted subject to a condition precluding the roundabout junction with T5 unless the Queensway scheme is granted permission and that scheme is implemented.
45. Potential impacts on biodiversity arising from the Link Road proposal have been evaluated as part of the planning application ES and Appropriate Assessment undertaken by LCC. Adequate mitigation and compensation for impacts on biodiversity has been proposed to ensure no significant impacts on the Ribble and Alt Estuaries SPA, taking into account updated information. With effective implementation of proposed mitigation the linked developments of Queensway and the Link Road would not, either alone or in combination, result in adverse effects on the integrity of European protected sites.
46. No European protected species would be adversely affected and adequate protection for UK protected species (barn owls and water voles) could be ensured through planning conditions and obligations to manage compensatory habitats in the long-term. The range of measures proposed as part of the proposals (the scheme designs, provision of a Nature Park, the FCA, Bird Hazard Control Plan (with which Blackpool International Airport is content³⁷), method statements for biodiversity-priority features and a water vole conservation strategy) can be secured by imposed conditions or through the planning obligations so that no species or habitats of principal importance, including the Lytham Moss BHS, would be adversely impacted. With the proposed mitigation most habitats and species of principal importance should experience some enhancement.

THE CASE FOR KPT (Queensway Appellant)

Introduction

47. The position regarding the Queensway proposal can be summarised shortly by means of an introduction to the Appellant's case.
 - a) It is agreed that the development, proposed to start in 2013, would produce some 375 units by the end of 2016.
 - b) The site would contribute significantly to addressing the chronic shortfall in necessary housing land both in respect of the five-year period and the six - ten year period as required by PPS3, RSS and by on-going guidance from the SoS. The contribution would be significant with regard to both general and affordable housing.

³⁷ INQ69

- c) The Queensway development would completely fund the Link Road. In securing its completion it would secure a key objective of adopted LP and LTP policy.
- d) The acute housing land shortage and the provision of the Link Road amount to very special circumstances which override the harm to the Green Belt caused by inappropriateness.
- e) The scheme represents a massive investment in the area that would not take place otherwise. It would create significant employment and the improved road infrastructure which would, in turn, create confidence in the future of the area.
- f) The completion of the Link Road is a condition precedent to the Queensway development proceeding beyond 375 units. The Link Road separately would be of significant benefit to the safe and free flow of traffic on the local highway network.
- g) There remain no ecological, highway/sustainability-related or technical reasons why the site should not be developed.

The relevance of the Borough Planning Officer's report recommending that planning permission be granted

48. A thorough and objective assessment was carried out by the Borough Planning Officer (BPO) backed by the advice of Counsel³⁸. The BPO continues to believe that planning permission ought to be granted and was not prepared to give evidence at the Inquiry. Mr Ottewell's evidence on behalf of FBC has not begun to dispute the main conclusions that the BPO reached:
- a) That on any "reasonably foreseeable basis" there is a shortfall in the housing supply of the Borough and the Council is not able to demonstrate a five-year supply. Whilst the LDF Steering Group's initial work had identified a "potential gross housing need for 280 dwellings per annum (dpa) this still did not alter the fact that there was a shortfall in the housing supply of the Borough."
 - b) The Council's Strategic Housing Land Availability Assessment (SHLAA) had indicated a need to allocate sites outside the existing settlement boundary by releasing countryside areas for development.
 - c) Because of the Green Belt, airport, coastline, Lytham Hall listed park and garden, golf course, SSSI and flood risk areas, the only site for consideration for future development in St Annes is the appeal site and directly adjacent land. As such, the proposal is unlikely to significantly prejudice future development plan policies in relation to the location of future development and prematurity would be difficult to support.
 - d) That greenfield and prematurity reasons were undermined by the need for the site in housing provision terms.
 - e) In relation to inappropriate development in the Green Belt, the acute housing land shortage and the provision of the Link Road amounted to very special circumstances.

³⁸ KPT10c, Appx 6

- f) Connectivity was not a large issue. The last Inspector had considered the connectivity of the site with St Annes and concluded that the lack of connectivity made the site a less satisfactory alternative for a major housing development but such was not an overriding objection. The SoS agreed with this conclusion.
49. Significant weight must be given to the Officer's assessment since Mr Ottewell provided no real evidence to displace the validity of the BPO's conclusions.

Support for the scheme

50. Significant weight should be attached to the 5,700 letters of support³⁹. They unequivocally support both schemes and there is not one representation made by any person approached that the process was unacceptable or misleading. The support has been fully analysed and, specifically, some 4,000 people who live in the locality have indicated support for the scheme. There is also, understandably, overwhelming support from business interests. The support bears out the outcome of the public exhibition where 83% of respondents supported the housing and road schemes.
51. A local paper on-line poll led to 72% of respondents saying that it was worth accepting new homes to get a new road in place⁴⁰. KPT had no input whatever into that exercise and it entirely independently verifies the level of support.
52. This level of support has to be contrasted with the way in which opposition to the scheme has fallen away. QED, from being a Rule 6 Party which played a significant part in the previous Inquiry, has restricted comment wholly to writing. None of the members of the group spoke at the Inquiry; none has sought to speak to the written submissions or made themselves available for cross-examination. In these circumstances, the weight to be attached to the written submissions must be inevitably significantly reduced. This point was drawn to their attention at the beginning of the Inquiry so that they would not be in any doubt as to the position. Further, none of the representations are supported by any technical or professional evidence whatever.
53. The vast majority of the public response is in favour of these schemes and the numbers involved mean that the support is material and very significant.
54. As indicated below with reference to the economic implications of the schemes, business interests in Lytham St Annes are unanimously in favour of the proposals and see very considerable advantage to the town and Borough.

1st SoS issue - Consistency with Government planning for housing policy objectives in PPS3 and the weight to be attached to the RSS requirement of 306 dpa following the passage of the Localism Act

55. On any basis there is a critical shortfall in the Council's housing supply which must be remedied and which raises the additional presumption in favour of the Queensway proposal.

³⁹ INQ82

⁴⁰ KPT10a, paras 8.3.12-13 and KPT10c Appx 13 & 14

56. The last Inspector placed great weight on the shortfall in 2009. The SoS decision not to accept his recommendation was quashed on the express basis that he had erred in law when determining the weight that should be attached to the requirement to provide 306 dpa. This was because he had not taken into account the relevant national policy to ensure the provision of a continuous five-year supply of deliverable sites. That national guidance remains and, indeed, has been refreshed.
57. At the last Inquiry it was agreed that there was not a five-year land supply and that the supply could be taken to be 1.5 years⁴¹. The shortfall was some 1,090 dwellings. Despite having had over two years to begin to put things right, the SHLAA (September 2011), produced following the approach advocated in the Government's practice Guidance on SHLAAs, with a base date of 31 March 2011, only identifies sites capable of delivering 326 dwellings in the years 2011- 2016. The agreed current supply amounts to 1.4 years assessed against the RS figure⁴².
58. The Localism Act is now enacted. Whilst no further RS can be created, the laying of Orders to abolish existing RSs is subject to the outcome of the environmental assessments that the Department of Communities and Local Government (DCLG) is voluntarily undertaking. With consultation only closing on 20 January 2012 decisions will not be made on revocations until the SoS and Parliament have had opportunity to consider the outcome of the EA process. It cannot therefore be assumed that RS will be abolished and, presently, the 306 dpa figure remains extant development plan policy.
59. Ultimately, however, even if weight were not attached to the RS policy, the only alternative figure put to the Inquiry, which is based on a 280 dpa requirement, continues to lead to a massive shortfall. FBC's October committee report specifically recognised that there was a continued housing shortfall whatever the circumstances. It was said that on any reasonably foreseeable locally-derived housing target the Council will not be able to demonstrate a five-year supply⁴³. Even if the Council took "initial" work done by the LDF Steering Group that has identified a potential gross housing need for 280 dpa "this does not alter the fact that there is a shortfall of housing land supply in the Borough."⁴⁴
60. The deliverable housing identified in the SHLAA when assessed against a 280 dpa requirement would mean that the Council would still only have a 1.5-year supply. The best the Council argues, based on a 280 dpa requirement but excluding any satisfaction of existing shortfall, is a 2.06 year supply⁴⁵. Whilst there is no proper basis supporting such level of assessment, it nevertheless shows that the shortfall against the five-year supply would still be acute and well over 800 units. On any basis this shortfall has to be made up in accordance with national guidance.

⁴¹ IR paras 30-36 (CD98)

⁴² CD104, SoCG, para 6.1

⁴³ KPT10c, Appx 6, p13

⁴⁴ Ibid

⁴⁵ FBC5/1, para 4.1

61. To put the contribution of the Queensway proposal in proper context it would deliver some 350 units in five years, which is more than the 326 deliverable sites in the SHLAA for the whole of the five-year period. The contribution the site would make is therefore very high.
62. The Council seeks to relegate the housing land supply position to a matter of little import. Such an approach is contrary to national guidance and the importance of an adequate and continuous housing supply is heightened rather than lessened by recent guidance.
- a) PPS3 makes clear that there must be an adequate and continuous housing supply. The Council has never had such for many years.
- b) The environmental report on the revocation of the NW of England Plan makes clear at Table 4 that after revocation national planning policy will still apply and local planning authorities will need to have regard to its policies on housing supply⁴⁶. Page 80, dealing with RS Policy L4, says that national planning policy for housing will continue to apply and local planning authorities will still need to provide a long-term supply of housing land.
- c) The DCLG Chief Planner's letter of 6 July 2010 makes clear that councils should continue to have a five-year supply of deliverable sites and their figures will have to be justified with local planning authorities having to collect and use reliable information to justify their housing supply policies. This is to be done in line with PPS3 under which there has to be an adequate and continuous supply of deliverable sites⁴⁷.
- d) The Ministerial Statement of March 2011 *Planning for Growth*⁴⁸ now makes it a top priority for the planning system to promote sustainable economic growth. The answer should be 'yes' except where it would compromise key sustainable development principles set out in national planning policy. Local planning authorities are to facilitate housing. They should consider fully the national policies aimed at fostering growth and the need to maintain a flexible and responsive supply of land for housing. FBC's approach singularly ignores this latest guidance.
- e) The Draft National Planning Framework (NPPF) requires every effort to be made to identify and meet the housing needs of the area and the default answer should be 'yes' except where it would compromise key sustainable development principles set out in the framework. It presently proposes an additional allowance of 20% to ensure choice and competition so, effectively, a six-year housing land supply regime.
63. There is therefore an acute housing land supply shortage that must be made up in accordance with national guidance. The additional presumption in favour of the development under PPS3 paragraph 71 should apply.
64. There can be no question of it being appropriate to leave the addressing of the shortage to the LDF process. FBC has effectively done nothing to move the Core Strategy (CS) process forward. At the last Inquiry the Council advised it

⁴⁶ CD125, Table 4, p43

⁴⁷ KPT10c, Appx 10

⁴⁸ CD124

would have been 2011 before any weight could be placed on any emerging CS documents. The Annual Monitoring Report (AMR) 2009-10 published in December 2010 then said the CS would be proposed to be adopted by January 2013 with the Proposals Map and Land Allocations DPD to be adopted in January 2014. A report on the Core Strategy update of December 2011 now says that the CS adoption will be December 2014⁴⁹. Clearly there has been massive slippage over the last two years. The CS process will plainly not contribute to bringing forward housing land on any prompt basis.

65. Despite efforts to portray the Steering Group deliberations as significant, the reality is that the Council is nowhere in the production of any DPDs on which any weight can be placed. The December 2011 report⁵⁰ sets out the position starkly:
- a) "Based on the evidence available at this time" Members were recommended to continue with a gross figure of 280 dpa. That figure is not, however, final and the Council has not begun to consider its policy aims that as in the case of RSS could justify a higher figure than one based purely on demography.
 - b) There exists no draft CS document whatever. Of the 13 proposed subject papers only four are complete. Eight are started and the housing paper "relies on many pieces of evidence and will take longer to complete."
 - c) Only once all the subjects are written up there will be an officer-level meeting to settle options. Only after that will it be presented to members for their input.
 - d) The document will then be sent for sustainability appraisal and afterwards will then be referred back to the Steering Group so the results can then be debated.
 - e) Only then will an Issues and Options document be produced to go out to public consultation.
66. On any realistic basis the suggested April/May consultation timetable will not be met. For the purposes of this Inquiry it is plain that no weight whatever can be placed on the Core Strategy rescuing the housing land shortfall position. Urgent action therefore now needs to be taken to resolve the shortfall against the strategic housing requirement and such can only be achieved by the immediate grant of planning permissions of significant size. The Queensway proposal would provide 350 units over the five-year period. Even after that the Council would still have a very considerable shortfall. The previous Inspector concluded that, in helping to address the housing land shortfall and to meet a serious need for affordable housing, the proposal would be consistent with and supported by PPS3⁵¹. This would remain the case and the greatest of weight should be attached to addressing the shortfall. This site should be in the vanguard of making up that shortfall.
67. In 2003 the Inspector in considering a proposal for 350 dwellings recommended that the western part of the appeal site was "in the most

⁴⁹ CD149

⁵⁰ Ibid

⁵¹ IR, para 331 (CD98)

sustainable location of all of the greenfield sites identified for housing development in the emerging FDLP⁵². Had it not been for the housing surplus arising from the advent of RPG 13 then it is almost certain that permission would have been granted back in 2004.

68. The previous Inspector recorded that it was agreed between the principal parties that the appeal site was one of the most sustainable greenfield locations, being the only apparent option on the edge of one of the largest settlements in the Borough⁵³. Mr Evans's past proof (for FBC) accepted that the appeal site was effectively the only urban expansion site at St Anne's.
69. The 2011 SHLAA⁵⁴ confirms that the appeal site is the only area on the edge of St Annes capable of accommodating a large-scale settlement extension.
70. The October committee report expressly concluded that because of the Green Belt, airport, coastline, listed park and garden, golf course, SSSI and flood risk areas the only site for consideration for future development in St Annes is the appeal site and directly adjacent land⁵⁵. For the Appellant, Mr McAteer made a detailed assessment of the position⁵⁶. His evidence was not challenged and Mr Ottewell conceded this to be the case.
71. In these circumstances, and given that the Council has produced no further evidence of alternative sites, the SoS's past conclusion that acceptance of the proposal would limit the scope for other greenfield releases in the context of the preparation of the LDF must be flawed.
72. The Council unequivocally accepts that the shortfall, whether based on 306 dpa or 280 dpa, cannot be addressed without the release of greenfield sites. It is further not argued that such release would prejudice the release of brownfield sites. Since St Annes is the Borough's largest settlement it is appropriate for greenfield releases to be made on its urban periphery. The magnitude of the present shortfall is such that it cannot be addressed by bringing forward small sites. Significant urban peripheral sites must be the order of the day.
73. In the circumstances, the additional presumption under PPS3 paragraph 71 applies and the Council is charged to consider favourably planning applications for housing. Since it is agreed that the site lies in a sustainable location there is nothing in paragraph 69 that should preclude this immediately available site from coming forward. The grant of permission would therefore be consistent with the Government policy objectives in PPS3 of securing an adequate and continuing supply of housing.

Affordable housing

74. The proposal makes significant provision for affordable housing. IR paragraphs 30-36 recorded agreement at the first Inquiry that affordable housing provided through the UU was in compliance with the relevant policies.

⁵² Reported in IR, para 21

⁵³ Ibid, paras 30-36

⁵⁴ CD120, para 5.10

⁵⁵ KPT10c, Appx 6, p14

⁵⁶ KPT10a, para 8.4.6 & Appx 15

The SoS accepted that the proposed housing would meet the needs of the area including the provision of affordable housing. The Council does not take any issue on the matter. Council reports had established that there is an affordable housing need in the Borough with the yearly need actually exceeding the annual housing requirement in the RSS. Despite such, the Council had only secured some 85 units during the plan period. This proposal would provide at least 115 units and the final figure may vary between 10% and 30% from phase to phase, dependent on viability. The proposal is fully compliant with PPS3 in this regard and the accompanying UU would secure affordable housing provision.

Conformity with development plan policy

RSS

75. It is agreed that the proposal is fully in conformity with the RSS.

Fylde Borough Local Plan (LP)

76. The site lies outside the defined limit of development of St Annes to which the restrictive Policy SP2 applies. To that degree the proposal is contrary to one of the policies of the LP. That does not, however, make the proposal contrary to the overall development plan. The Council's suggestion that Mr McAteer accepted that the proposal would be contrary to the LP per se cannot survive a reading of what was said in his proof of evidence. This is particularly so as he refers to the previous Inspector's conclusions to the effect that conflict with Policy SP2 wouldn't make the development contrary to the development plan⁵⁷.
77. It is common ground now that the Council has to grant permissions on greenfield sites for housing outside the settlement boundaries if the housing land shortfall is to be addressed in accordance with national guidance.
78. The previous Inspector's position⁵⁸ is a proper starting point. He found conflict with Policy SP2 would not be a fatal objection, was of limited importance and did not in itself mean that the proposal is materially out of conformity with development plan policy. The significance of non-compliance with Policy SP2 was greatly reduced as the settlement boundaries were drawn when no new housing allocations were needed whereas the Council now accepts that new housing sites, including greenfield sites, need to be found.
79. The Council's reliance on Policy SP2 simply cannot be justified by any reasonable and proper planning judgement. The LP adopted a restrictive housing approach with settlement boundaries deliberately drawn to restrict development; the plan was structured to conform to now-superseded national and regional guidance and Structure Plan policy which effectively led to a moratorium because of the low housing requirement. The residual housing requirement was for one house⁵⁹. LP paragraph 3.16 stated that there was already a significant potential over-supply of housing land calculated against the Joint Lancashire Structure Plan. That was the reason for the restrictive

⁵⁷ KPTa, paras 9.1, 9.12-9.13 quoting IR paras 302 and 435

⁵⁸ IR paras 302 and 435 (CD98)

⁵⁹ LP, para 3.14 (CD7)

settlement boundaries. Policy HL1 of the LP was thus postulated on the basis that the strategic housing requirement for the Borough had been met and that, accordingly, new housing development was very strictly regulated.

80. With the advent of the RS the whole position changed. The housing land requirement effectively doubled from 156 dpa to 306 dpa. Policy H1 was not saved, reflecting the change in circumstances that affected the plan. It is agreed that the RS housing requirement cannot be met if the SP2 settlement boundaries are followed. Further, and most significantly, it is also now agreed that even if the Council was to use the figure of 280 dpa the settlement boundaries would have to be breached. The October committee report recognised that there was a continued housing shortfall against any reasonably foreseeable locally-derived housing target⁶⁰.
81. Since national guidance requires an adequate and continuous supply of housing land, strict adherence to Policy SP2 on any basis precludes satisfaction of national policy and Local Plans of course should be in conformity with national policy. Reliance on Policy SP2 therefore thwarts the Council beginning to satisfy its proper housing requirements.
82. Government Office for the North West letters⁶¹ dealing with saved policies make it clear that:
- a) The reason for extending saved policies was to ensure a continual supply of land for development. It is plain that here reliance on Policy SP2 is achieving just the opposite.
 - b) The exercise of extending saved policies is not an opportunity to delay DPD preparation and local planning authorities should make good progress with LDFs according to timetables in their development schemes. Policies have been extended in the expectation that they will be replaced promptly. Plainly, the Council has been totally dilatory in its DPD preparation and it will be effectively another three years before there will be a CS.
 - c) Where policies were adopted some time ago it is likely that new material considerations, in particular the emergence of new national and regional guidance, and also new evidence, will be afforded considerable weight in decisions. In particular, the letters draw attention to the importance of reflecting policy in PPS3 and SHLAAs in relevant decisions. In this case, for the reasons set out above, all the evidence demonstrates that any foreseeable housing land need requires the use of greenfield land beyond the settlement boundaries.
83. It is accepted that the appeal site is the only site for consideration for future development in St Annes. The October 2011 report accepts⁶² that St Annes is the highest order settlement of the Borough and that it is extremely unlikely that the settlement hierarchy that is still to be settled by the CS will demote St Annes. Indeed, there is no suggestion in the Steering Group reports of any change in approach nor has any committee of the Council suggested any

⁶⁰ KPt10c, Appx 6, p13

⁶¹ FBC5/3, Appx 5

⁶² KPT10c, Appx 6, p14

change. The strategy of the LP is based on St Annes being first tier in the settlement hierarchy:

- a) The first tier relates principally to the main urban area of Lytham St Annes where a large proportion of development in the Borough will be concentrated. "It makes sense to provide for a significant amount of new development in the Borough's major town since it contains the focus of civic, community, retail and business activity and forms the natural hub of public transport services."⁶³
- b) The other settlements are either second or third tier which should take commensurately lesser amounts of development⁶⁴.
- c) Limits of settlements were defined having regard to the hierarchy of settlements.⁶⁵
- d) Further, the Council's SHLAA identifies St Annes as "the largest town within the Borough and provides a good range of shopping, professional, educational and health facilities"⁶⁶.

84. Given that there is a need for further housing land to be made available in accordance with national guidance this should conform to this hierarchy. FBC, however, seeks to ignore the hierarchy. In these circumstances, and given that the Council produces no further evidence of alternative sites, it must be wrong to attach significant weight to Policy SP2. Indeed, the Council recently has had appeals allowed in respect of greenfield sites because of the acute housing land shortage⁶⁷. It has also itself granted permission for a development of some 67 dwellings, including 20 affordable units, at Nine Acres Nursery on the edge of the settlement of Wharton giving the reason for the permission as being to provide much-needed affordable housing and to contribute to the general supply of housing⁶⁸; the Council has not applied Policy SP2.

85. Mr Ottewell conceded that, given Policy SP2 prevents the provision of any housing on the edge of settlements to make up the shortfall against any reasonably foreseeable locally-derived housing target, such policy is to be regarded as out-of-date in the terms of *Planning for Growth*. The answer should be 'yes' except where it would compromise key sustainable development principles set out in national planning policy. There is no compromise of such key sustainable principles. Local planning authorities should therefore support enterprise and facilitate housing and should consider fully the national policies aimed at fostering growth and the need to maintain a flexible and responsive supply of land for housing.

86. It is simply absurd to suggest that weight can be attached to a restrictive policy in a local plan imposed when there were no housing allocations because housing was being artificially restrained when national guidance now requires a massive increase in the supply of housing. This is particularly so when the

⁶³ CD7, para 2.6

⁶⁴ Ibid, para 2.8

⁶⁵ Ibid, para 2.13

⁶⁶ CD120, para 5.10

⁶⁷ KPT10c, Appx 7

⁶⁸ KPT10a, para 8.2.5 & KPT10c, Appx 8, p77-83

Council's own information shows that there is such a need on whatever figure it could reasonably seek to promote.

Relevance of policies in the Local Plan as to the Link Road

87. The LP does not solely comprise Policy SP2. This plan, and indeed the development plan, must be read as a whole. The LP additionally seeks to deliver the Link Road by means of private development. It is clear that it was never intended that Policy SP2 would stop a scheme such as this otherwise the Link Road could never be funded as provided for in the Plan.
88. The Inspector in 2003⁶⁹ had concluded that a contribution to the completion of the Link Road would help secure a key objective of adopted and emerging Structure and Local Plan policy and of the adopted LTP since it would play a major role in securing the construction of a highway upon which the land use strategy of the district was based.
89. The SoS's conclusion at the previous 2009 Inquiry - that there is no certainty that the Link Road would come forward - cannot now be argued in any way. There is a detailed scheme and there is funding provided for it through the Queensway development. Very significant weight should therefore be attached to the fact that the Queensway proposal would deliver a key objective of the LP. FBC cannot pick and choose the policies it wants. The Link Road is safeguarded by LP Policy TR13 from any development which would prejudice the future implementation of the road scheme. The justification to the policy says that the Council considers that a new direct Link Road to the motorway is necessary and that it will fall to be funded by private sector developments⁷⁰.
90. LP paragraphs 5.108-111 set out the benefits. There is currently no direct link between the M55 and St Annes and access is circuitous. Given the status of Lytham St Annes as a main urban area where substantial amounts of new growth will need to be accommodated, the Council considers the new Link Road as necessary. The Council's pre-Inquiry statement and Mr Ottaway's proof of evidence make clear that the Council continues to see the road as beneficial and necessary. Since the Queensway development would fund the Link Road this proposal is fundamental in the road's delivery and reliance on Policy SP2 would frustrate a key objective of the plan.
91. Refusal of the Queensway scheme would also frustrate delivery of the LTP. The proposal also delivers a scheme mentioned in the LTP 2006-2010 (LTP2). Its objectives include improving the condition of the transport infrastructure. Chapter 4 refers to the Heyhouses Link Road. It states the road "will be funded through development"⁷¹. The Link Road is also mentioned in the Implementation Plan that forms part of the current Lancashire LTP (2011-2021) (LTP3.) It states "links to Lytham St Annes will be improved by the construction of the Heyhouses Link funded by developer contributions."⁷² The

⁶⁹ KPT10a, para 3.8

⁷⁰ CD7, pp96-7

⁷¹ CD40, pp133-135

⁷² SoCG, para 4.4.11 (CD105)

M55 Heyhouses Link also continues to feature in LTP3 via the list of suggested schemes of November 2010.

92. In the circumstances of this case LP Policy SP2 cannot properly preclude development which would be in general conformity with the development plan. Additionally, the grant of permission would be wholly in accordance with national guidance, and emerging national guidance, which would decisively outweigh any non-compliance with one policy which has been accepted as being outdated.
93. FBC has sought to rely on the Metacre decision at Mowbreck Lane, Wesham⁷³. All appeals turn on their own particular merits. The present proposal can be easily distinguished, however, from that case.
- a) Metacre was refused on the adverse impact of the development on the settlement of Kirkham/Wesham. No such impact is advanced in the present case.
 - b) The appeal site is acknowledged as the only location in Lytham St Annes which can accommodate development. No such similar claim was made for the Metacre site.
 - c) Kirkham Wesham was a lower tier settlement as opposed to Lytham St Annes being the main urban area in the hierarchy to which development must necessarily be directed.
 - d) The Council opposed the Metacre scheme on best and most versatile land (BMV) grounds. It does not oppose the present scheme on that basis.
 - e) Most importantly, there was no question of the Metacre scheme delivering the Link Road in accordance with the policy requirements of the LP.
 - f) The Council has now made clear beyond doubt that on any locally-determined figure that it could reasonably advance there will be a very significant housing shortfall and it identifies no other sites where this shortfall can be made up.
 - g) The favourable view of the Borough Planning Officer in his October 2011 report.

Interim Housing Policy (IHP)

94. No weight can be attached to this document in accordance with national guidance. PPS12 para 5.7.4 indicates that SPDs may provide greater detail on policies in DPDs. It is agreed, however, that the IHP can only be an informal document because it has no parent policy in the LP – a fact conceded on the face of the IHP⁷⁴. It is not an SPD and therefore very limited weight should be attached as per PPS1 and PPS12 advice.
95. Paragraph 6.4 of PPS12 is unequivocal. Councils should not produce planning guidance other than SPDs where the guidance is intended to be used in decision-making. Mr Ottewell accepted in cross-examination (XX) that the

⁷³ CD115

⁷⁴ CD10, para 1.2

very purpose of the document was to assist in decision-making and therefore its use for that purpose is contrary to national guidance.

96. The Council has sought to argue that some weight should be attached to the document because it has been out to public consultation back in 2008. This can easily be refuted. As the document has no parent policy it fundamentally lacks legitimacy whatever the consultation. However, the consultation that took place does not begin to have any relevance to the present position. The need for the July 2008 document was said to stem mainly from the fact that a revised draft RS was nearing completion, which contained a much higher dwelling requirement than the JLSP, meaning that the then current restrictions on the granting of permissions needed to be lifted. The stated objectives of the IHP were set out at paragraph 4.2 as being to “allow sufficient housing to come forward in the interim period to meet the numerical requirements contained in RSS and to maintain a five-year land supply”. Changes to this document in 2010 were not consulted upon.
97. The Council is now seeking to use the document as a way of specifically preventing the necessary housing land coming forward to meet the acute shortfall in housing land supply. That cannot begin to be correct. Since the document thwarts proper housing provision it is not only without a local plan parent policy, it is directly contrary to national guidance. By seeking to restrict housing development to within the settlement boundaries under this IHP the Council is effectively approaching matters as if it still has an oversupply of housing in the Borough. The document cannot carry any weight whatever in circumstances where there is a 1.4-year supply of housing land and a shortfall of land to cater for over 1,100 dwellings.
98. Finally, the Preamble to paragraph 12.1 states that, whilst the IHP has been prepared to relate to housing development on sites within settlement boundaries, there may be circumstances where, having regard to material considerations other than the IHP, the Council is mindful to grant planning permission for residential proposals outside settlement boundaries. FBC now accepts that it is necessary to do so as the only way in which the housing land shortfall may be made up. Therefore, whatever the status of IHP, it surely must be the case that the document should not be used to seek to thwart necessary housing supply.

Prematurity

99. The previous Inspector had prematurity fully debated⁷⁵ and, in particular, paragraph 429 of the IR sets out his conclusions which remain of the greatest significance:
- a) He noted there was no evidence to suggest that any other settlement was being deprived of an opportunity to expand that was actively being sought by the Council or that community.
 - b) Lytham St Annes was one of the largest settlements in the Borough where a substantial amount of new housing might be expected to be located.

⁷⁵ IR paras 426-433 (CD98)

- c) No one had suggested there is any preferable greenfield site around Lytham St Annes. To the contrary, the Council seemed to accept that some development on part of the appeal site was likely to be acceptable.
 - d) He did not consider that the application should be refused on prematurity grounds.
100. All those conclusions survive totally intact after the evidence of this resumed Inquiry.
101. There has now been a precise assessment of all land around Lytham St Annes by the Borough Planning Officer and Mr McAteer (on behalf of KPT) which has determined that there is no other area available. Mr McAteer was not challenged on his assessment and Mr Ottewell did not dispute the BPO assessment. The October 2011 BPO report specifically concluded that the proposal is unlikely to significantly prejudice future development plan policies in relation to the location of future development⁷⁶. It said prematurity would be difficult to support. Counsel's advice was that prematurity arguments were undermined by the need for the site in housing provision terms. This plainly must be the case. In particular, it is noted that "the considerations to be taken into account in this particular case are significantly different to those for other proposals seeking to develop other land allocated as countryside including Mowbreck Lane and the release of the site would not establish a precedent."⁷⁷ In these circumstances, and given that the Council has produced no further evidence of alternative sites, the SoS's conclusion after the previous Inquiry, that acceptance of the proposal would limit the scope for other greenfield releases in the context of the preparation of the LDP, must be flawed because there is no evidence that begins to substantiate the claim.
102. The Council's approach is totally contrary to advice in *The Planning System – General Principles*. This cannot be over-emphasised. Paragraph 18 of this guidance indicates that planning applications should continue to be considered in the light of current policies. Account can be taken of policies in emerging DPDs but the weight to be attached increases as successive stages are reached. For example, where a DPD is at consultation stage with no early prospect of submission for examination, prematurity would seldom be justified because of the delay which this would impose in determining the future use of the land in question.
103. Here the CS is nowhere near consultation stage; it simply does not even begin to exist as a document or, indeed, a concept. It is fundamental that FBC has not produced any part of its Core Strategy. It has not published any LDF documents. It is reiterated that what has taken place at the Steering Group does not begin to amount to a settled approach or philosophy for the CS. The December 2011 report sets out the position starkly⁷⁸:
- a) Based on the evidence available at this time Members were recommended to continue with a gross figure of 280 dpa. That figure is not, however, final and indeed the Council has not begun to consider its policy aims that, as in

⁷⁶ KPT10c, Appx 6, p14

⁷⁷ Ibid, p15

⁷⁸ CD149

the case of RSS, could justify a higher figure than one based purely on demography.

- b) There exists no draft document whatever. Of the 13 proposed subject papers only four are complete (but not published or given to Members). Eight are only started and the housing paper "relies on many pieces of evidence and will take longer to complete." None of those part drafts have been seen by the Steering Group.
 - c) Once all the subjects are written up there will be an officer-level meeting to settle options. Only then will a draft document be presented to Members for their input and it is therefore clear that there is no settled policy approved or promoted by the Members of the authority.
 - d) The document will then be sent for sustainability appraisal and afterwards will be referred back to the Steering Group so the results can then be debated. Only then will an 'Issues and Options' document be produced to go out to public consultation.
 - e) It is plain that no weight can be given to the mere intention ultimately to produce an options paper. Obviously any options paper in accordance with normal principles will not be given any significant weight since it will be open to change and amendment.
104. The Council's position is that, effectively, weight can be attached to this process. National guidance is as clear as crystal that the weight to be attached increases as successive stages in the plan-making process are reached. If one has a DPD at consultation stage prematurity can be seldom justified. But not only is there not a DPD at consultation stage, no public consultation has taken place, there has been no public consultation on options, there is no options paper; there are no documents whatsoever. Given that weight increases it has to follow that at the present stage the SoS can attach no weight whatever to this process.
105. The Appellant is put in a ludicrous position. Suppose that when 12 papers have been produced they indicate a need for a higher housing figure or that there are major issues of planning philosophy that need to be debated. The draft CS is then unlikely to come out for a very long time and its contents cannot be second-guessed. What the Council is asking is a very novel concept; FBC has not even begun to conclude what its policy will be and Mr Ottewell's evidence is crystal ball gazing, however, his musings should carry more weight than will documents coming out in the later stages of the development plan process. This cannot begin to be correct. In accordance with *The Planning System: General Principles* councils have to demonstrate clearly how the grant of planning permission would prejudice the outcome of the process. If the Council doesn't even begin to know what the starting point of the process is, how can it begin to demonstrate clearly any prejudice? The Council is asking that the SoS rewrites paragraph 18 so that when a local planning authority is beginning to think about its DPDs a weight should be attached to this process where, effectively, the default would be prematurity being justified. This is a nice try, but nothing more, and one which is fundamentally contrary to national guidance.

106. **The Inquiry can take no view as to what the Council may seek to advance** in the future. Mr Ottewell cannot crystal ball gaze for it and represent his musings as the settled views of the Council. PPS12 confirms that decisions have to be made in the light of current policy. There is, for instance, no suggestion of the Council adopting a dispersal strategy away from Lytham St Annes. It is a figment of Mr Ottewell's imagination. Similarly when he refers to the amount of greenfield development which would be left over if this site were permitted, he fails to appreciate that because of the delay in bringing forward the CS, when it is produced it will need to deal with a plan period up to 2029 as opposed to 2021. That would necessitate the very considerable additional release of greenfield peripheral sites to achieve the necessary land supply over and beyond Queensway. The housing land shortfall in the 1-5 year period and the 6-15 year period still remains critical and its resolution must involve the Queensway site coming forward immediately.
107. Mr Ottewell sought to refer to implications for best and most versatile agricultural land⁷⁹. FBC did not object at the original application stage on agricultural grounds. Neither the previous Inspector nor the SoS opposed the development on that basis. At this Inquiry the Council's reasons for refusal do not advance refusal on grounds of BMV and Mr Ottewell conceded in evidence that he did not seek to rely on agriculture to specifically refuse the scheme. To seek to argue the proposal is premature on agricultural grounds is utterly without foundation.
108. Mr Ottewell's reference to affordable housing implications signally fails to acknowledge either the affordable housing shortfall there is in Lytham St Annes and the Borough generally (which cannot be resolved by using deliverable housing identified in the SHLAA) or the benefits which this scheme will bring in terms of affordable housing⁸⁰.
109. In conclusion, the Council simply has no emerging strategy to which this proposal could be adjudged premature. Since it is accepted that the appeal site is the only urban expansion site by St Annes, and that it is necessary to release greenfield sites around St Annes to meet the housing shortfall, how can it be argued that the grant of permission would be prejudicial to locational releases in St Annes? Prematurity cannot be a proper reason for refusal. This proposal should be approved, therefore, on the basis of standard planning considerations.

The effect of the development on the safety and convenience of highway users, changes since the last Inquiry in respect of national policy (none), work on the Link Road, and traffic generation and the relationship between the Queensway residential development and the provision of the Link Road

110. The two applications are inextricably intertwined. Completion of the Link Road would be funded by KPT alone and the Link Road has to be provided to facilitate development on Queensway beyond 375 dwellings.

⁷⁹ FBC5/1, para 7.11 et seq

⁸⁰ Ibid, para 4.43

111. The previous Inspector set out as an agreed matter between the Council and the Appellant that the Link Road was necessary to allow the development to be completed and that no more than 375 dwellings could be occupied without the link being provided⁸¹. The Inspector concluded:
- a) "...The measures referred to are necessary to make the development acceptable and are appropriate to its scale. The construction of the M55 link has, in the view of the local planning authority and highway authorities, considerable public benefit but is also necessary if more than about 350 dwellings (are) to be built on the appeal site without significant adverse effects on the safety and convenience of highway users."⁸²
 - b) "There would certainly be an adverse effect on safety and convenience of highway users if as many as 1,150 dwellings were to be built".⁸³
 - c) The Link Road "would have benefits for local residents and road users as well as being essential to the appeal proposal"⁸⁴.
 - d) The Inspector was satisfied that the new roads proposed would ensure that the development would not have an adverse impact on the safety or convenience of users of the existing highway network and that the appeal proposal would lead to a material improvement in the local highway network⁸⁵.
 - e) "Moreover Wild Lane/North Houses Lane, which currently acts as a link to the M55 despite being little more than a single lane track with a relatively high accident record, would be replaced with a high quality road".⁸⁶
112. The SoS did not disagree with the above evaluation.
113. At the present Inquiry there is no difference between any of the principle parties. FBC does not challenge any of the highways evidence and there is no specialist highway evidence produced by any third party to dispute the agreed positions of the Appellant and the local highway authority. The third parties did not put up their evidence to be tested by XX nor did they seek to examine the KPT and LCC technical witnesses. The KPT and LCC evidence is therefore unchallenged.
114. The SoCG between KPT and FBC relating to Queensway now agrees that the Queensway scheme cannot be built out in its entirety without completion of the M55 Link Road and that its funding through the appeal proposals meets the tests set out in the CIL regulations⁸⁷.
115. The Highways SoCG concludes that the Inspector's conclusions as set out in IR paragraph 347 remain valid from the assessment work undertaken both in 2010 and 2011⁸⁸.

⁸¹ IR, paras 34 (CD98)

⁸² Ibid para 295

⁸³ Ibid, para 343

⁸⁴ Ibid, para 346

⁸⁵ Ibid para 347

⁸⁶ Ibid

⁸⁷ CD104, para 6.1

⁸⁸ CD105, para 5.7

The Need for the Link Road

Present conditions

116. The existing network suffers from congestion during morning and evening peak hours although congestion is not restricted to these periods. Drivers use narrow country lanes with few passing points to rat run and avoid queues. The rat runs are subjected to significant traffic movement to and from the St Annes to the M55 motorway corridor. There are significant safety issues and loss of amenity to local residents⁸⁹.
117. In particular, Wild Lane is substantially substandard in its alignment and width, being virtually only a single lane carriageway with minimal passing points yet carrying significant two-way traffic movements. Vehicles cause damage to verges and the structure of the road whilst manoeuvring around opposing traffic. It is a moss road not built to modern standards. During a 5-year period five accidents occurred some three of which were serious. A 60% factor of serious accidents is significant and is to be compared to the national average of only 18%.⁹⁰ The B5261 (Common Road/Queensway/Heyhouses Lane) also has a high recorded serious accident rate⁹¹.
118. As to existing traffic flows:
- a) The B5261/School Rd signalised junction operates at near capacity in peaks with queuing and congestion.
 - b) Other signalised junctions are predicted to operate at and beyond capacity in future even without the appeal development.
 - c) Highway links are close to capacity.
 - d) Committed development already results in increasing traffic movements on the network and without the Link Road existing junctions would experience more congestion.

The Impact of the development on existing roads and junctions

119. The highways SoCG summarises that the Queensway proposal on its own would cause unacceptable congestion⁹²:
- a) Existing junctions would experience more congestion without the introduction of the Link Road. The present signalised junction of Kilnhouse Lane/B5261 would become congested, with potential for longer delays, as would that at the B5261 Common Edge Rd/School Rd.
 - b) The junction of the B5261 Common Edge Rd/Queensway to south of the School Road link would also become congested without the Link Road and by 2026 would have negative capacity when account is taken of the Queensway development traffic.

⁸⁹ Highways SoCG, CD105, para 5.25

⁹⁰ Ibid, para 5.31

⁹¹ Ibid, para 5.33

⁹² Ibid, para 5.36

120. The highways SoCG agrees that without the Link Road significant congestion would be experienced leading to even greater rat running along the inappropriate highway routes⁹³. The 1,150 Queensway dwellings would significantly worsen conditions even further along the B5261 corridor leading to greater delays, conflict and unsatisfactory road conditions for drivers and public transport users.
121. The highways SoCG confirms Queensway relies on the Link Road and cannot go ahead without it⁹⁴ and that without the Link Road the traffic situation would continue to worsen especially in the peak period⁹⁵; "With the additional Queensway development (beyond 375 homes) the traffic situation will worsen to such an extent that the Queensway development relies on the implementation of the Link Road in order to provide the necessary additional capacity". This therefore confirms the position as at the last Inquiry.
122. The highways SoCG summarises the position; "the Queensway development, apart from the initial 375 homes, relies on the implementation of the Link Road. Without the latter, the existing highway network with the additional development traffic will be saturated and will be subject of significantly increased traffic congestion along it". The Link Road is essential infrastructure for the appeal proposal, the appeal site relies on its implementation and accordingly the proposal does not contravene the CIL regulations⁹⁶.

The delivery of the Link Road

123. The Queensway development would fund the design and implementation of the remaining stretch of the Link Road at a cost of £16m. It would connect the southern and northern sections which have already been funded through development and would complete the road.
124. The Link Road is a very costly project that will only be delivered by private funding. LCC confirms "there has never been any intention to provide the Link Road from the public purse"⁹⁷.
125. It has already been demonstrated that there is development plan policy support for delivery of the road by private funding⁹⁸. It is clear that the Council continues to see the road as beneficial and necessary⁹⁹.
126. The Link Road would be delivered in a phased manner pursuant to the provisions of the UU. There is every reasonable expectation that the road would be provided. It conforms to policy. The previous Inquiry SoCG (highways) confirmed that whilst permission for the Link Road has lapsed the local highway authority "remains supportive of the highway scheme in order to complete the ... highway link."¹⁰⁰ LCC told the Inquiry that it would seek

⁹³ Ibid, para 5.38

⁹⁴ Ibid, para 5.39

⁹⁵ Ibid, para 5.48

⁹⁶ Ibid, paras 6.1, 6.6 & 6.7

⁹⁷ Ibid, para 6.5

⁹⁸ CD7, paras 5.106-5.111 and LTP at CD151

⁹⁹ FBC5/6

¹⁰⁰ IN2, para 4.5

permission for the Link Road in 2010 and would undertake design works on T5 and the Link Road in 2010 as well. This clearly has been borne out and LCC is fully committed to carrying out the scheme.

127. If permission is granted for the Link Road then it would clearly be built if permission is granted for Queensway. All the necessary land to facilitate the road is in the ownership or control of either the Appellant or local highway authority. There would be no need for compulsory purchase of other land.
128. Under the UU, by the time that KPT had built 300 units, it would have invested more than £10m in the road infrastructure, (comprising £2m for the Queensway roundabout and the initial length of T5, and £8m in respect of phase 1 and 2 payments for the Link Road). This would rise to £14m by the time the 376th unit is occupied and £16m before 425 units are exceeded¹⁰¹. KPT has accepted commitments that ensure the road would be delivered.

Alternative means of funding the Link Road

129. There is no evidence whatever to suggest that there is any other way of delivering the Link Road other than through the Queensway proposal. The previous Inspector reached that conclusion and the issue is not seriously argued by FBC. There is no other scheme which would be able to bring some £16m to pay for the road. The evidence of Mr Easdon, for KPT, has demonstrated beyond doubt that financing arising from the Queensway scheme is the only way in which the Link Road would be built¹⁰². QED's suggestions as to other funding are entirely without foundation as they would fail CIL tests and, in any event, they would not begin to be of the magnitude necessary to pay for a road scheme of this size. There is no basis whatever for suggesting that FBC might fund by a CIL scheme against which it would borrow. In any event FBC is not the highway authority and it could not provide the road.
130. No other scheme would begin to own the necessary land. The Council at the last Inquiry indicated that this scheme was the only realistic greenfield scheme on the urban periphery of St Annes. That remains the case. The previous Inspector concluded that a smaller scheme at Queensway would not realise the necessary monies¹⁰³. That remains the case.

Effect on the road system of the cumulative developments

131. It has been demonstrated above that Queensway needs the Link Road. Independently of this the completion of T5 and the Link Road would significantly alter traffic patterns and improve traffic conditions in the area.¹⁰⁴
132. The highways SoCG confirms completion of the Link Road and T5 would reduce morning peak hour congestion by 31% and 44% for northbound and southbound traffic respectively on the B5261 corridor. Evening reductions of 25% and 40% are predicted¹⁰⁵.

¹⁰¹ CD147. The detailed programme and funding arrangements are at KPT13a, para 3.19

¹⁰² KPT13a, paras 6.18-6.29

¹⁰³ IR, para 454 (CD98)

¹⁰⁴ Highways SoCG, paras 5.6 & 5.43 et seq (CD105)

¹⁰⁵ Ibid, para 5.43

133. Local journey times for both existing and new car users would be improved as well as for public transport, especially during peak periods¹⁰⁶. There would be reduced traffic movements along the rural lanes and the existing substandard Wild Lane would be replaced. The proposals would also lead to better environmental conditions along School Road, Division Lane, Midgeland Road, Peel Road and Ballam Road¹⁰⁷ and would offer high standard alternative routes to the existing highways.
134. Opportunity would be created to enhance alternative travel modes. For example, the Wild Lane corridor would be able to be converted for future use by pedestrians, cyclists and equestrians only¹⁰⁸.
135. Delays and conflict along the local highway network would be reduced. Most importantly there would be substantial economic benefits as a consequence of the new highway link, deriving from travel time saving, and significant accident benefits. The road has a benefit-to-cost ratio of 4.6 which provides high value for money¹⁰⁹. There were two opportunities for any of these conclusions to be challenged and tested when witnesses gave evidence but no one has sought to begin to question either the KPT or LCC witnesses.

Conclusion

136. The Queensway and Link Road schemes are fully justifiable in highway, traffic and safety terms. Moreover, the proposals would deliver significant benefits to the area and would implement an important LP proposal which would not be implemented otherwise.

Connectivity between the site and the existing urban area of St Annes and the question of unsatisfactory design due to lack of vehicular access from the south-west

137. As to the issue of connectivity, the previous Inspector concluded that the issue was not determinative, as did the SoS¹¹⁰. Whilst the proposed layout had a lack of direct vehicular access in the direction of St Annes, there were nevertheless real practical difficulties in achieving greater integration and the lack of connectivity was not so serious as to be an overriding objection.
138. This was clearly the view of the BPO in the October 2011 report¹¹¹. Counsel's advice given at that time was that connectivity was a factor that would form a negative part of the balancing process but that it was unlikely to be of great weight and was not enough to justify the Council sustaining an argument against the development.
139. At the Inquiry Mr Ottewell conceded that the Council did not raise connectivity as a reason for refusal in its own right. He said that he agreed with the Inspector's conclusions and therefore it must follow that it cannot

¹⁰⁶ Ibid, paras 5.6 & 5.45

¹⁰⁷ Ibid, paras 5.6 & 5.42

¹⁰⁸ Ibid, para 5.8

¹⁰⁹ Ibid, para 5.46

¹¹⁰ IR, para 361

¹¹¹ KPT10a, Appx 6, para 9(ii)

amount to an overriding objection. It is therefore difficult to understand why connectivity has been flagged up as a reason for refusal.

140. In any event, the matter should be put in proper context. There is no dispute between the principal parties that with the proposed bus service funding and proposed pedestrian, cycle and equestrian linkages the site would have good accessibility to non-car modes of travel and that the development would be sustainable. Future residents would not need to rely on the car and would have a proper transport choice to get into St Annes. Any question as to a vehicular access has to be examined in this context.
141. The previous Inspector found that the proposal did not conflict with national advice on transportation matters as set out in PPS3 and PPG13¹¹². That remains the case. As to the bus service, the proposed diversion would put almost all of the new dwellings within 200m of a high quality bus stop and the previous Inspector was satisfied that this would provide occupiers of the development with a high quality service¹¹³.
142. It is now agreed that there are presently good transport links with regular bus services between St Annes and Blackpool then going on to Lytham, Southport and Preston. The improvement and upgrading of the bus service is secured by the UU¹¹⁴. LCC supports the provision as does FBC. The service is diverted into the site for a continuous period of ten years. KPT would pay £1.51m in six instalments to facilitate the provision of a bus to serve the appeal site for a ten-year period. Service 17, which goes from St Annes to Blackpool, would be upgraded and diverted into the site. The frequency of services would be of a very high level of every 20 minutes between 6.30 – 18.00, every 30 minutes until 23.00 and a 30 minute service on Sundays from 8.30 – 23.00. The route would have stops within 200m of the majority of future residents. No residents would be more than 400m away. New bus stops would be provided to quality bus route standards. The service would pass local shops en route and would link directly to St Annes town centre and railway stations. This service would be of such quality as to reduce reliance on the private car. No party raises any serious objection to the proposal. This alternative mode of transport does not appear to have figured in the Council's assessment of connectivity.
143. FBC confirms the site is located only a short distance from the town centre and is thus close to a full range of services and facilities. It has good transport links with regular bus services offered into the town centre, and Blackpool to the north. It is close to education facilities, with a proposed new school site as part of the development, and is close to employment opportunities¹¹⁵.
144. Suitable pedestrian and cycle routes are presently available to and from St Annes centre as well as other locations such as to local employment and shopping on Kilnhouse Lane as well as towards employment and school sites to the south of Heyhouses Lane¹¹⁶.

¹¹² IR, para 355

¹¹³ Ibid, para 334

¹¹⁴ CD147, Schedule 2 and see Planning SoCG addendum to paragraph 3.8 (CD104)

¹¹⁵ SoCG, para 1.8 (CD104)

¹¹⁶ Highways SoCG, para 5.16 (CD105)

145. With the committed planning obligations and other highway infrastructure improvements the development would have good accessibility to non-car modes of travel and the development would be sustainable¹¹⁷.
146. Further, the development would be the subject of a Travel Plan. The previous Inspector concluded that the appeal scheme would make adequate provision for travel by sustainable modes and would be consistent with the aim of the LP Policies TR1, TR2, TR3 and TR5. Also, the Travel Plan being proposed gave a reasonable prospect of travel by sustainable modes being used¹¹⁸.
147. LCC is clearly content with what is being provided and it is the highway and transportation authority rather than FBC. The position is put beyond doubt in the highways SoCG which agrees the access arrangement to the west via T5 from the proposed new roundabout would provide the appeal site with appropriate connectivity to local shops, employment area and the town centre¹¹⁹.
148. Furthermore, the accessibility of the site has been assessed using the RSS and LCC accessibility scoring systems. Mr Easdon, for KPT, has scored the site against the sustainability and accessibility criteria contained in the RSS at 32, which is at the higher end of the medium accessibility level (20-35) and must be regarded as a satisfactory score¹²⁰. It is therefore fully appropriate for development to take place in this location.
149. PPS1 says design should address connectivity but in relation to need for people to access jobs and key services. The proposal gives clear access to jobs and services through the layout and as set out in Mr Easdon's evidence¹²¹.
150. It is within the above context that the lack of a vehicular access from the south-west must be considered. There is access along Kilnhouse Lane, which is one of the main links to St Annes town centre. Alternative access onto Heyhouses Lane to the south was explored but practical, ownership and planning problems continue to exist which make this impractical. To gain access onto Heyhouses Lane would require the demolition of two properties and also the noteworthy destruction of the existing tree belt which would have significant visual impact. The trees are protected by a Tree Preservation Order and the area is a BHS. In such circumstances it would be inappropriate to require that access even if it could be provided in ownership terms. The suggested access is not achievable and is not part of the application. The Council well knows that it cannot dictate access in circumstances as here appertain. The previous Inspector raised the problems of a ransom situation¹²².
151. The additional time and distance that would be saved in any event is minimal and not sufficient to put people off going to the town centre by car. The difference in journey time would be 50 seconds. This is insignificant. The Council sought to suggest that a new access would mean that all journeys

¹¹⁷ Ibid, para 6.10

¹¹⁸ IR, para 339 (CD98)

¹¹⁹ Highways SoCG, para 6.9

¹²⁰ KPT13a, para 2.19

¹²¹ Ibid, section 5

¹²² IR, para 359

from the development to the town centre and elsewhere would make time and distance savings. Plainly that would not be the case. There would be large parts of the development where there would be no saving where it would be better to go via the roundabout at the proposed access and on into the town centre. During phase 1, for instance, the alternate access would lead to an actual increase in journey travel.

152. There would also be the prospect of any other access being used for rat running through the development as a means of getting both to and from areas of Lytham. This would encourage extraneous traffic to come through the development which would be unacceptable. It is important in large scale developments that there should be understandable road hierarchies and to have, effectively, a main carriageway connecting through would not be good planning. In any event, these are largely highway issues and the highway authority does not begin to espouse them. The effect of a link to Heyhouses Lane on the living environment of existing and future residents would also have to be weighed in the balance.
153. Given the opportunity which exists for residents to use public transport to access the town, and given that the Council does not seek to argue connectivity as a stand-alone reason for refusal, a feature the sole function of which is to effectively make the car journey to the town centre more popular cannot in any way constitute a valid reason for refusal.
154. Finally, it should be borne in mind that the Council granted Cypress Point permission and its relationship to the town centre has never been an issue. The reality is that FBC understands that this site is the only one on the periphery of St Annes suitable for appropriate greenfield housing development. The present proposal, given the agreed position in the SoCGs, does not offend against any standards or plan policies.

Drainage issues

155. There are no outstanding drainage issues that could preclude the grant of permission. There are no objections to the proposal by FBC, the Environment Agency (EA) or United Utilities and there is simply no conflicting technical evidence whatever produced by any of the objectors. There is agreement with the Council that the site is physically capable of being developed without detriment to flooding interests provided the EA's comments are implemented and compensatory flood storage is provided¹²³.
156. Flood risk has been assessed against flood level data received from the EA taken from the River Ribble Tributaries Strategic Flood Risk Map Study of 2006, which showed the undefended 100-year flood level of 4.05 Above Ordnance Datum (AOD). That flood map formed part of the 2008 Strategic Flood Risk Assessment (SFRA) and was based on satellite technology. It has been fully verified by a detailed survey in 2011. The very recent draft SFRA 2011 flood map is identical. The detail of the flood map is therefore beyond dispute and QED's comments regarding the various plans are entirely

¹²³ SoCG, para 6.1 (CD104)

misguided¹²⁴; whilst it is said that the strategic flood map is that of 2011, this still remains a draft.

157. The entire residential area of the Queensway proposal lies within Flood Zone (FZ) 1 (low risk) and can therefore be properly located in that area without restriction. The EA's requirement that finished floor levels be no lower than 4.75 AOD, with areas surrounding the houses consequently being raised to 4.60 AOD, gives additional protection beyond the inherent acceptability of building in zone 1. Only part of the playing fields is situated in FZ 2. Such proposals limited to amenity open space and outdoor sports and recreation are uses entirely compatible with that flood zone in accordance with PPS25.
158. Some 460m of T5 and 280m of an internal link road would lie within FZ 3. This is essential transport infrastructure and is considered appropriate for all zones. The satisfaction of the exception and sequential tests is not in dispute.
159. The location of the roads in FZ 3 would result in water in the current floodplain being displaced by the road embankments resulting in loss of floodplain storage. It is necessary to provide compensatory storage as part of the Queensway development and this is done by lowering land at the margin of the floodplain to create a new floodplain area. Such compensation has, at EA insistence, been provided volume for volume, level for level and requires 3,124m³ flood compensation volume to be created for Queensway (and 10,400m³ for the combined Queensway/Link Road schemes).¹²⁵
160. The necessary physical works would involve removal of existing top soil, followed by lowering of the subsoil to provide the compensation volume, and then the replacement of the top soil and reseeded. The works would amount to shaving off of existing surface undulations rather than excavations into the ground below the existing lowest ground levels. The greatest "shave" would be between 310mm–330mm off the surface in any location with the average reduction being 50mm for the Queensway scheme and 90mm on the combined Queensway/Link Road¹²⁶. There is no justifiable basis whatever for objection to these works.
161. The excavated soil generated by creation of the flood compensation areas for both schemes would be deposited on the Queensway development site as per drawings 3350/510, rev B and 3330/511, rev A. As the EA has required that finished floor levels throughout the site to be no lower than 4.75 AOD, areas surrounding the houses would have to be raised to 4.60 AOD i.e. 150mm below DPC¹²⁷.
162. The proposals are therefore entirely in conformity with PPS25.

Surface and foul water issues

163. The previous Inspector concluded that there were no issues concerning drainage and related matters that could not be dealt with satisfactorily by

¹²⁴ KPT14a, section 3.0 and INQ80, paras 6.100-6.120 & INQ81, para 4.1

¹²⁵ KPT14a, section 4.0 & LCC5/1, section 4 and KPT10a, paras 9.28-9.35

¹²⁶ KPT14a, para 4.16

¹²⁷ LCC5/1, para 4.25 & LCC5/3 Appx 3 and KPT14c, Appx 4

conditions and there was no basis on which to resist the development on such grounds¹²⁸.

164. As to drainage generally, the site is currently greenfield open agricultural land divided by numerous hedges and drainage ditches. There is flooding of existing fields along the south of the appeal site which arises from inadequate land drainage and poor maintenance of water courses which affect that area. Existing ditches and water courses would be cleaned out and such is the responsibility of the riparian owners of the land.
165. The development would be drained on separate systems for foul and surface water. Surface water would be pumped, as is common in this area. There would be six separate catchments each with an individual pumping station and outfall and the combined discharge rate would not exceed 160 litres/second. The water would discharge to watercourses and as part of a Sustainable Urban Drainage System (SUDS). The surface water flows would be attenuated and controlled by surface water pumps to the equivalent of existing greenfield run-off rates. On-site SUDS storage would be provided within tanked permeable pavements and swales¹²⁹. All of this is acceptable to the drainage authorities. There is nothing novel or unusual proposed and such accords with PPS25.
166. KPT would set up a management company to fund management and maintenance of all the unadopted watercourses, storage lakes and ponds just as it has in relation to Cypress Point. Again, this is standard procedure in this area, and indeed the region, since neither utility undertakings nor local authorities wish to adopt SUDS structures. There is no evidence that this would cause any problem whatever. This was fully discussed before the previous Inspector.
167. Blackpool International Airport is fully aware of and is satisfied with the flood compensation measures and its involvement is part of the reason why swales have been used rather than ponds with large expanses of permanent water. This is acceptable in terms of bird hazard impact. Foul flow would be pumped and then accepted into the public sewer network which is a combined sewer. The tidal influence inland on ground water is a wholly immaterial consideration.
168. Finally, with regard to peat and piling the site does have peat and Geo Research indicate the site is underlain by peats, clay and sand strata with boulder clay below¹³⁰. So does Cypress Point close by where some 600 houses have been built with piled foundations to the houses, garages and services. NHBC has bonded that development and it is confirmed that there are no issues whatever relating to insurance or regarding the actual houses and their condition. There are no unusual techniques involved in the piling of the site. There is no reason whatever why the foundations should not be piled. These are building control and not planning matters and were all fully discussed at the past Inquiry.

¹²⁸ IR, para 403 (CD98)

¹²⁹ KPT14a, section 5

¹³⁰ KPT14a, para 2.9

169. There are no valid concerns regarding drainage or ground conditions and there are no reasons for departing from the previous Inspector's conclusions that there is no basis on these grounds for resisting development¹³¹.

Agricultural land and soils

170. At the previous Inquiry the Council was content that there was no issue regarding the loss of agricultural land and soils to residential development.
171. Both the previous Inspector and the SoS accepted that agricultural land was not an issue; the Inspector's report recommended that the loss of soil and agricultural land was not unacceptable¹³². The Inspector stated that in the context of the loss of 9.5ha BMV it was inevitable that if there were some development on greenfield land there would be some effect on soil and agricultural land and there was no sound basis to conclude either that the loss of soil or agricultural land is unacceptable or that more work needs to be done to determine the matter. He went on to say the amount of good quality agricultural land that would be lost seems unlikely to materially exceed the 20ha threshold formerly regarded as potentially significant in national advice. In any event, it is now left to local discretion and the Council has not objected to the proposal in terms of LP Policy EP22¹³³, which seeks to protect agricultural land. The SoS agreed with this conclusion.
172. The position on agricultural land has been updated. Some 8.5ha of BMV is lost because of Queensway comprising¹³⁴:
- a) 0.75ha due to the T5 and access road construction
 - b) 7.75ha in residential areas
 - c) The total 8.5ha comprises 3.1ha of grade 2 and 5.4 ha of grade 3 land
 - d) There would be no loss of BMV in respect of land required for flood compensation purposes for T5
173. So there is now a smaller loss of 8.5ha BMV to be compared to the 9.5ha previously. It follows in such circumstances that FBC cannot have any conceivable proper objection particularly as in October 2011, when Members rejected their BPO's recommendation, it did not seek to argue a BMV case.
174. Mr Ottewell has confirmed in XX that the Council does not seek to argue that the proposal be refused on agricultural land grounds. He did, however, seek to take an issue regarding agricultural land and prematurity.
175. This is novel. The Council took no issue at the last Inquiry when it argued prematurity and it has given no indication of arguing such in its pre-Inquiry statements. It is impossible to see how the Council can argue that the application should not be refused on agricultural grounds but then would justify refusal on prematurity.

¹³¹ IR, para 403

¹³² Ibid, paras 413-418

¹³³ CD7, pp153-154

¹³⁴ KPT11a, paras 6.1-6.3

176. FBC accepts that this site is the only area in Lytham St Annes where future development can be considered and that other impedimenta preclude other sites.
177. The Council seeks to argue that there would be a loss of BMV in the Nature Park arising from the land being put over to open space. This point was discussed at the last Inquiry. Mr Moor for QED included a soil map which showed the Nature Park with BMV within it. He said that the Nature Park would deny use of the land for agriculture causing the loss of BMV¹³⁵. The Council had no truck with the argument. The Inspector concluded "Despite QED's arguments it seems to me that for the most part the ...Nature Park ...would not involve an irreversible loss of agricultural land or clearly impair the soil's carbon sequestration potential."¹³⁶
178. Plainly this is correct. The land being used for the Nature Park would not be modified in any way. Soil would not be lost. There would be nothing done that would damage its structure or be irreversible. If for strategic reasons, say for food security, it needed to be put to agricultural use it could revert back immediately at the same quality. Planning permission would not be needed to revert back to agriculture. Since Blackpool International Airport is requiring some of the land to be drained to reduce the chance of bird strikes it would in any event actually be enhanced. There is no question of the use of this land for the Nature Park affecting the viability of any farm unit.
179. The Council therefore has not objected to the loss of this on agricultural grounds. PPS7 paragraph 28 states, in any event, that the presence of such land should be taken into account but alongside sustainability considerations. They are separately set out and those considerations weight very heavily in the balance in favour of this proposal. FBC has not sought to argue the agricultural issue. It is reiterated that the Council agrees that greenfield development is inevitable, will take place about St Annes and this site is the only urban expansion site around it.

Landscape issues

180. The Inspector has asked to be advised as to the landscape impacts that may arise from the new Master Plan and as a consequence of the floodplain and other amendments.
181. The start point should be the previous Inspector's comments that 1,150 units would greatly change character and appearance but that is inevitable when housing developments take place on undeveloped land¹³⁷. There was little doubt that such developments are required to meet RSS housing targets and, taking such into account and the fact that there is no special landscape designation, the change in character was not necessarily a fatal objection. The SoS agreed with the Inspector's conclusion that there is no reason why the proposal should be any less acceptable in terms of overall design and effect on

¹³⁵ QED FM03, para 122

¹³⁶ IR, para 416

¹³⁷ IR, para 305

the character and appearance of the locality than is normal for an urban extension¹³⁸.

182. Mr Appleton, for KPT, had made a detailed assessment of the site and concluded that landscape elements are not considered of high importance¹³⁹. His assessment of landscape quality was that the area was ordinary and downgraded from 'good' due to the removal of hedgerows and the visual influence of the urban fringe with pockets of low and very low landscape.
183. Mr Appleton has now analysed the new Master Plan 7230:00:02 rev D to reflect the changes in landscape and has prepared an updated landscape strategy drawing 1629/02 rev H¹⁴⁰. His conclusions have not been challenged¹⁴¹. They were that landscape impacts arising from loss of trees, hedges, water courses, stone walls or other artefacts would be minimal. There are few trees on site and those off-site to the south are protected by TPOs. There are no significant hedgerows. The ditch and stream system would be largely retained as the basis for sustainable drainage of the site and, other than the loss of a small length of hedgerow at Wildings Lane, the loss of significant vegetation would be minimal. Rights of way give views of the entire site including T5 before any mitigation but such can be mitigated by screen planting.
184. As to the effect of excavation for the floodplain and the deposit of soils, the depth of the soil is visually minimal. It has always been intended to raise the floor levels on the developed area in accordance with EA flood risk requirements.
185. It has always been understood the T5 road would be on embankments¹⁴² and the latest amendments do not change the position materially from that before the previous Inspector. As to the FCA, the effect of the ditches and scrapes to facilitate the floodplain would lead to positive landscape enhancement and is supported by Natural England (NE)¹⁴³.
186. As to the cumulative effect of Queensway and the Link Road, whilst the road embankments and new bridge on both schemes would have the most significant impact this would be successfully mitigated by planting on embankments. Apart from where the Link Road and T5 join, neither scheme is perceived in conjunction with the other. Views from public rights of way to the north would be of the new road and any views of Queensway would be distant and in the context of existing residential development. Mr Appleton's landscape assessment was not challenged in any way and no landscape evidence has been produced by the opposing parties.

Green Belt considerations

187. At the Pre-Inquiry meeting the Inspector advised that the issue of appropriateness was considered in detail at the last Inquiry with that Inspector

¹³⁸ Ibid, para 312

¹³⁹ KPT2a

¹⁴⁰ KPT11c, TAG 4

¹⁴¹ KPT11a, section 5

¹⁴² See KPT11c, TAGs 5,6 & 7

¹⁴³ INQ64

reaching a clear conclusion. Accordingly, he saw there to be no need for the matter to be covered in detail again and sought that, in the main, the issue to be addressed was the balance as to whether very special circumstances outweighed the harm to the Green Belt through inappropriateness and other harm.

188. The start point must be that the previous Inspector concluded that the T5 road was inappropriate development in the Green Belt but there existed very special circumstances to justify the grant of planning permission¹⁴⁴.

189. Whilst Mr Appleton accepts the Inspector's assessment that the road is inappropriate development, his evidence is that the landscaping and construction would minimise any impact on the amenities and openness of the Green Belt¹⁴⁵. As to the impact of the road:

- a) The topography is such that there would be no overlooking;
- b) Views are gained at low level by pedestrians or horse riders;
- c) The curvilinear nature of the road alignment reduces linear impact so only small levels of road would be perceivable at any one time;
- d) The road would sit on low embankments and these would not appear as alien features;
- e) It is relatively easy to mitigate any visual impact caused by the road and vehicles on it by relatively low-level planting on the road and on adjacent bridleways;
- f) Woodland elements to the east of the site would be planted in advance of construction of the by-pass to lead to visual assimilation at an early stage. Native species and mixes would be used to minimise potential impact in respect of the operation of Blackpool International Airport.

190. The harm by reason of inappropriateness, however, has to be balanced against very special circumstances.

Very special circumstances

191. The Inspector's finding at the last Inquiry is of the greatest materiality because the SoS did not make any finding in relation to the Green Belt. The Inspector concluded that the contribution to meeting housing need and the ability of the road to fund completion of the Link Road, amongst other matters, amounted to very special circumstances¹⁴⁶. In detail:

- a) The ability to deliver the funding needed for the Link Road is a very weighty and unusual factor in favour of the appeal development;
- b) The development would contribute not less than 115 much needed affordable units and make a significant contribution to meeting the severe shortfall in housing land supply;

¹⁴⁴ IR, para 456 (CD98)

¹⁴⁵ KPT11A, section 7

¹⁴⁶ IR, paras 452, 455, 456

- c) Such matters are very weighty considerations in favour of the appeal development and clearly sufficient to outweigh the harm, substantial though it is, of inappropriate development i.e. the construction of the T5 east-west road and its branches in the Green Belt, together with the limited harm that the development would cause particularly in reducing options in the Council's LDF;
 - d) The funding of the Link Road is an unusual, if not a unique, consideration;
 - e) Very special circumstances existed and the appeal development could be properly allowed.
192. The advice of the BPO and Counsel in the October 2011 report is unequivocal¹⁴⁷. It is to the effect that in relation to inappropriate development in the Green Belt the acute housing land provision shortage and the provision of the Link Road amounted to very special circumstances. This must be correct.
193. The shortfall of housing land has been shown to be so critical that this proposal must come forward to start making inroads into that shortfall. Without permissions being granted immediately the shortfall would continue to accelerate and the land supply shortly would be under one year. It is clear that this site has to be used to make up the shortfall. There are no suggestions to the contrary.
194. The Council has referred to the Mowbreck Lane appeal decision where favourable consideration for a housing proposal where there is not a five-year supply was outweighed by the desirability of adhering to settlement boundaries and not pre-determining issues to be settled by the LDF¹⁴⁸. However, in that case the proposal fundamentally affected the character of the settlement and related to a second tier settlement. In the present case, what is the desirability of protecting the settlement boundary? The Council does not argue that there would be an unacceptable impact on character of the settlement. It is accepted that this is where development has to go. That the previous Inspector considered there to be very special circumstances in the Queensway case was set out in the BPO's report to Members.
195. LP Policy TR13 safeguards the Link Road corridor so that future implementation of the scheme cannot be prejudiced. The justification to the policy states that the Council considers a new direct Link Road to the motorway is necessary and that it would fall to be funded by private sector developments¹⁴⁹. The LTP requires the same¹⁵⁰ and the Queensway scheme achieves those ends.
196. Without this proposal there are no prospects of this fundamental part of the development plan being delivered. FBC sees the road as necessary for the future of the Borough. LCC, as the local highway authority, shares that view as to its importance. This road has been sought for some 15 years. Its

¹⁴⁷ KPT10c, Appx 6, pp14-15

¹⁴⁸ CD115

¹⁴⁹ CD7, pp96-97

¹⁵⁰ CD40

importance has been acknowledged by past Inspectors and the SoS. T5 is an integral part of the improvements to traffic flows and highway safety benefits resulting from the construction of the Link Road. Those benefits are not restricted to this site but, as demonstrated in paragraphs 121 and 122 above, Queensway cannot be developed beyond 375 units without the road.

197. There is no doubt that the UU mechanism ensures that all necessary monies would be paid to advance the scheme. KPT and LCC own all the land to bring the scheme forward without any compulsory acquisition and compensation and the County Council, as local highway authority, is committed to seeking to progress the scheme. There is accordingly a proper and reasonable expectation that the road would be provided. Importantly, other sections of the road have already been secured by private funding and this would represent the only opportunity to complete the scheme.
198. There is no evidence of any other means of securing the road even after the lapse of 15 years and the viabilities have shown the scale of the abnormal infrastructure cost that the funding entails. That is without the additional costs of land acquisition that would have to be paid by any other scheme. It is simply unrealistic to suggest that the Council would be able to assemble monies to pay for the scheme by other means. Furthermore, there are categorically no public funds available to assist the project. FBC has not sought to adduce evidence that there is any other proposal that is viable. LCC is convinced that there is no alternative. QED do not begin to produce any meaningful suggestion as to alternative means of funding the road. Without the funding being provided by the Queensway development the prospects of delivery of the Link Road are non-existent and LCC accepts that. The highways SoCG confirms the County's agreement that the Queensway scheme is the only development that is able to fund the Link Road and that other forms of development could not achieve that aim¹⁵¹. Neither KPT nor LCC witnesses were challenged in any way on the SoCG and this must therefore be treated as unchallenged evidence.
199. It cannot be suggested that these very special circumstances are commonplace or that they can be repeated elsewhere. They are truly one-off very special circumstances.
200. FBC's putative reason for refusal is that the proposal would be inappropriate development and the contribution it would make to meeting the housing need and the funding of the Link Road does not outweigh the significant harm caused to the Green Belt. In reality, the Council has not begun to advance any new reasons at this Inquiry which might begin to lead to any reason to depart from the previous Inspector's conclusions.
201. It has again been suggested that the T5 road could be pulled back out of the Green Belt. This was put forward at the last Inquiry and failed to convince the previous Inspector who set out his clear conclusions at IR paragraphs 453 and 454.
202. Moving the road southwards would mean that the school site of 1.5ha could not be provided without removing a large tranche of housing. It would also

¹⁵¹ SoCG, para 6.8 (CD105)

mean that significant areas of necessary open space would have to be located within the body of the residential development, again reducing the housing quantum. Mr Appleton's figure of the housing being reduced to around 800 was not challenged.

203. The previous Inspector clearly accepted that a substantial reduction in numbers would make the development unviable and that a detailed assessment was unnecessary¹⁵². This remains the case and, indeed, the Council has specifically not sought to reopen any viability matters. Its actions show it accepts the merit of the Inspector's conclusion.
204. It would also be simply unrealistic and unacceptable for the road to be located where its effect would be to divide the school from its playing fields. It would be unacceptable in safety terms for children to have to cross a road such as this which is to act as part of a modern purpose-built road system and it would amount to singularly bad planning. The same applies to locating the Nature Park/open land on the opposite side of the road from the housing. It would prevent easy and safe access to recreation areas for people from the residential area. This was clearly accepted and understood by the Council which, in its original committee report, said there were clear benefits of routeing the road as shown in the application because, in particular, it would prevent the severing of the proposed public open space from the proposed urban development.
205. The road directly abutting the urban area would also create a hard edge to the settlement. It would be more difficult to integrate the road into the landscape because it would not be able to take the benefit from the landscape available within the Nature Park. It is therefore necessary for T5 to cross the Green Belt if the Queensway scheme is to be able to fund the Link Road.
206. Therefore, there exist the most compelling very special circumstances. The harm by reason of inappropriateness is clearly outweighed by the benefits arising from the very special circumstances and permission should be granted.

The SoS has asked whether the permission should be accompanied by any planning obligation having regard to the statutory CIL tests

207. The UU is entirely agreed with the Council as local planning authority and with LCC in its capacity as local education authority, local highway authority and as ecological advisor. Natural England is satisfied with its terms, as is the Airport. The terms are entirely proper and acceptable in the circumstances of this case. All principal parties consider that the UU is fully compliant with Regulation 122 of the CIL Regulations 2010.
208. The previous Inspector was in no doubt "the measures referred to are necessary to make the development acceptable and are appropriate to its scale. The construction of the M55 link has in the view of the LPA and LHA considerable public benefit but is also necessary if more than about 350 dwellings are to be built on the appeal site without significant adverse effects

¹⁵² IR, para 454

on the safety and convenience of highway users.”¹⁵³ He specifically concluded that the UU met the test of government guidance¹⁵⁴.

209. The SoS rejected that conclusion but did not give the parties any indication of his intended reasoning before issuing his decision. His decision was specifically challenged on this basis.

210. The Council has again unequivocally confirmed that it does not take any issue on CIL compliance¹⁵⁵. In the highways SoCG, LCC agrees that the Link Road is essential infrastructure for the appeal proposal and states that the appeal site relies on its implementation. It specifically says that the proposal is not contrary to the CIL Regulations¹⁵⁶.

211. Mr Easdon’s analysis of the CIL position has not been challenged by any party¹⁵⁷. The Appellant’s view on the conformity of the UU was also set out in the Rule 19 correspondence following the quashing of the decision and, particularly, in the letter of 16 March 2011¹⁵⁸. It is therefore the case that the UU is CIL-compliant in that it is necessary to make development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Ecological issues

212. As a separate issue the SoS wishes to be appraised of any changes since the last Inquiry in relation to national planning policy and further information in respect of ecology. The Inspector also asked to be advised on ecological impacts. In terms he asked whether the Appropriate Assessment prepared by LCC under the Habitats Regulations 2010 would enable the SoS, as competent authority in determining both applications, to verify that the schemes – including mitigation- would not, either individually or in combination with other projects, adversely affect the integrity of the Ribble and Alt Estuaries Special Protection Area.

213. Since the last Inquiry there has effectively been a full reconsideration of the ecological position;

- a) Given the certainty that now exists as to the Link Road scheme and consideration of the ES submitted with that application;
- b) The removal of the area of housing east of the main area of development, as per the previous Inspector’s recommendation.
- c) The need for compensatory flood plain arising from flood risk considerations;
- d) Survey data gathered in respect of SPA birds, protected species and bio-diversity have been updated.

¹⁵³ IR, para 295

¹⁵⁴ Ibid, para 297

¹⁵⁵ Queensway SoCG, para 6.1 and INQ36 Council’s opening statement, para 16

¹⁵⁶ Highways SoCG, para 6.6 (CD105)

¹⁵⁷ KPT13A, para 7.4 et seq

¹⁵⁸ INQ83

- e) There are now detailed up-to-date ESs in respect of both schemes. Those ES updates are summarised in the ecology SoCG¹⁵⁹;
 - f) The cumulative impact of the schemes has been assessed.
214. The agreed proposals as they now exist do not materially alter the ecological assessment of Queensway in 2009 and there is no reason to resist the development on ecological grounds.
215. FBC did not call a witness on ecological matters and did not cross-examine either KPT's witness, Mr Hesketh, or Dr Manchester of LCC who was their adviser in relation to Queensway.
216. On 11 October 2011 NE confirmed that adequate and suitable mitigation could be achieved for both developments and that a single Appropriate Assessment could be made¹⁶⁰. On 1 December 2011 NE confirmed that having seen the additional information in the updated ESs its objection remained withdrawn subject to appropriate conditions being attached. It has since unequivocally reconfirmed its position¹⁶¹.
217. There is agreement between LCC and KPT in the form of a SoCG on ecological matters. In addition, the witnesses have combined to produce a rebuttal dealing with the QED issues raised in their written submission¹⁶². There is, accordingly, agreement between the ecologists and there is no professional or informed amateur ecological evidence against the proposal.
218. The proposals do not affect any European Protected Species so the provisions of the regulations for the protection of such species, which include licensing, do not apply.

Impact on SPAs

219. The previous Inspector had originally recorded that the ES, Management Plan for the FCA and the Bird Hazard and Control Plan provided sufficient information to enable an Appropriate Assessment to be made. Further, that all signatories of the Ecology SoCG before the previous Inquiry considered there was no adverse impact on the integrity of the Ribble and Alt Estuaries SPA/Ramsar site and the Martin Mere SPA/Ramsar site. Those signatories were LCC, NE, the Royal Society for the Protection of Birds (RSPB) and KPT's ecological adviser, TEP.¹⁶³
220. The previous Inspector considered nature conservation matters in detail. He concluded that the Queensway development in combination with the Link Road would cause an adverse effect on the whooper and Bewick Swans associated with the Ribble and Alt Estuaries SPA¹⁶⁴.
221. However he advised that the mitigation measures secured by the UU would balance negative impacts so that there would be no adverse impact on SPA

¹⁵⁹ Ecology SoCG, para 3.2 (CD106)

¹⁶⁰ CD106, Appx 5

¹⁶¹ INQ64, letter of 11 January 2011

¹⁶² LCC3/3

¹⁶³ IR, para 36

¹⁶⁴ Ibid, paras 362-375

integrity. The Inspector recommended that the SoS could reach the conclusion that there would be no adverse impact on the integrity of the SPAs taking into account the predicted alignment and design of the Link Road and that the Habitat Regulations do not preclude the granting of planning permission¹⁶⁵. His overall conclusion was that there was no reason to resist the appeal on ecological grounds¹⁶⁶. The SoS did not of course carry out an assessment.

222. The updated and cumulative schemes without mitigation measures would have an impact on the whooper and Bewick Swans which would be displaced from winter feeding grounds. With mitigation, however, the ecological SoCG confirms that an Appropriate Assessment should conclude that there would be no adverse effect on the integrity of the Ribble and Alt Estuaries SPA from either scheme or from both in combination. Both LCC and KPT consider the Appropriate Assessment carried out by LCC in February 2011 remains a reliable source of information for the SoS to use for his Appropriate Assessment¹⁶⁷.

223. The mitigation measures are described in detail.

Nature Park

224. The 12.8ha Nature Park has the function of providing habitats for a range of species that are currently associated with the residential footprint. The updated Habitat and Landscape Management Plan has been agreed with the County Ecologist¹⁶⁸. It is non-contentious and now sets out how the proposed new habitats would be constructed and managed to sustain biodiversity interest. It also sets out how they would be ultimately long-term managed so that they remain only for uses which are compatible with the wildlife and informal use by the public.

225. There is agreement with LCC that the Nature Park Management Plan provides a mechanism to contribute to mitigating any adverse impacts arising from both developments on SPA birds, on the integrity of the Ribble and Alt Estuaries SPA and on biodiversity priority. This view is shared by Natural England (NE)¹⁶⁹.

Farmland Conservation Management Plan

226. The Nature Park on its own would not sustain rotational use by SPA birds and therefore further mitigation is provided for by the FCA which is a 91ha area of existing agricultural land north and east of the proposed Queensway development.

227. The future agricultural use of the FCA would be the subject of a Habitat Management Plan¹⁷⁰ with the chief objective that it provides a permanent refuge and feeding area for SPA birds and UK Biodiversity Action Plan farmland priority species. There would be a wildfowl refuge, scrapes and permanent

¹⁶⁵ Ibid, para 372

¹⁶⁶ Ibid, para 442

¹⁶⁷ Ecological SoCG, section 8 (CD106)

¹⁶⁸ CD147, Annexure 2

¹⁶⁹ Ecology SoCG, para 3.21 (CD106)

¹⁷⁰ CD147, Annexure 3

pasture, which would be managed to ensure a good food supply for swans and geese. The plan incorporates restrictions on management practices and the growing of types of crop which are not beneficial to the birds. There would be crop rotation. The FCA could not be used for purposes other than for agriculture and nature conservation.

228. There is agreement with LCC within the ecology SoCG that the plan if implemented would provide a mechanism to mitigate any adverse impacts arising from both developments on SPA birds, on the integrity of the Ribble and Alt Estuaries SPA and on other features of biodiversity priority. It says specifically that this view is shared by NE¹⁷¹.
229. KPT would procure, provide and maintain the FCA in perpetuity and in accordance with the provisions in the Management Plan. Within one month of commencement of development KPT would deposit the FCA Management Endowment into a high-interest-bearing escrow account in favour of the Council which would be the sole signatory. The endowment would provide a sum sufficient to cover the management and auditing costs of the FCA multiplied by 25 which, with compounding, would provide the monies to facilitate the default management of the FCA in perpetuity. FBC could only apply the sum to maintenance and management of the FCA and KPT have a separate on-going obligation to manage the land meaning that any part of the endowment would only be used if they failed to manage in any given year. Otherwise the endowment would continue to accrue interest in the escrow account. It is agreed that this endowment achieves protection in perpetuity¹⁷².
230. The FCA therefore provides qualitative improvement in terms of reliability and regularity of winter feeding compared to the present situation which is dependent on agricultural market forces.

Bird Hazard to Blackpool International Airport

231. Blackpool International Airport originally objected that the proposal could increase bird strike risk. It withdrew its objection when a Bird Hazard Control Plan (BHCP) was agreed by the Airport, NE, LCC and KPT. It provided a protocol to ensure that bird control techniques required by the Airport would not compromise the capacity of the FCA to sustain populations of SPA birds and other farmland birds of biodiversity priority. Furthermore, the Plan has adequate provisions for monitoring and review to ensure that the BHCP should not compromise the integrity of the SPAs whilst maintaining provision for airport safeguarding¹⁷³. KPT would pay for NW Bird Control, or a similar organisation, to supply a bird control unit for the period of the development¹⁷⁴.
232. The Airport has been re-consulted regarding the compensatory floodplain. It has requested the installation of a subsurface piped or tiled drainage system as part of the earthworks scheme in order to minimise pooling of water after rain which might be a possible attractant for gull flocks. This does not have any ecological consequences and the matter can be conditioned. The Airport

¹⁷¹ Ecology SoCG, para 3.16 (CD106)

¹⁷² CD147, para 3.6.7 et seq and Interpretation section, ecology SoCG, para 3.15

¹⁷³ The BHCP is within the UU, Annexure 8 (CD147)

¹⁷⁴ Ibid, para 3.1

has no objections¹⁷⁵. Bird strike and airport safety has therefore been properly addressed.

Updated phasing plan

233. A phasing plan was agreed at the 2009 Inquiry. It provided that the FCA would be laid out and managed prior to any development that could cause habitat loss or displacement of species from their feeding or breeding grounds. The FCA was to be laid out in two phases. That phasing plan has been revisited because the earthworks created in the compensatory floodplain for both schemes could disturb wildlife. It is now appended to the 2011 ecology SoCG¹⁷⁶. Sufficient areas of the FCA would be established and be under management prior to the earthworks.

234. There is agreement that the phasing plan is appropriate to mitigate adverse impacts arising from both developments on SPA birds, on the integrity of the Ribble and Alt Estuaries SPA and on other features of biodiversity priority¹⁷⁷.

Conclusion on SPA impact

235. The updated ES, the Habitat Management Plan for the FCA and the Queensway Bird Hazard Assessment provide sufficient information to enable an Appropriate Assessment to be made of the development including the Link Road in terms of impact on the integrity of the Ribble and Alt Estuaries and Martin Mere SPA/Ramsar sites. There would be no adverse impact on their integrity arising from the combined Queensway development and the Link Road. On any basis, the evidence must lead to the Appropriate Assessment being one of no adverse impact on SPA integrity.

Impact on other biodiversity features

236. The previous Inspector said the development would have a neutral impact on nature conservation interests generally. He concluded that the scheme was broadly neutral in relation to biodiversity, that it complied with PPS9 and local policy and that there was no reason to resist the appeal on any ecology grounds¹⁷⁸.

237. The ecology SoCG now summarises the effects of both schemes and it is agreed that the Queensway scheme complies with national and local biodiversity policy and that in combination with the Link Road the mitigation proposals deliver a net enhancement and would not just be broadly neutral.¹⁷⁹

238. This view is taken because detailed assessment has now been carried out of the Link Road, including its mitigation scheme, which could not of course have been carried out at the previous Inquiry. It is demonstrated that, on the basis of empirical measurement, the extent of the biodiversity priority habitat would increase if both schemes are implemented. This matter should be given increased weight in the overall judgment and balancing of the appeal.

¹⁷⁵ INQ69

¹⁷⁶ CD106, Appx 12

¹⁷⁷ Ibid, para 3.34

¹⁷⁸ IR, paras 373, 374 & 442

¹⁷⁹ CD106, para 8.16 and Table 5.1, p49

Conclusion on ecology

239. The proposal complies in all respects with national guidance and the SoS, as competent authority, should conclude that the schemes with mitigation would not adversely affect, either individually or in combination, the integrity of the Ribble and Alt Estuaries SPA.

Overall conclusion

240. The combined effect of the Queensway development and the Link Road would be the provision of very significant infrastructure in the form of the Link Road and the construction of 1,150 dwellings. This would amount to an unparalleled investment within this area. It would generate a very considerable number of jobs and would create a climate in which other businesses would be encouraged to invest. These are just the types of schemes that the Government is at great pains to encourage in order to assist in reviving the economy and getting out of the country's present financial problems. They involve private enterprise funding infrastructure at a time when public monies are not available. The investment would not be achieved by any other ends. It is clear that Fylde business is totally behind these proposals.
241. Very significant weight indeed must therefore be given to the advice in *Planning for Growth* issued following the last budget and therefore not considered at the previous Inquiry or by the SoS.
- a) The top priority is for the planning system to promote sustainable economic growth.
 - b) The answer should be 'yes' except where it would compromise key sustainable development principles set out in national planning policy.
 - c) The Queensway proposal clearly promotes sustainable economic growth – it funds a road which is a key objective of the LP and would produce more houses in five years than the Council's SHLAA has identified for the entire Borough in that period. There is no compromise of key sustainability principles set out in national planning policy - none has been suggested.
 - d) Local planning authorities should support enterprise and facilitate housing and economic forms of sustainable development.
 - e) Local planning authorities should consider fully the national policies aimed at fostering growth and the need to maintain a flexible and responsive supply of land for housing.
242. The Queensway proposals are vital to the economy, infrastructure and housing provision of the area and permission should be granted for both schemes subject to the imposition of agreed conditions and the terms of the proffered obligations.

THE CASE FOR FYLDE BOROUGH COUNCIL (FBC)

243. The Council's overall position is that it opposes the appeal in respect of the Queensway residential development and supports the called-in application for

the construction of the Link Road, subject to the imposition of suitable conditions.

The re-determination of the section 78 appeal relating to the residential development at Queensway

244. With one exception, the Council's case deals only with issues which cause the Council to oppose the appeal. The exception is to deal with the SoS's point in determining the appeal following the previous Inquiry that the planning obligation to fund and deliver the remaining section of the M55 Link Road did not comply with the tests of Regulation 122(2) of the CIL Regulations 2010. For the avoidance of doubt, the Council is still of the view that the planning obligation offered is compliant with the CIL Regulations, for the reasons explained by the Appellant through Mr Easdon's evidence¹⁸⁰.
245. Just because this summary is not lengthened by unnecessary reference to matters where the Council raises no objection, it does not follow that the Council agrees with some of the language used by the Appellant when discussing such issues. For example, whilst the public transport provision that the residential scheme would bring is a material point in the scheme's favour, it is not appropriate to call the resultant provision "second to none" or the "best in England", as was put in the Inquiry. They are not the terms that the witnesses used. The SoS would need to recalibrate some of the terms used by the Appellant to explain the perceived merit of its case and the perceived defects in that of the Council.
246. In relation to the BPO's report, the views set out and the reported legal advice, was taken into account by the Special Development Management Committee meeting on 10 October 2011, but did not have to be accepted. The views and advice were not¹⁸¹. The Council relies upon the evidence produced by Mr Ottewell which sets out and supports the Members' concerns in cogent terms.
247. The Council's support for the earlier 2003 scheme proposed on the appeal site is not inconsistent with its view of this scheme. That scheme was much smaller, involved less intrusion into the countryside, included no inappropriate development in the Green Belt and would have delivered more affordable units.
248. The Council's case is divided into three issues which are considered in turn.

Conflict with the development plan, inappropriate scale and prematurity

249. A convenient starting point is to consider housing land requirement and supply. At present, Regional Strategies are still part of the development plan and the only housing requirement currently found in the development plan is a requirement for Fylde Borough to provide 306 dwellings per annum between the years 2003 and 2021. Appendix 3 of Mr Ottewell's evidence, extracted from the SHLAA demonstrates that, taking into account past under-supply, the

¹⁸⁰ KPT13a, section 7. Also agreed in the Queensway SoCG, para 6.1 (CD104)

¹⁸¹ KPT10c, Appx 6

annual requirement for the next five years is 382 dwellings per annum¹⁸². The five-year requirement is thus $382 \times 5 = 1,910$ dwellings. That figure is not in dispute.

250. For clarity, the Council does not argue that the figure of 278 (280 gross) dwellings per annum, discussed in the December 2011 reports to the Council's LDF Steering Group and the accompanying notes, should be used as the housing land requirement or afforded material weight¹⁸³. This is an emerging figure, untested by consultation, let alone examination for soundness. Further, it would not be consistent with the Council's case on prematurity to make such a point. The 278 figure is important only for showing progress which is being made to formulate a Core Strategy.

251. To set against that requirement, the supply of deliverable housing within the five-year period is 536 units¹⁸⁴. That figure includes allowances for windfalls on small sites and for conversions. Mr McAteer disputes the inclusion of such allowances, but:

- a) The approach is perfectly proper and has been agreed by the SHLAA Steering Group, which includes a representative of Kensington Developments¹⁸⁵;
- b) The Queensway SoCG sets out that the supply is 1.4 years, and $536/382 = 1.4$ ¹⁸⁶; and
- c) Mr McAteer's alternative calculation that the supply must be 428 dwellings is wrong¹⁸⁷. The error arises because he multiplies 306 by 1.4 to get there, which ignores past under-supply.

252. The conclusion is that the supply is 536 units and that that amounts to 1.4 years' supply at RSS rates.

253. It is therefore accepted that there is not a five-year supply of deliverable housing land in Fylde at the required RSS rate. That is not a new concession. It has been the Council's consistent position throughout this appeal. It is also accepted that there would be no five-year supply if the 278 annual figure were afforded weight, which is not the Council's position.

254. It is necessary to consider what weight ought to be afforded to the RSS housing land requirement figure. The RSS still forms part of the development plan, but the Cala litigation establishes that, in a development management context, the impending revocation of regional strategies can be a material consideration¹⁸⁸. It is in this case. That is because:

¹⁸² FBC5/3

¹⁸³ CD149

¹⁸⁴ FBC5/3, Appx 3

¹⁸⁵ Mr McAteer XX

¹⁸⁶ CD104, para 6.1

¹⁸⁷ KPT10a, para 8.2.12 and XX

¹⁸⁸ CDs111-113

- a) The revocation is approaching, given that the Localism Bill is now the Localism Act. Mr McAteer accepts that that increases the weight to be given to the impending revocation¹⁸⁹;
 - b) Whilst the voluntary Strategic Environmental Assessment of Regional Strategies is being consulted upon and the outcome cannot be anticipated, the Government is still firmly wedded to the policy of revoking regional strategies and now has the legislative means so to do;
 - c) Mr McAteer agreed in XX that the 306 annual requirement figure provided by the RSS would not, in all likelihood, be the annual requirement throughout the relevant five-year period; and
 - d) There have been significant changes in the evidence base which would underpin housing figures since the RSS was prepared, as found by the Inspector and the Secretary of State in the Mowbreck Lane, Wesham decision¹⁹⁰.
255. However, as the RSS figure is the only figure available, the Council accepts that it has no five-year supply. As a result, paragraph 71 of PPS3 comes into play and the application has to be considered favourably, in the light of the policies in PPS3, including its paragraph 69. As a result of the *Metacre* Court decision on the challenge to the Mowbreck Lane decision¹⁹¹ it is now clear, if it was not before, that such favourable consideration is rebuttable as the policy still has to be applied subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Mr McAteer also accepted in XX that paragraph 71 of PPS3 does not create a presumption in favour of the grant of planning permission.
256. It is no part of the Council's case to say that the proposal conflicts with any policy of the RSS. The point is that the weight to be given to that compliance is to be diminished by the changes in circumstances since the RSS was approved and by its impending abolition.
257. The proposal does not comply with the Fylde Borough LP. That is not in issue. Mr McAteer goes so far as to say that the proposal does not accord with the development plan¹⁹². He does not say that the conflict is merely to be treated as the breach of one policy. In re-examination, Mr McAteer hardly gave a ringing endorsement of the proposal's compliance with the development plan, saying that the proposal, when tested against the whole development plan, was closer to being in general conformity than it was to non-compliance. The breach of the LP comes about by reason of the location of the proposal within the countryside, as protected by Policy SP2. The policy restricts development to specified types. The erection of 1,150 dwellings would not accord with that policy.
258. Part of Mr McAteer's case in down-playing the importance of the breach of LP policy is to repeat the point that the RSS, as the later component of the

¹⁸⁹ KPT10a, para 8.3.3

¹⁹⁰ CD115

¹⁹¹ CD116

¹⁹² KPT10a, para 9.12

development plan, ought to be preferred. The point is based on the terms of section 38(5) of the Planning and Compulsory Purchase Act 2004. But it is a point which has been taken before and lost, for example ground 1 of the challenge to the Mowbreck Lane decision¹⁹³. Despite the same advocate appearing in that case and this, and despite Mr McAteer's involvement in the Ballam Road appeal where the same point was taken and dismissed¹⁹⁴, the point is simply repeated without reference to either of those previous unsuccessful attempts to take the point. When asked about this, Mr McAteer's view was that he did not understand how the conclusion contrary to his had, and could be, reached. He disagreed with Judge Sycamore and with the Ballam Road Inspector. He is entitled to disagree, but not entitled to have any weight attached to that disagreement. The High Court has found against him on that point and that finding binds this Inquiry.

259. The weight to be afforded to the breach of LP policy is significant. It is acknowledged that the settlement boundaries were fixed at a time when the housing requirement for the LP period was much lower, producing a need for just one dwelling¹⁹⁵. It is acknowledged that to meet the RSS figure, or figures close to it, greenfield development would be needed outside existing settlement limits. It is also accepted that the current settlement strategy of the Borough has Lytham St. Annes as its principal settlement. But none of those matters mean that the Council's opposition to the proposal is weak. For the reasons which follow, it is the Council's case that this proposal, given its scale and location, would cause such harm to the plan-making process that it ought not to be permitted now.

260. Much of the Appellant's cross-examination of Mr Ottewell was directed at demonstrating that no weight can be attached to the Core Strategy. That was never the Council's point. The point is that the options for devising a CS would be severely curtailed if planning permission were to be granted now. This is amply demonstrated by Mr Ottewell, and his evidence on this point was not challenged. At present, the LDF can only lawfully be prepared in conformity with the regional strategy. The only housing requirement figure is that in the RSS. As a result, the analysis of the effects of permitting the scheme on LDF preparation has to be addressed in the light of the RS. The effect on plan-making would be serious and the reasoning, in summary, for that contention is as follows:

- a) The RSS requirement for new dwellings over the period 2003 to 2021 is 5,500 dwellings. Up to the end of the year 2010/2011, 1,684 dwellings have been completed, leaving 3,816 to provide over the period between 2011 and 2021. Assuming that the backlog can be apportioned over the remaining 10 years of the RSS period, the annual requirement is 382 dwellings¹⁹⁶;
- b) The RS requires at least 65% of dwellings to be provided on previously-developed land and so no more than 1,925 dwellings can be provided on greenfield land if the RS target is to be met (5,500 x 35%);

¹⁹³ CD116

¹⁹⁴ CD119, paras 16 & 17

¹⁹⁵ CD7, Table 1, pp46 & 47

¹⁹⁶ See the SHLAA extract at FBC5/3, Appx 3

- c) Since 2003, 485 units have been completed on greenfield land¹⁹⁷ and outstanding permissions exist to build 142 dwellings on greenfield land¹⁹⁸. Therefore 627 of the 1,925 greenfield allowance has been used. Only 1,298 more units may be provided in the rest of the RSS period, assuming the RSS housing requirement is met, but not exceeded;
- d) The appeal scheme takes up 1,150 of those remaining 1,298, leaving only 148 which could still be constructed on greenfield sites anywhere in the Borough between now and 2021.
261. The effect of that on CS preparation is obvious and serious. It is no answer to say, as the previous Inspector did and the Appellant does, that such an impact is not serious because there is no settlement strategy in existence and promoted by the Council or any local community which would be harmed by such an outcome. That is because such a conclusion usurps the function of the collaborative process that LDF preparation is supposed to be. It does not accord with Localism. The intention of the Government is to increase the role and involvement of local people in plan-making. That role would be entirely undermined if plan-making was to be pre-judged by the determination of an appeal for development of such a large scale. Further, such a conclusion attaches all weight to locational aspects of a strategy, and sets aside issues of scale, timing and phasing.
262. Refusing on the grounds of prematurity would entail some delay. That has to be accepted. But the delay would be less than was previously the case given the LDF Steering Group's agreement to the inclusion of Strategic Sites in the Core Strategy, rather than in an allocations DPD¹⁹⁹. The adverse effects of the delay must give way to the need to ensure that the LDF preparation process is not pre-determined and that all interested persons can participate in an LDF preparation process which is something other than a *fait accompli*.
263. The impacts of the proposal upon agricultural land add further weight to the prematurity point, whilst not put as a reason for refusal in their own right. The Queensway scheme would cause the loss of 8.5ha of BMV agricultural land. That is agreed. Given the dual role of the flood compensation area between the Queensway and Link Road schemes, loss caused by that is left out of account in making this point on the Council's behalf. However, the Council contends that the loss of BMV is not limited to the 8.5ha.
264. Mr Appleton for KPT accepted that roughly half of the Nature Park would be outside of the flood compensation area. Of that part, about 3ha²⁰⁰ would be BMV. The planning obligation requires that land to be maintained as a Nature Park "in perpetuity"²⁰¹. As there is no special definition of that term in the obligation, it means what it says. Use as a Nature Park is not agricultural use. The land would be lost to agriculture and it would not be agricultural land.

¹⁹⁷ FBC5/3, Appx 23A

¹⁹⁸ FBC5/1, para 4.37 and FBC5/3, Appx 23B

¹⁹⁹ See CD149

²⁰⁰ See FBC5/3 final page of Appx 40, KPT11c, Appx TAG4 and the Agricultural Land Classification map at Appx 2 to the ALC Report in KPT11c, TAG9

²⁰¹ CD147, Schedule 2, para 3.5.1

PPS7, paragraph 28 seeks to avoid the loss of BMV land to “development”. Development, as defined by section 55 of the Town and Country Planning Act 1990, is not limited to operational development, but includes development by a material change of use. The land to be included in the Nature Park would undergo a material change of use to use as a Nature Park. The fact that the reversion, if the planning obligation could be set aside, to agricultural use would not be development requiring planning permission entirely misses the point and is irrelevant²⁰². The BMV encompassed in the Nature Park ought to be included in the total BMV lost to the Queensway development.

265. However, regardless of whether the total BMV lost would be 8.5ha or approximately 11.5ha, the same consequences follow. Paragraph 29 of PPS7 says that the loss of major areas of agricultural land ought to be dealt with in the development plan. That is why the agricultural land issue adds to the prematurity concerns. 8.5ha is a major area, as would 11.5ha. But it is to be noted that BMV classification is not essential. The paragraph refers to the loss of agricultural land, not BMV agricultural land.
266. The other decisions drawn to attention by Mr McAteer (two appeal decisions at Westby and the resolution to grant residential planning permission at Nine Acres Nursery at Bryning with Warton) do not undermine the Council’s case on prematurity²⁰³. He accepted that they were not good comparators to this case. The appeals related to a total of 48 dwellings and the resolution to 67. They are of a fundamentally different scale. In fact, the Nine Acres Nursery site decision usefully shows that the Council does not use the Interim Housing Policy (IHP) to prohibit all development. The site is outside the settlement limits and the resolution to approve the proposal shows that the IHP is indeed applied flexibly. The Appellant’s point that the IHP is a tool of suppression of housing supply is unsustainable. The IHP deserves some, albeit limited, weight for the reasons given by the Mowbreck Lane Inspector²⁰⁴.
267. The foregoing matters show that the appeal scheme is premature. PPS3 paragraph 72 simply provides that planning applications should not be refused solely on the grounds of prematurity. Prematurity is the main, but not the sole, concern of the Council. The Council’s position does not offend against PPS3, paragraph 72.
268. Further guidance is provided in the document supporting PPS1 *The Planning System - General Principles*, at paragraphs 17 to 19. That guidance was looked at in detail with Mr McAteer. The Council’s position does not offend against that guidance either. In particular:
 - a) Paragraph 17 does not require a DPD to exist. It merely requires that one is “being prepared”. That is the case here. Progress is being made and Mr McAteer accepted that his contention that the Council had “done nothing” to further an assessment of housing requirements could no longer be maintained, given the Steering Group’s decisions in December²⁰⁵. As a result, the contention that was earlier put to Mr Ottewell that the Council had done

²⁰² Mr Appleton, re-examination

²⁰³ KPT10c, Appx 8 & 9

²⁰⁴ CD115, IR para 11.38

²⁰⁵ KPT10a, para 8.3.4 & CD149

nothing must be ignored, as it is not supported by the Appellant's own evidence. It follows that the extreme claims that one might doubt the "veracity"²⁰⁶ of the Council's timetable for LDF preparation, that the Council was "laughing at national policy" and "had no intention" of providing a five-year supply²⁰⁷ cannot be taken at all seriously;

- b) The same paragraph provides that refusal on the grounds of prematurity may be justifiable where a proposed development is so substantial or where the cumulative effect is so significant, that to grant planning permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in policy in the DPD. That too is the case here. There is no need to point to cumulative effects. On any view, the scale of development is significant, as Mr McAteer accepted²⁰⁸;
- c) Given its "knock-on" effects for the freedom to make greenfield allocations, the proposal does not have an impact upon only a small area of the Borough. Its effects would be extensive;
- d) Paragraph 18 refers to the scope for refusal where paragraph 17 is not apt. The Council says that refusal is apt in accordance with paragraph 17, so detailed analysis of paragraph 18 is not required; and
- e) Paragraph 19 requires a clear demonstration of the harm that would be caused by granting permission now. The Council has discharged that burden.

269. FBC's objection to this scheme on the grounds that it would be inappropriate in advance of progress on LDF preparation does not strike out into new territory. The same issue was addressed by the Mowbreck Lane decision, by the Inspector, the Secretary of State and the Court in ground 6 of the challenge²⁰⁹. Of course, the issues at play in that case were not identical to this case.

270. It is accepted that part of the reasoning for dismissing the appeal was that the scheme at Mowbreck Lane would adversely affect the character of Kirkham/Wesham. But Mr McAteer agreed that there were common points of principle. The Inspector set out the parties' positions on adherence to the SP2 boundaries in the light of the changed factors since the RSS was approved and preferred the Council's view²¹⁰. The Secretary of State agreed²¹¹. The High Court challenge failed on the related (and all other) grounds²¹². Although the Inspector and Secretary of State said that refusal on the grounds of prematurity was not appropriate²¹³, they did both conclude that there were other factors which meant that releasing the site at the proposed time would

²⁰⁶ KPT's oral opening submissions

²⁰⁷ Put in XX of Mr Ottewell

²⁰⁸ In XX

²⁰⁹ CDs 115 & 116

²¹⁰ CD115, IR paras 11.31 & 11.37

²¹¹ Ibid, SoS decision letter, paras 10 & 20

²¹² CD116, grounds 1 & 2

²¹³ CD115, IR paras 11.46 to 11.48 and decision letter para 13

not be appropriate. Those factors relate to the pre-empting of decisions on settlement boundaries and on the release of agricultural land²¹⁴. The SoS expressly agreed with those conclusions²¹⁵. Those issues are the same as those at play in this case.

271. The Mowbreck Lane decision is scarcely mentioned or dealt with by Mr McAteer. But that decision is very important in this case. This is because at the time of the decision in the Mowbreck Lane appeal:

- a) What is now the Localism Act was merely the Localism Bill and Mr McAteer accepts that the progress of the legislation adds to the weight to be given to the abolition of the regional strategies;
- b) The Secretary of State's conclusions were reached despite there being no five-year supply;
- c) They were reached in the light of knowledge that the SP2 boundaries were out-of-date, by reason of them being fixed by reference to a much lower housing land requirement;
- d) They were reached despite the need to give the proposal favourable consideration, in accordance with PPS3, paragraph 71;
- e) They were reached despite there being no published document for the CS and when it was anticipated that strategic sites would be dealt with in the allocations DPD, not the CS;
- f) They were reached when the Council's Members had not made any decision on what housing requirement to work with when preparing the CS.

272. These factors which were at play in the Mowbreck Lane appeal are either the same now or have changed in the Council's favour since. The decision survived legal challenge. The SoS can therefore proceed on the basis that a similar decision here would be both appropriate on the merits and lawful.

273. KPT and its supporters have procured a large number of proforma letters of support for the scheme²¹⁶. Limited weight ought to be attached to them for the following reasons:

- a) Their preparation involved minimal effort on the part of the signatories. Mr Lancaster emphasised the effort that letter-writers go to, but there was not much effort involved here. They are proformas and not composed by their signatories. Most letters were completed at the place where the encounters with the supporters took place. All the member of the public had to do was fill in their name and address and walk away. The exercise was akin to completing a petition;

²¹⁴ Ibid, IR para 11.96

²¹⁵ Ibid, decision letter paras 13 & 20

²¹⁶ INQ84

- b) One does not know how many people told the supporters that they would not complete a proforma. The number of supporters cannot be given any appropriate context;
- c) The proforma letters contain no reasoning. If, as LCC argues, unreasoned and badly reasoned opposition cannot be afforded weight, because localism still requires planning decisions to be made by reference to material planning considerations, then the same must hold good for unreasoned support.

274. The online poll can be afforded no significant weight as one does not know the rigour with which it was carried out²¹⁷.

Connectivity

275. The proposal conflicts with national guidance in PPS1 paragraph 35 and PPS3 paragraph 16 on the integration of development into its surroundings and nothing within the Inquiry has undermined this position.

276. The previous Inspector found that the access points to the site would not be on the southern side, closest to St Annes town centre. That means that the proposal “falls short of the highest quality of design”²¹⁸. The Council cannot say that the prospects of securing an access to the south of the site are any greater now than they were at the time of the last Inquiry. Further, it is acknowledged that this issue was not thought to be so serious as to amount to an overriding objection, but it was a negative factor to place in the overall planning balance. Mr McAteer accepted that much.

277. Mr Easdon’s evidence for KPT shows the extra journey time and distance that would be imposed upon car-borne people wishing to get to and from St Annes town centre. The impact for an individual journey may be modest, but the cumulative effects of that extra journey time would be significant. The daily flow during phase 1 of the proposal (up to 375 dwellings) would be 1,122 departures and 1,103 arrivals²¹⁹. Figure 3330/202 in Appendix 2 of the Transport Assessment²²⁰ shows 39% of that traffic would use Heyhouses Lane south of the new roundabout – the trips affected by the 740m extra distance. Thirty-nine percent of the total arrivals and departures amounts to 437 departures and 430 arrivals, each day²²¹.

278. For the completed development, similar daily figures and trip distribution is not given, but the total two-way flow in and out of the development from all accesses would be 6,821 vehicles. Although precise calculation is not possible, the number of vehicles undertaking that extra journey distance would be significant.

²¹⁷ KPT10c, Appx 13 & 14

²¹⁸ IR, para 361, (CD98)

²¹⁹ KPT13c, Appx 6 (Transport Assessment), p42 Table 6.4

²²⁰ Ibid, Appx 2

²²¹ Mr Easdon, XX

279. KPT's response referred to the lack of desirability of car-borne journeys. That is not the point. Significant numbers of car-borne journeys would take place. The most optimistic forecast for bus patronage is 6.3% of residents. Even assuming those users are all people who switch from car to bus, the number of car journeys would only reduce by the same proportion. The effect of bus use does not undermine the Council's point.
280. Nor is it fair for Mr McAteer to suggest that the Inspector paid too much attention to car use. The Inspector was dealing with the argument on connectivity which was put to him²²². He dealt with public transport and non-car modes elsewhere in his conclusions²²³.
281. Similarly, nor is it of any assistance to look at the effect, in terms of journey length and time, of providing an alternative access upon people who would live close to the proposed Queensway roundabout. That is because:
- a) The Council's preferred access could be additional, not alternative, to the roundabout access at the western end; and
 - b) The effect on people who live in that general location could be contrasted with the effect on people living closer to the southern access. That is why such issues are considered by reference to journeys to and from the centre of the site, to avoid such pointless debate.
282. It remains the position that the design of the scheme, in connectivity terms, "falls short of the highest quality of design"²²⁴ and, whilst not an objection in itself, adds to the negatives to be weighed.

The Green Belt and Very Special Circumstances

283. The Appellant does not dispute the previous Inspector's finding that the construction of the T5 east-west link would be inappropriate development. Substantial weight will be attached to the harm which flows from inappropriateness. The finding of inappropriateness by the Inspector came as a result of him concluding that the east-west road would conflict with the Green Belt purpose of protecting the countryside from encroachment and possibly with the purpose of preventing the merger of towns²²⁵. The Council considers that both purposes would be infringed.
284. The Inspector concluded that it may well be that T5 would not adversely impact upon openness²²⁶. It is agreed by Mr McAteer that the Inspector applied the wrong test²²⁷. Openness is not to be equated with an absence of visible development. Green Belt policy is not a landscape or visual matter. Openness is usually equated with an absence of built form. A house in the Green Belt is

²²² IR, para 356 (CD98)

²²³ Ibid, paras 332 to 339

²²⁴ IR, para 361 (CD98)

²²⁵ Ibid, paras 387 & 389

²²⁶ Ibid, para 385

²²⁷ In XX

still inappropriate development even though it is in the heart of a wood and cannot be seen.

285. There have been changes to the elevation of the proposed road in certain locations to cross drains which, although modest, would increase the impact on openness. The finding that the road is inappropriate development holds good. Indeed, the changes to the scheme and the adoption of a proper approach to openness would reinforce that conclusion.

286. There is still no convincing evidence that T5 has to intrude so far into the Green Belt. Its location could be moved whilst permitting the construction of 1,150 dwellings, or a number approaching it, if the school site's surroundings were used. The highest that the Appellant can put the position is that, at the time of the last Inquiry, viability was marginal. Document IN8 does not address itself to the issue of the effects of moving the road.

287. Substantial weight will be given to the harm caused by inappropriateness. The Appellant has to show that there are very special circumstances to justify the development and these would not exist unless the benefits of the scheme clearly outweigh the harm to the Green Belt caused by inappropriateness and any other harm, whether to the Green Belt or not.

288. In the Council's submission, the harms which have to be outweighed are:

- a) The harm caused by inappropriateness;
- b) The harm caused by the lack of connectivity of the proposal to its surroundings;
- c) The harm caused by conflict with the development plan and the development of land protected as countryside; and
- d) The harm caused to the LDF preparation process.

289. The benefits to which the Appellant mainly relies upon and which were considered by the Inspector are:

- a) The contribution to the delivery of housing; and
- b) The delivery of the Link Road.

290. Both of these benefits are weighty. The Council is mindful of the thrust of guidance in Planning for Growth. But if the Mowbreck Lane decision²²⁸ shows that favourable consideration for housing proposals when there is not a five-year supply is outweighed by the desirability of adhering to settlement boundaries, and not pre-determining issues to be settled by the LDF, then those same objections can easily amount to a situation where very special circumstances are not made out. If the benefit fails to surmount a lower

²²⁸ CDs115 & 116

hurdle, it must also fail to clear the higher hurdle of the testing of inappropriate development.

291. As for the delivery of the Link Road, there is no evidence that the offer or ability to provide the Link Road is time-limited. Whilst there are no projects contemplated which could deliver the road on their own, it would be possible to pool section 106 contributions until 2014 and to adopt a CIL charging schedule²²⁹. The benefits of the road include the improvement of links between Lytham St Annes and the motorway network. Many pieces of development within that settlement could therefore be required to contribute to the Link Road. The lack of a charging schedule now cannot be a criticism of the Council if, as Mr McAteer said²³⁰, such a schedule would have to post-date the CS.
292. The harms identified above are of such weight as to mean that the benefits of the scheme do not clearly outweigh those harms and that very special circumstances do not exist for the Queensway development.
293. On the basis of the above the appeal relating to the Queensway scheme should be dismissed.

The Link Road

294. The general alignment of the route of the Link Road is safeguarded by Policy TR13 of the LP²³¹. It runs through areas subject either to countryside protection Policy SP2 or in the Green Belt. Clearly, however, the safeguarding of the route gives it development plan support. That is plan support which distinguishes it from T5.
295. The Link Road would affect openness, encroach upon the countryside and, as a result, is adjudged by the Borough Council to be inappropriate development in the Green Belt. However, the fact that it would run adjacent to the Green Belt boundary limits the harm caused. Further, the Link Road is needed in order to promote growth in St Annes and to relieve traffic on the A584 Clifton Drive North and B5261 Queensway. The road would also promote pedestrian, cyclist and equestrian access into the countryside. It would therefore bring substantial benefits. The Borough Council considers that those benefits clearly outweigh the harm caused by inappropriateness and any other harm, such that very special circumstances exist to justify granting planning permission for the Link Road.
296. The Borough Council is a consultee on the application which is, of course, a county matter. When it was consulted on the matter the Borough Council resolved, in December 2010, to support the principle of the road, but objected to the inclusion of a roundabout to serve the Queensway development²³².
297. Thereafter, it was agreed with the County Council that it would be appropriate and necessary to attach a condition to any grant of planning

²²⁹ FBC5/1, paras 5.12-5.14

²³⁰ In XX

²³¹ CD7, pp96 & 97

²³² CD129

permission for the Link Road preventing the provision of the roundabout to serve the Queensway site in the absence of the Queensway scheme being permitted and the permission being implemented. That condition remains necessary, given that the Queensway proposal and the Link Road are separate schemes whose merits need to be separately assessed²³³. If the Council's case on Queensway is accepted, then it envisages a position where the Queensway scheme is refused permission and the Link Road permitted. The condition is therefore required in case the Link Road scheme is approved and the Queensway scheme refused.

298. FBC considers that there are no ecological, flooding, drainage, agricultural land or other impacts which would require permission to be refused for the Link Road. Nothing occurring at the Inquiry changes that view. The Borough Council therefore supports the application for the Link Road, subject to the imposition of suitable conditions.

THE CASE FOR LANCASHIRE COUNTY COUNCIL (LCC)

Introduction and overview

299. The Link Road scheme is an opportunity to complete an important piece of transport infrastructure that has long-standing policy support; a proposal that would deliver significant transport, planning, economic and environmental benefits with little countervailing harm.

300. In this regard, the Link Road is exactly the type of development that the SoS regards as being sustainable²³⁴; it is quintessentially the sort of scheme that would deliver economic growth²³⁵; and, it enjoys substantial local public support. Additionally, there is not one shred of evidence presented by an appropriately-qualified expert in opposition to the proposal. It is a development that would get Lytham St Annes moving, in both a literal and metaphorical sense.

301. As if this was not enough, LCC and FBC have now signed up to a bilateral Addendum to the SoCG²³⁶ that planning permission should be granted for the Road, subject to a condition that prevents the construction of the intermediate roundabout²³⁷ in the event that planning permission is refused for the Queensway residential scheme. Self-evidently, KPT's professional advisers have expressed the same view.

302. The importance of this common ground cannot be underestimated. The recommendation of approval by both Councils in the Addendum to the SoCG is predicated upon a consideration of all of the matters raised by the SoS in his call-in letter and all of the additional points raised by the Inspector. In other words, having considered matters ranging from Green Belt policy (which necessarily includes a judgement that very special circumstances exist), to

²³³ The condition is set out the agreed Addendum to the highways SoCG (CD105)

²³⁴ See Draft NPPF (CD131)

²³⁵ See Ministerial Statement on *Planning for Growth* (CD 124)

²³⁶ CD105

²³⁷ Shown on Drawing 13445/PA1 Rev A

ecological impact, to compliance with the development plan, two public bodies charged with considering the use of land in the public interest are advising the SoS that planning permission should be granted.

303. Unsurprisingly, as paragraph 2 of the Addendum confirms, "very significant weight indeed" should be given to this agreement between the two planning authorities. Whilst it is for the SoS to determine the application, the agreed position between FBC and LCC should not be set aside unless there are very clear reasons for doing so. There are none.

304. On the contrary, not only is there the clear agreement between the authorities, as well as the support of KPT and its team of highly qualified expert witnesses, but also the two most relevant statutory consultees - NE and the EA - have expressed themselves satisfied with the Link Road in relation to its impacts on flood risk, drainage, ecology (including the SPA) and biodiversity²³⁸.

305. Thus, having regard to the views expressed by bodies and persons charged with assessing the planning merits of the proposal, there simply cannot be any reason whatsoever to refuse planning permission for the Link Road.

Local support

306. It is undeniable that there are both supporters of the Link Road scheme and objections to it. The word "localism" has been deployed, often indiscriminately and without careful consideration, by objectors to the road. It would not be doing their representations a disservice by describing their interpretation of localism as follows: if local people object, planning permission should be refused.

307. LCC's firm position is that - whatever the impact of localism - any decision-maker must determine planning applications on planning grounds, not solely on a head count or signatures on a petition, whether they be in favour or against. The Localism Act 2011, and the Government's professed aim of devolving decision-making to local communities, certainly do not advocate such a crude approach or any abandonment of long-established material planning considerations. However, the views of local people, and the numbers in which they express those views, are relevant, provided that they are based on sound planning reasons.

308. In this regard, it must surely be recognised that it is more usual for objectors to express their objections to a proposal than for supporters to articulate their backing of a proposal. Set in this context, the Link Road application is unusual in the sense that - however one characterises the position - there is considerable local support for it.

309. KPT15 reveals that a total of 5,710 people have expressed their written support for the Link Road and the Queensway residential scheme. Using the size of the resident population for the five Lytham St Annes wards for which

²³⁸ Ecology SoCG, Appxs 6 & 7

there are data²³⁹, the proportion of residents expressing support for the developments ranges from c.4%²⁴⁰ to c.9%²⁴¹; an average of c.6% across all five wards. Whilst these figures are not high in absolute terms, in the context set out above, they are significant.

310. The way in which these written expressions of support were garnered has attracted some criticism by third parties - not, it should be noted, by FBC's only witness²⁴². The Inquiry was told that some people gained the impression, gathered second hand, that people were asked whether they supported the Link Road with no mention of the Queensway. Insofar as this argument has any merit, it cannot undermine the level of support for the road.
311. Neither is local support a new phenomenon: prior to the submission of the Queensway residential scheme (and at a time when the 2002 Link Road permission remained extant), KPT carried out a public consultation exercise²⁴³. Of the 281 questionnaires returned, 83% strongly supported or supported the Link Road, with only 15% opposing or strongly opposing it.
312. It is also fair to bear in mind the oral testimony of those third parties who attended the Inquiry. Of those people who expressed a desire on the first day to speak at the Inquiry, ten opposed both the Link Road and the residential development, five opposed Queensway (i.e. not the Link Road), and eight supported both proposals. As a broad guide to the way in which the public view the Link Road proposals, this breakdown indicates that objectors to the road are in the minority.
313. Drawing these various strands together, it should be concluded that, in resolving to support the Link Road, elected Members of both FBC and LCC not only reached a position consistent with the planning merits of the scheme, but also adopted a stance that reflected the views of a substantial proportion of their constituents. This is another material consideration in favour of the Link Road scheme.

The issues

(i) The relationship of the Link Road to planning policy

314. The Link Road proposal is wholly in step with planning policy, at regional and local levels²⁴⁴. Policy TR13 of the LP provides for the alignment of the M55 to Heyhouses Link to be safeguarded and states that development which would prejudice the future implementation of the road scheme will not be permitted. The LP remains the most up-to-date expression of local planning policy. Policy TR13 was saved by the SoS and, as such, she (at the time) must have considered that the Link Road scheme was consistent with Government policy. Moreover, Mr Ottewell accepted under KPT's XX that the delivery of the Link

²³⁹ INQ 54

²⁴⁰ Clifton Ward

²⁴¹ Central Ward

²⁴² Mr Ottewell, XX

²⁴³ KPT10c, Appx 11

²⁴⁴ See especially LCC1/1, Appx 1

Road is a "fundamental plank" of the LP. He also recognised that it would support "additional development" in Lytham St Annes. Mr Ottewell also accepted that "there will be very considerable economic benefits because it will open up Lytham St Annes".

(ii) The need for the Link Road

315. The proper basis under which to consider this issue is that:

- a) FBC fully supports the Link Road, including (necessarily) the need for it;
- b) The professional advisers engaged by LCC and KPT agree in the highways SoCG²⁴⁵ that: there is a clear need for the road to accommodate new growth²⁴⁶; that it is necessary to improve traffic conditions in the area²⁴⁷ where there is presently congestion and rat-running with a consequent adverse impact on safety²⁴⁸; and that the road would reduce traffic movements along rural roads²⁴⁹. Put simply; without the Link Road, the local traffic situation would continue to worsen²⁵⁰ with unacceptable consequences for the safe and free flow of traffic and the ability of the area to accommodate new growth would be stymied;
- c) There is no professional evidence that contradicts these agreed positions.

Funding

316. The ownership of the land by LCC and KPT needed for the Link Road, in conjunction with the UU, will provide certainty that it would be constructed²⁵¹. This certainty has singularly been lacking since the scheme was conceived in the 1990s. Moreover, it is common ground between the three main parties that KPT is able to fund the construction of the road in a way that is consistent with the CIL Regulations. Set against these two foundations of delivery, no one has been able to point to any other source of funding that would guarantee monies sufficient to pay for the Link Road²⁵².

317. Although Mr Ottewell for FBC suggested that funds might be available by pooling contributions from other developments, at present there are no development proposals that would generate sufficient resources (or any resources) to fund the construction of the Link Road²⁵³. Nor can FBC point to any other allowed or proposed development that could be required, consistent with the CIL Regulations, to make any financial contribution towards the

²⁴⁵ CD105

²⁴⁶ CD105, para 4.8

²⁴⁷ Ibid, para 5.6

²⁴⁸ Ibid, paras 5.24 - 5.48

²⁴⁹ Ibid, para 5.8

²⁵⁰ Ibid, para 5.48

²⁵¹ Mr Easdon, examination- in-chief

²⁵² CD105, para 6.8

²⁵³ Mr Ottewell, XX

delivery of the road²⁵⁴. Indeed, there is currently no policy basis (including a CIL scheme, even in draft) on which FBC could require the payment of any money towards the Link Road from any development²⁵⁵, or any firm proposals to promote such a policy framework.

318. From a practical perspective (even assuming that it had a policy basis), this "pooling" approach would have the following consequences:

- a) The money would "trickle in" over a period of time, with the likelihood that the construction costs of the Link Road would increase. As Mr Easdon put it²⁵⁶, LCC would constantly be "chasing their tails";
- b) LCC would need to purchase the land currently within the ownership of KPT, which would necessarily increase the overall costs of delivering the Link Road.

Private v Public Funding

319. Mr Ottewell accepted in KPT's cross-examination (XX) that the expectation of LP Policy TR13 was that the Link Road should be funded privately²⁵⁷. This evidence coincides with LCC's view²⁵⁸ and rebuts entirely the argument by QED that the private funding of the road somehow reveals that LCC attaches less importance to this scheme than to other road schemes, such as the M6 - Heysham Link. Even assuming that QED's point is of any relevance to this Inquiry, it is nonsense: why would LCC be promoting a scheme that has the support of FBC, has been promoted for years through the LP, which gained planning permission in 2002, and which enjoys significant public support, if it did not attach importance to it?

320. Indeed, during a period in which public funds are constrained, the delivery of a critically important piece of infrastructure through private funds is something to be embraced wholeheartedly rather than criticised as being an indication of lukewarm support by the promoting authority.

(iii) Ecological Matters

321. This issue embraces the SoS's question about the robustness of the Appropriate Assessment (AA) carried out when LCC (as planning authority) considered the planning application²⁵⁹. In essence, what needs to be considered is whether (a) the original AA and its recommendations remain valid; and (b) whether, overall, the ecological impact of the scheme is acceptable.

²⁵⁴ Ibid

²⁵⁵ Ibid

²⁵⁶ Oral evidence

²⁵⁷ See LP, para 5.110 (CD7)

²⁵⁸ Mr Cleave, examination-in-chief

²⁵⁹ CD145

The Habitats Regulations and the Appropriate Assessment

322. To put this issue in some sort of context:

- a) Although Lytham Moss, adjoining the application site, is not a European Site, swans associated with the Ribble and Alt Estuaries SPA and Martin Mere SPA use the Moss for winter foraging; and
- b) As such, the impact on part of this linked habitat could have a negative effect on the integrity of the SPAs. For this reason, LCC has always accepted that there would be a need for an Appropriate Assessment to consider whether the Link Road scheme (and other plans or projects in combination with it) would be likely to have significant effect on the relevant European Site;
- c) It should be stressed that the Link Road proposal would not have a direct effect on any European Protected Species. As such, the provisions of the Habitats Regulations that relate to licensing etc. do not apply.

323. The original Appropriate Assessment, carried out on behalf of the LCC as the local planning authority, was a thorough and comprehensive piece of work based on a wealth of robust data²⁶⁰, which was accepted by Natural England²⁶¹. At that stage, the Appropriate Assessment concluded that the Link Road (including in combination with the Queensway residential scheme) would not adversely affect the integrity of the Ribble and Alt Estuaries SPA subject to mitigation measures being secured through planning conditions and obligations.

324. Since then, LCC (as applicant) has engaged the services of Mr Hesketh, has carried out fresh and updated surveys, has continued to engage with relevant statutory consultees and Dr Manchester has revisited the original Appropriate Assessment even though it is the SoS who is now the “competent authority” for the purposes of the Habitats Regulations. The unequivocal conclusion of Dr Manchester, supported by Mr Hesketh and accepted by NE, is that the conclusion of the original Appropriate Assessment remains robust, taking into account the most up-to-date data and the nature of the Link Road scheme in combination with the Queensway residential proposals²⁶².

325. The only two professionally-qualified ecologists who gave evidence at the Inquiry are in entire agreement on practically every element of the ecological impact of the Link Road, the required mitigation and the overall effect on the SPA²⁶³. Having heard the evidence (which was not challenged directly by anyone), the only rational view to be reached is that the conclusions of the original Appropriate Assessment remain just as valid today as when it was carried out. As such, there can be no conceivable reason for withholding planning permission under the Habitats Regulations.

²⁶⁰ Dr Manchester, examination-in-chief

²⁶¹ See especially ecology SoCG Appxs 1-6 (CD106)

²⁶² Dr Manchester examination-in-chief and ecology SoCG paras 6.70–6.74

²⁶³ See generally the Ecology SoCG (CD106)

Biodiversity impact

326. LCC's ecologists have also considered very carefully the ecological impacts other than on the SPA and have reached a similar conclusion: taking the mitigation measures into account, there would be no unacceptable ecological impacts²⁶⁴. Indeed, as the ecology SoCG and Mr Hesketh make clear, the proposals to create new ditch and mossland habitats present an opportunity to enhance conditions for biodiversity priority species at UK and Lancashire levels²⁶⁵. As such, the proposals are entirely in accord with PPS9, the most up-to-date piece of national guidance. PPS9 requires that there be no net loss of biodiversity (there won't be); to seek mitigation where losses occur (there would be); and to seek enhancement of biodiversity, if appropriate (the conditions would be put in place that enable ecological enhancement).
327. All of these points should be seen in the context of the security provided by the FCA Management Plan, the BHCP and the detailed conditions relating to ecological matters. Overall, there can be satisfaction that the ecological impact of the Link Road scheme is entirely acceptable.

(iv) Flood risk and drainage

328. The most essential point to make in relation to flood risk and drainage issues is that the EA has been consulted at every relevant stage: upon submission of the planning application, the original ES, the updated environmental information²⁶⁶ and the amendment to the ES (November 2011)²⁶⁷. Having taken everything into account, the EA has concluded that: there is sufficient compensatory flood storage; and that it has no objection in principle to the development, subject to the imposition of suggested (and quite reasonable) conditions.
329. Thus, given the position adopted by the Government's statutory advisor on flood risk and drainage, there are no sustainable reasons why planning permission should be refused on these grounds. Indeed, Mr Moor²⁶⁸ - the only person who purported to give any "technical evidence" on flood risk - accepted in XX by LCC that the EA would have made its concerns about flood risk and drainage known, if it had had any.
330. In any event, Mr Bowley's clear, persuasive and unchallenged evidence was that the Link Road scheme has been designed carefully, taking into account every conceivable source of potential flooding²⁶⁹. In particular, it has been acknowledged that some 750m of the road falls within the 1:100 year flood

²⁶⁴ See especially the LCC4/1 and Chapter 5 of the ecology SoCG (CD 106)

²⁶⁵ Ecology SoCG, para 2.11 and Mr Hesketh examination-in-chief

²⁶⁶ CD132

²⁶⁷ CD96

²⁶⁸ An objector

²⁶⁹ LCC 5/1, para 6.1

plain and, as such, the road is to be raised above the relevant predicted flood level²⁷⁰ to avoid inundation of the road itself. The knock-on effect of this ground raising is that some compensatory flood storage must be provided; which it would be, within the Queensway scheme. It cannot be emphasised enough that this flood compensation scheme would: (a) only be required in the event that a 1:100 year flood occurs and all existing flood defences fail – i.e. only exceptionally; and (b) that, contrary to Mr Moor's original understanding, it would not be a "sink" for surface water drainage. As to this latter point, the surface water run-off rate would mirror the present greenfield rate²⁷¹; something that is entirely achievable, using tried and tested drainage measures²⁷².

331. Concerns have been expressed by local residents about the flood compensation scheme and what they consider to be existing flooding issues. However, with the "shaving" of the ground to provide the scheme, the works would never take ground levels lower than the existing groundwater levels; indeed, the lowest resulting ground levels would be a minimum of 0.5m above the water table²⁷³.

332. For all of these reasons, there can be entire satisfaction that adequate drainage can and would be provided for the Link Road and that there is no basis – on flood risk grounds – to refuse planning permission.

(v) Landscape Impact

333. The landscape quality of the surrounding area is "ordinary"²⁷⁴. This is the proper starting point for the assessment of any impact brought about by the Link Road.

334. Three further contextual points need to be made:

- a) It is not unusual for roads running through Lytham Moss to be raised on embankments, and so the Link Road would not represent an incongruous element in the landscape²⁷⁵;
- b) The new road is parallel to and close to the existing highway. As such, the "corridor of disturbance" would be narrow, reducing any adverse effect²⁷⁶;
- c) All of the existing vegetation on the western side of the Link Road would remain²⁷⁷.

²⁷⁰ 4.05m AOD

²⁷¹ LCC 5/1, para 6.3

²⁷² Mr Bowley, examination-in-chief

²⁷³ Mr Bowley, examination-in-chief by KPT

²⁷⁴ Mr Appleton, examination-in-chief

²⁷⁵ Ibid

²⁷⁶ LCC1/1, para 4.8

²⁷⁷ Ibid, para 4.7

335. Nevertheless, against this background, it is accepted that the residual impact on the landscape character would be “minor adverse”, once the planting scheme has matured²⁷⁸. As such, this matter necessarily falls on the negative side of the planning balance, albeit that this negative element is not particularly weighty.

(vi) Green Belt

336. Part of the Link Road would run within the Green Belt. That element of the scheme represents inappropriate development in the Green Belt. As such, LCC must demonstrate that there are very special circumstances 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 inappropriateness²⁷⁹.

337. It is also important to bear in mind the fact that an applicant does not need to demonstrate that each of the circumstances upon which it relies is, in itself, “very special”. It is sufficient for a number of considerations to amount, cumulatively, to very special circumstances.

338. In the present case, the harm to the Green Belt is relatively limited:

- a) Less than half of the length of the Road (45%) falls within the Green Belt ²⁸⁰. Thus, any loss of openness is confined to a stretch of approximately 1,300m²⁸¹;
- b) Although the Link Road would introduce an element of built development that is not currently there, its impact on openness is mitigated significantly by the fact that: (a) it runs along the eastern boundary of the Green Belt, not in the middle; and (b) it would run alongside an existing (but admittedly narrower) road; and
- c) Whilst it does encroach into the countryside, the Link Road does not offend any of the other reasons for including land in the Green Belt.

339. So far as very special circumstances are concerned, there is a wide range of factors which, taken together, constitute very special circumstances that clearly outweigh the limited harm to the Green Belt:

- a) FBC, the only other local planning authority represented at the Inquiry, “strongly supports” the Link Road proposals;
- b) The road has longstanding LP support. The merits of linking the M55 and St Annes will have been tested fully through this process;

²⁷⁸ Environmental Statement, para 9.22 (CD 95)

²⁷⁹ PPG2, para 3.2

²⁸⁰ LCC1/1, para 4.3

²⁸¹ Ibid

- c) Planning permission was granted previously for a road following a similar alignment to the one before this Inquiry. This piece of planning history is highly relevant and must contribute significantly to the very special circumstances case;
 - d) The Road would relieve congestion on existing roads to the benefit of the local highway network, thereby improving safety and reducing associated environmental disbenefits;
 - e) It would provide a strategic road link between the M55 and Lytham St Annes, north-east Blackpool and the Whitehills Business Park, unlocking the economic potential of those areas, entirely in step with recent Government pronouncements;
 - f) The Link Road would facilitate other development, including the residential proposal at Queensway;
 - g) Opportunities to enhance alternative travel modes would be presented through the construction of the road, in accordance with the aims of the development plan.
340. In the circumstances of this case, the conclusion must be that very special circumstances exist that clearly outweigh any harm to the Green Belt.

(vii) Conditions and Planning Obligations

341. As with most of the issues for consideration at the Inquiry, there is a agreement between the main parties and relevant statutory consultees as to:
(a) the need for conditions and planning obligations that control the development and which deliver the required mitigation and enhancement measures; and (b) the way in which the proposed conditions and obligations meet that objective.
342. In particular, it is common ground that the executed UU, which provides the funding mechanism for the Link Road, and which would deliver certain key elements of the ecological mitigation strategy, satisfies the tests under Regulation 122 of the CIL Regulations 2010.

(viii) Overall Planning Balance

343. In any case, no matter how complex or straightforward, the decision-maker must carry out the overall "planning balance", measuring the benefits of a proposal against the harm caused by it, having taken into account any proposed mitigation measures. It is only in exceptional cases that no harm at all can be identified. However, LCC considers that the Link Road scheme comes pretty close to such an exceptional case.
344. In coming to an overall judgment as to the acceptability of the Link Road, it can be recorded that:

- a) The Link Road scheme complies with the most relevant development plan policies set out in the RSS and the LP;
- b) It would deliver significant economic, environmental and transportation benefits;
- c) The road can be delivered without there being any unacceptable impact on flood risk, drainage, biodiversity and landscape;
- d) The scheme complies with the requirements of the Habitats Regulations 2010;
- e) Whilst the Link Road is, in part, inappropriate development in the Green Belt, the reduction in openness of the Green Belt is limited and the visual harm to the character of the area is low. This Green Belt harm (which it is accepted should be given substantial weight), is clearly outweighed by a comprehensive and compelling package of very special circumstances.

345. When all is said and done, the planning balance comes down resoundingly in favour of granting planning for the Link Road. As a consequence, the opportunity should be grasped to grant permission subject to the appropriate conditions and planning obligations to a scheme that meets the most up-to-date concept of sustainable development.

OTHER REPRESENTATIONS MADE AT THE INQUIRY

346. Of those individuals who spoke at the Inquiry seven spoke in favour of the proposals and 12 spoke against. The general points raised are summarised below.

***Support*²⁸²**

347. The Link Road is a much-needed piece of essential infrastructure, necessary to replace a very dangerous road. Its funding by a private developer would be advantageous to the taxpayer. The combined provision of the Link Road and T5 would adequately cater for any new traffic that would be generated. New houses are needed in Fylde and there would be advantages of building them on the proposed site as the development would allow for the provision of a new school and countryside park and the FCA would be an amenity in its own right. The development would result in a huge boost for, and confidence in, the local economy at a time when there are large-scale redundancies at BAE Systems at Warton and St Annes town centre needs investment. It would employ many in the construction process, offer the opportunity for training and apprenticeships and would support local businesses. A boost to the economy is required.

348. The Queensway development would provide the opportunity to create a high quality gateway development with a choice of sustainable homes with strong

²⁸² INQ 44, 48, 49, 51, 52, 53, 60

structural landscaping, associated Nature Park with public access, and a FCA. KPT is a local company responsible for high quality development, which has included the neighbouring Cypress Point.

Objections²⁸³

349. The scale of the Queensway development is such that, in accordance with the Government's localism agenda, the decision should be taken locally and in line with the Council's consistent opposition to it. The combined effect of the two proposals would be to harm the countryside and encroach into the very narrow stretch of Green Belt.
350. The Link Road would result in the delivery of large volumes of HGV traffic onto residential roads and streets not designed for them. The traditional means of servicing St Annes was from Clifton Drive (to the west of the town centre). The proposals would encourage traffic to enter the town along residential roads that could not stand additional commercial traffic. The existing road across the Moss should be upgraded rather than a new one built, with less impact on the Green Belt.
351. The Queensway scheme would not be sustainable. It could draw people away from the St Annes town centre and would not assist in community cohesion. There is no shortage of housing in St Annes, with many hundreds of empty homes readily available to meet current and projected needs. There are brownfield sites closer to the town centre and more conveniently sited in relation to existing facilities. Building on them rather than on greenfield land would help to sustain existing communities and neighbourhoods.
352. There is concern that the proposal would result in flooding or changes in ground conditions and the Queensway development would be on poor quality land for building. There is also concern over the way in which signatures in support of the proposals were gathered.
353. If the Queensway scheme goes ahead there would need to be an upgrading of existing pumping facilities for foul drainage from the site. There would be a loss of at least 15.6ha of BMV land, whilst land of a lower grade remains available within Fylde. The Metacre appeal (Mowbreck Lane) case would have resulted in the loss of only 3ha of BMV land and the SoS considered that this loss would be at odds with advice in PPS7. At the Ballam Road appeal only a small amount of BMV land would have been lost but the SoS indicated that it remained possible that preferred alternative types of land may be available to accommodate the development. These decisions strengthen the importance of protecting BMV. LP Policy EP22 seeks to prevent development which would involve the permanent loss of BMV land. There is scope at Whyndyke Farm to cater for 1,000 dwellings on lower grade agricultural land. Storage of runoff from the developments could result in problems especially if these areas are to be sports pitches and playing fields. The development would result in ponding of groundwater, the existing watertable could be affected, it could affect the fine balance which presently exists in the drainage system, and there are concerns about flood risk.

²⁸³ INQ 38, 39, 40, 42, 43, 45, 46, 47, 55, 63, 68

354. The alignment of the Link Road would result in a kink at its southern end, necessitating Pegasus crossings for the bridleway close to the roundabout junction with T5 and this would result in reduced road safety.
355. The Queensway development would be outside settlement limits and within the countryside, which should be protected for its own sake. Strategic land allocations should only be made through the local spatial planning process not on an ad hoc basis. The T5 route would result in an adverse visual impact on the Green Belt, with no overriding reasons to allow inappropriate Green Belt development.
356. The poor five-year supply figure for housing in the SHLAA against the RSS requirement results from the pessimistic inclusion of only housing with full planning permission and with no section 106 agreements outstanding. The poor figure is exacerbated by attempting to recover the apparent shortfall required from the start of the RSS period. This apparent shortfall is not now recoverable and a new start date should accompany the new housing requirement for the Borough.
357. There are a number of planning applications for significant brownfield schemes for over 1,000 homes, but they are not in the five-year supply primarily due to market conditions. New housing should be provided through the sequential allocation of previously-developed brownfield sites before greenfield ones although it is accepted that some future development will be required on greenfield extensions to some settlement boundaries. But such decisions on allocations should be made through the LP process. If there are insufficient brownfield sites there should be co-operation with Blackpool in providing a settlement extension around junction 4 of the M55 to meet Fylde's housing needs.

WRITTEN REPRESENTATIONS

358. The following is a summary of submitted written representations. QED, a local group representing those residents opposed to the Queensway proposal and which was a Rule 6 party at the previous Inquiry, did not seek this status within the context of this Inquiry. Instead it relied on its written submissions which are briefly summarised.

QED²⁸⁴

Housing supply

359. Less weight should be given to the current under-supply of housing as it is out-of-date, is artificially high and is a poor basis to make decisions about housing delivery. It is highly probable that the supply situation will improve and the shortfall in supply may be resolved through smaller applications that would have a less pre-determinative impact on the LDF process.
360. The Council has embarked on revising local development documents. Approving an application of the size and scale of Queensway in advance of their preparation would be premature; it is using a short-term supply issue to determine the mid- and long-term position. Limited weight should be given to

²⁸⁴ QED's representations together with attachments are at INQ80 and 81

the current supply shortage whilst considerable weight should be accorded the Council's right to determine its longer-term housing requirements via the plan process.

361. The Borough's housing supply is similar to that at the time of the previous Inquiry. Nevertheless, in reality, it will improve immediately once a revised supply figure is adopted although there is a possibility that a shortfall will remain. However, the triggering of PPS3, paragraph 71 in relation to the supply shortage did not outweigh other harm caused by the scheme following the previous Inquiry nor did it do so at the Mowbreck Lane or Ballam Road Inquiries where the housing supply position was similar. The same applied in the Cala Homes case in Winchester²⁸⁵ and the Wainhomes scheme in Cornwall²⁸⁶. The Queensway scheme would deliver an insufficient quantity of affordable homes and, particularly, an improper mix of housing in the St Annes area where demand for affordable homes is greatest and the need continues to grow. The proposal would not accord with advice in PPS3. The scheme would provide few services and would create pressure on those which exist.
362. The proposal fails to make efficient and effective use of previously-developed land and would result in the overuse of greenfield land using BMV land, which is avoidable.
363. The Queensway scheme would result in the loss of BMV land. The SoS in the Mowbreck Lane appeal considered the loss of BMV land there would be at odds with the approach of PPS7 and that it had not been shown that the development of agricultural land is unavoidable now. The present case should be determined in accordance with this stance. The Council will have many sites to consider in its LDF process, many of which may not result in such a large-scale loss of BMV land. The LDF is the appropriate mechanism for carefully weighing up all the options, including deciding what losses of agricultural land should be accommodated and where and whether any losses are necessary. The loss of agricultural land for housing, separately and in combination with the Link Road, would be at odds with both PPS7 and PPS3.

Prematurity

364. Circumstances have changed since the previous Inquiry. The Council's LDF Steering Group is now in the process of considering its strategic options and recent appeal decisions (Mowbreck Lane and Cala, Winchester) reinforce the priority which should be accorded to the rights of local communities to determine their LDFs. To allow 1,150 homes now would be inconsistent with this and would effectively pre-determine the short- to mid-term housing supply. It could completely determine the 10-year housing supply even before the LDF process is concluded and pre-determine the location of housing, concentrating a disproportionate amount in one quarter of the Borough. It would result in a disproportionate amount of housing for St Annes and would result in an excessive growth rate there. To approve a site of this size, with so low a level of affordable housing, would require other sites to deliver a significantly greater proportion of affordable homes than they might otherwise.

²⁸⁵ CD114

²⁸⁶ CD118

Approval is likely to risk the delivery of insufficient affordable homes and could result in an inappropriate distribution.

365. Approval of Queensway would prejudge decisions on settlement boundaries. The place for considering significant alterations to such boundaries and the allocation of greenfield land is within the LDF process. The SHLAA confirms that there is little evidence to suggest large-scale release of greenfield sites would be required. Approval of the Queensway scheme, when it has not yet been determined whether so many houses are required on greenfield sites, in advance of the consideration of other options which could include the proposal at Whyndyke, would be premature.
366. Substantial and permanent harm would result to the Green Belt as a result of the construction of the T5 road and its connecting roundabout with the Link Road. As the Green Belt is so small its significance is increased and it should be afforded greater protection.
367. The land affected by the Queensway proposal is of ecological interest. Approving the proposal would bring forward a site prior to the consideration of such interests on other sites identified in the SHLAA and which should be assessed as part of the LDF process.

T5 and the T5/Link Road roundabout

368. The previous Inspector considered there were very special circumstances for the T5 road sufficient to outweigh the harm that would result to the Green Belt. There have been material changes in circumstances since then.
369. The Borough's housing supply has been significantly improved and there are many advanced options to improve the housing supply still further. Recent appeal decisions suggest that the five-year supply argument does not overrule harm and prematurity.
370. The previous Inspector indicated that he was not aware of other schemes which could provide for the short-term affordable housing need. There are now many applications coming forward which could address this, which could meet the 30% target and which wouldn't put the overall affordable housing target at risk.
371. For the reasons set out above, the proposal would be premature and the issue of prematurity has moved on considerably since the previous appeal, as evidenced by other appeal decisions.
372. Under the LP it is not envisaged that the Queensway development should make any contribution to funding the Link Road as the concept of this development does not exist. The proper place to determine funding sources is via the Local Plan.
373. The T5 road and its connection with the Link Road would not only cause substantial harm to the Green Belt but is the result of a design of housing estate with poor access and connectivity. Poor design should not be a special circumstance.
374. The SoS has stated in relation to the localism agenda that "the Government has made it clear that its intention is to return decision-making powers in

housing and planning to local authorities". This is reinforced in other appeal decisions. Now under the Localism Act more weight should be afforded to the rights of councils, via proper public consultation, to determine and act within their Local Plans especially in relation to major strategic decisions. Whilst the Link Road might have policy backing, and FBC supports it in principle, the Council has stated that it does not believe it is so important or urgent that the Queensway scheme should be approved to fund it.

375. The abolition of the RSS has now moved closer, with the Government expecting orders to be made to effect revocation this spring. Whilst the RSS remains in force, it should now be afforded only limited weight.
376. If approved, construction jobs would be created by the Queensway scheme. However, the bulk of these are likely to come after five years. The debate concerning this scheme is not about jobs and growth but which are the right schemes in the right locations to provide appropriate jobs and growth for the future. The Borough's LDF will identify schemes and locations for housing and employment opportunities and will consider the balance across locations and sites. Short- and mid-term construction job opportunities are already in the pipeline.
377. The countryside on the periphery of St Annes should be afforded more protection as the town is unique amongst Fylde settlements in that it is not surrounded by countryside on all sides. Access to tranquil surroundings for present residents would be lost.
378. The Annual Monitoring Report (AMR) shows a low forecast of population increase for Fylde. Within its LDF process and in determining revised housing numbers the Council is considering a profiled housing supply whereby the annual requirement in early years would be lower and would increase in later years of the plan period to deliver the total requirement. It would appear from the AMR that this would be substantiated and would help address, if not completely resolve, the five-year supply issue depending on the profile chosen. Furthermore, there are almost as many empty houses in Fylde as would be provided by the Queensway scheme and considerably more empty houses currently than the whole of the housing growth requirement forecast in the AMR over the next six years. Better use of the existing housing stock should be assessed in the planning balance.
379. At present, the impact of shale gas extraction in Fylde is not known. The potential once known undoubtedly will be reflected in the Council's strategic planning. This is a material consideration when determining the long-term land use of Lytham Moss, particularly having regard to the location of the FCA in relation to any potential drilling.

Flood risk

380. It is wrong to build houses and a school right up to the very edges of the current flood zone. Since the previous Inquiry there have been changes to PPS25 and three local documents relating to drainage and flooding have been

produced²⁸⁷. In particular, the revised Fylde Borough Strategic Flood Risk Assessment indicates that about half the Queensway site is now placed in Flood Zone 3. This suggests that only appropriate development would be permitted within this area subject to the sequential test and exception test being carried out as necessary. This is a further example of prematurity; the site could be at a higher relative risk of flooding than other sites identified in the LDF. Development for the long term in Fylde should be directed away from low-lying areas that could be at risk in the future as a result of climate change.

Link Road

381. LP Policy TR13 indicates that the middle section of the road is to follow the existing route across Lytham Moss. The chosen route deviates from this to overcome land ownership issues. It would result in more harm to the Green Belt than would the earlier approved scheme and would increase the safety risk to horse riders, cyclists, pedestrians and motorists.
382. In development plan terms the identified need for the road relates to access to employment areas with no reference to housing provision. It seems curious therefore that the case for funding is now being made entirely from a single housing development. In the Local Transport Plan the road has been consistently seen as a lower priority compared to other road improvements.
383. QED's own local observations suggest the traffic throughout Lytham St Annes is not generally a serious problem and certainly doesn't justify the construction of 1,150 homes at Queensway. Traffic queues in the area are very minor by comparison with those experienced in neighbouring areas.
384. Consultation on the revised LTP (2011-2021) did not highlight any pressing problems of congestion justifying the Link Road provision. The diversion of HGVs from existing roads onto the Link Road would not be a benefit but would be a major disadvantage in that it would lead to greater volumes of HGVs navigating residential roads. In terms of safety the sub-standard North Houses/Wild Lane performs well in terms of accident statistics. However, the increased attraction of HGVs and their release onto unsuitable residential roads at the end of the Link Road would result in an increased safety risk.
385. There is nothing in the LP that suggests the Queensway scheme is in anyway directly related to the Link Road or that it should fund the central section of it. The LP demonstrates that houses are not directly related to the road provision and it is clear that the Council had other development in mind when concluding that the Link Road and its protection through Policy TR13 was deliverable. Using the Queensway scheme to fund the road should not be accorded any weight in the road provision's favour. Contributions to funding could be made from employment schemes around the M55 junction 4 area. The SHLAA has identified many sites in the immediate area which could be available to make a contribution to the link road during the lifetime of the current planning cycle. The LCC ES indicates that the road doesn't have to be funded by Queensway. Circumstances have materially changed since the

²⁸⁷ Ribble Catchment Flood Management Plan, Blackpool and Fylde Coast Protection Strategy and Strategic Flood Risk Assessment

previous Inquiry. It seems as if KPT need to rush through the Queensway proposal as the only potential funding source for the Link Road in advance of all the other schemes which could contribute to funding the road.

386. In relation to the CIL regulations the Queensway proposal clearly fails test b); the LP assumes that the Link Road is to be funded by development but also restricts development on the Queensway site. No houses on the site were envisaged and there can be no doubt there is no direct relationship between this development and the Link Road. Furthermore, the LP is explicit in stating that the Link Road section between Whitehill Road and Anna's Road should be funded by contributions by development on the EMP1 allocation. CIL test c), requiring an obligation to be fairly and reasonably related in scale and kind to development, is not fulfilled; the development offers 10% affordable housing rather than the 30% needed in St Annes. The scale of the contribution to the road is disproportionate given its effect on the need to contribute to affordable housing requirements.

Development Management Committee Report

387. The BPO's report to FBC's October Development Management Committee was written in haste and was consequently imbalanced. The report gave the impression that most of the reasons for refusal had been resolved when it should have made it much clearer that the reasons in the Council's case defended at the previous Inquiry were still applicable and hadn't changed.

Consultation

388. The survey results from 2008 from an informal public exhibition are claimed by KPT to show a large majority of local residents support the proposal. However, a very small number of people attended the exhibition and the figures are not statistically significant. Based on QED's experiences, the surveys undertaken in November and December 2011 have been unbalanced and one-sided. The correct place for fair and balanced consultation should be within the LDF process and one-sided consultation should carry little weight.

Ecology

389. It is now the view of LCC's ecologist that the Queensway and Link Road schemes would result in ecological enhancement. QED's view is that there have been no material changes which warrant the reappraisal from the previous view that the combined scheme would result in only adequate mitigation.

Other written representations²⁸⁸

390. Most of the representations cover points already summarised above. Additional matters raised are summarised below.
391. The current Wild Lane/North Houses Lane should be upgraded rather than a new Link Road built since this would have a less deleterious effect on the Green Belt.

²⁸⁸ INQ82

392. The very high peat content makes the ground conditions very delicate and susceptible to movement and subsidence. Increased volumes of traffic and HGVs, with associated vibration, could exacerbate the problem.
393. Lytham Moss is a wild, exposed landscape which provides its appeal, interest and identity. To start carving it up and managing it would be the death knell for the Moss. The proposed housing development would irrevocably change the landscape and character of the outskirts of St Annes and destroy one of the remaining areas of special wildlife interest away from the coast.
394. The proximity of the proposed development to the Fylde Scout Campsite would encroach into its open aspect and reduce the pleasure and sense of adventure for its visitors.
395. Letters sent to residents asking for confirmation of support for the two schemes provide no substantive information regarding the proposals on which an individual could make an informed decision. It is suggested that the support letters elicited can form no evidence of support given the nature by which they have been obtained.

CONDITIONS AND OBLIGATIONS

Conditions

396. Conditions that should be imposed if planning permission is granted were discussed at the Inquiry and I have considered these in light of advice within Circular 11/95 *The Use of Conditions in Planning Permissions*. I deal with those relating to the two proposals separately.

Queensway

397. Conditions relating to the Queensway proposal were considered by the previous Inspector and were listed in Annex 1 to his report²⁸⁹. These were accepted by the Secretary of State as being reasonable and necessary and meeting the tests of Circular 11/95 had he been minded to grant permission. The set of conditions was used as the basis of discussion during the present Inquiry with the main parties agreeing that the majority of these were still appropriate. I do not repeat the previous conclusions reached and reasons given on these, with which I have no reason to disagree. Some necessary amendments, additions and deletions were suggested and these are set out below. A composite list of conditions produced in light of this discussion and my consideration of these is set out in Annex A to this report.
398. Condition No. 3 has been modified to refer to the updated Master Plan. Given that the Master Plan now omits the ribbon of residential development extending to the east of bridleway BW15, and as the Link Road is subject to a separate planning application, there is no need for the previously suggested condition No. 4. Given that the application is in outline, with appearance and layout amongst the matters reserved, I do not consider the previously suggested condition No. 6 to be necessary. Similarly, because these matters

²⁸⁹ IR (CD98)

are covered by obligations within the proffered UU (see below) I do not consider the previously-suggested conditions 15 and 26 to be necessary.

399. The previous condition relating to the need for the approval of details of street lighting has been altered to explicitly state that lighting should be designed to minimise artificial illumination of wildlife habitats, including the FCA and the Nature Park, and to prevent perching birds (for air safety reasons). Previous condition No. 7 has been altered taking into account the views of Natural England²⁹⁰, to ensure protection for nesting birds. In light of updated ecological information and the comments of NE, previous condition Nos. 8, 9 and 10 have been reworded, and additional conditions added relating to landscaping and habitat works, and soil conservation. In light of comments from the EA and as suggested by FBC, a condition relating to the implementation of flood storage works and culverts has been added to ensure no increased flood risk.

Link Road

400. There was broad agreement with the suggested conditions relating to the Link Road and these are set out in the Annex together with the reasons for their suggested imposition. The commencement condition is suggested as being five years rather than the normal three because of the nature of the infrastructure works and funding arrangements. Condition No. 14, relating to the intermediate roundabout junction with the T5 road, is necessary in the event that the Queensway scheme is not granted permission and is not implemented.

Planning Obligations

401. There are two fully executed planning obligations, one in the form of a UU and the other in the form of an agreement between the landowners, prospective developers and LCC. The provisions of the obligations were explained and discussed at the Inquiry.
402. The Queensway UU²⁹¹ relates to: the provision of the No. 17 bus service through the site; the securing of the Bird Hazard and Control Plan; provision and maintenance of the Nature Park and FCA; the transfer of land to the local education authority and financial contribution for the provision of a primary school; provision of affordable housing; the funding of the remaining section of the Link Road; the provision of the T5 road; and the provision of a Green Travel Plan. The UU has been discussed with FBC. The Council is content that the obligation works practically and legally, would achieve what it sets out to do and would be compliant with the CIL Regulations. Similarly, the UU has been discussed with LCC and it too is content with its terms.
403. Just before the conclusion of the Inquiry it was noticed that there was a typographical error in paragraph 3.6.12 of Schedule 2 of the UU. The intention of this paragraph is that the freehold title of the FCA may be transferred by the developer/owner to a nature conservation organisation (not the FCA as stated in line six). INQ78 is a letter from the Managing Director of Kensington

²⁹⁰ See INQ76

²⁹¹ CD147

Developments (Queensway) Ltd and Kensington Developments Ltd, the owner and prospective developer, clarifying this intention. I consider that the intention is clear as explained in the letter and that this error does not nullify the obligation. However, the Secretary of State may wish to consider this being formally rectified if he decides that planning permission should be granted and that this obligation is necessary to make the development acceptable.

404. The additional agreement entered into between the landowners, the prospective developer of the Queensway scheme and LCC would secure amongst other matters: the payment for and the carrying out of works to create the compensatory floodplain; payment for landscaping alongside the Link Road in accordance with a Landscape Management Plan and its implementation; the carrying out of obligations in respect of the FCA; and the securing and implementation of a scheme for the protection of water voles.

CONCLUSIONS

The references in square brackets refer back to earlier paragraph numbers of relevance to these conclusions. Where these are prefixed by 'IR' the paragraphs referred to are those within the previous Inspector's report dated 29 January 2010.

405. Taking account of the oral and written evidence, my site visits, the previous Inspector's report on the Queensway proposal and the matters on which the Secretary of State wishes to be informed, I view the main considerations in this appeal and application to be as follows:

The Queensway proposal

- The relationship of the proposed development to extant development plan policy and that which is emerging.
- Whether the Queensway scheme would be premature in relation to preparation of the Local Development Framework (LDF).
- The extent to which the proposal would be consistent with advice within Planning Policy Statement 3 (PPS3) *Housing* having regard to housing land supply, the nature of the site and mix of housing proposed, including affordable housing, and whether it would represent sustainable development.
- The proposal's connectivity with the existing urban area and its impact on highway function and safety.

In relation to both the Queensway and Link Road schemes

- The relationship of the Queensway scheme to the Link Road.
- Whether the schemes comply with Green Belt policy and, if not, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify inappropriate development.
- The impact on nature conservation interests, especially whether there would be any significant adverse impact on the integrity of the nearby Ribble and Alt Estuaries and Martin Mere Special Protection Areas (SPAs).
- Whether the proposals would cause unacceptable harm in terms of drainage or flooding.
- Whether any permissions should be subject to planning conditions and planning obligations.

406. In considering the above matters I have had regard to the Environmental Statements (ESs) produced both for the Queensway and Link Road proposals, the updates carried out to them and the additional environmental information and evidence produced in the context of the Inquiry. This has amounted to a comprehensive and thorough environmental impact assessment. Having regard to the need for Appropriate Assessment under the Habitat Regulations in terms of ecological impact, this is addressed in paragraphs 454-458 below. [10, 11]

Queensway; development plan policy

407. At the time of the Inquiry the development plan remained the same as when the previous Inspector considered the Queensway scheme in late 2009/early 2010, namely the North West of England Plan Regional Spatial Strategy to 2021 (the RSS) and the saved policies of the Fylde Borough Local Plan 2005 (as altered) (the LP). In terms of the latter, there is no dispute that the appeal site is not allocated for development and lies outside the defined settlement boundary for St Annes. It is within an area defined as countryside where development is restricted in accordance with Policy SP2 and the proposal does not fall within any of the limited categories of development that Policy SP2 allows. Conflict with Policy SP2 is not disputed. However, the LP was not produced in the context of the RSS; it was adopted as being in general conformity with the former Joint Lancashire Structure Plan (JLSP). That plan set an annual housing requirement for Fylde Borough of 155 dwellings. The LP makes clear that the whole of the JLSP requirement was accounted for by commitments and that there was already a significant potential over-supply of housing land. The defined settlement limits within the LP were clearly drawn in a restrictive manner on the basis of the strategic housing requirement for the Borough having been met and therefore new housing was to be strictly regulated. [21, 40, 79, 257]
408. The advent of the RSS changed the position. RSS Policy L4 requires Fylde Borough to provide for 306 new dwellings per annum between 2003 and 2021. When set against this requirement it is an agreed position between the Appellant (KPT) and Fylde Borough Council (FBC) that there is currently only a 1.4 year supply of housing land, a slight worsening of the position since late 2009 when the agreed supply was 1.5 years²⁹². I have no doubt that the Appellant's claim that some 350 units could be delivered within the five years would make a significant contribution when set against the Strategic Housing Land Availability Assessment (SHLAA) identified deliverable quantum of only 326 (whether or not conversions and windfalls are allowed for). [20, 41, 57, 61, 249]
409. The Council is not in a position currently to be able to facilitate accordance with RSS Policy L4 in terms of allocation of land. There is acceptance that on the basis of any reasonably foreseeable locally-derived housing target the Council is not able to demonstrate a five-year supply. The SHLAA indicates, and the Council accepts, that to provide more housing there will be a need for the use of greenfield land. It is common ground that planning permissions beyond settlement boundaries will be required if the housing land shortfall is to be addressed in accordance with national guidance. [47, 72, 210, 212, 214]
410. The Appellant's challenge to the Secretary of State's decision following the previous Inquiry was conceded on the basis of the determination of weight to be given to the RSS Policy L4 requirement for Fylde Borough to provide 306

²⁹² There is a difference of opinion within the evidence as to the actual quantum of deliverable housings units identified in the SHLAA, published in September 2011, for the period 2011-2016. KPT refers to a figure of 326 units whilst FBC refers to 536 units, the latter making an allowance for windfalls on small sites and for conversions and which KPT disputes. Whichever figure is used, it does not alter the agreed position that there is only a 1.4 year supply of housing. [57, 251]

dwellings per annum in light of the expressed intention to abolish regional strategies. RSS remain in force and are part of the development plan for the time being. The expressed intention to abolish regional strategies is, however, a material consideration to be taken into account in according weight, as made clear in the case of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin). Also, having regard to the Metacre residential appeal decision at Mowbreck Lane, Kirkham Wesham, the Inspector there considered, and the Secretary of State agreed, that there were significant change factors which justified giving limited weight now to the evidence base which informed the RSS. These included the reduced estimate of population growth and the significant level of housing which could be provided within settlement boundaries as evidenced by the SHLAA. [1, 158, 249]

411. However, Policy L4 takes into account and reflects advice within PPS3, which requires a continuous five-year supply of deliverable sites available for housing. This requirement has been more recently reiterated within the DCLG Chief Planner's letter of 6 July 2010. Paragraph 71 of PPS3 indicates that where local planning authorities are unable to demonstrate an up-to-date five-year supply of deliverable sites they should consider favourably applications for housing having regard to criteria set out in paragraph 69 (these criteria are considered further below). This provides some support for the proposal. Nonetheless, it is clear that, bearing in mind the High Court's decision on the challenge to the Mowbreck Lane decision, the favourable consideration implied by paragraph 71 has still to be applied subject to development plan presumptions under section 38(6) of the Planning and Compulsory Purchase Act 2004. [62, 255]
412. In terms of reliance on Policy SP2 to counter the proposal, I consider the weight to be accorded to it is diminished in the light of more recent national planning advice, notably that in the Ministerial Statement of March 2011, *Planning for Growth*. This states that, wherever possible, applications should be approved where plans are out-of-date. The Council's witness conceded that Policy SP2 should be regarded as out-of-date in terms of *Planning for Growth* and I have no reason to disagree. [85]
413. Where policies have been saved it is clear that this is on the assumption that they would be promptly replaced through rapid progress on the preparation of development plan documents. Whilst Policy SP2 was saved in 2007, progress on DPD preparation within Fylde has been slow and it is likely to be at least another three years before there is a Core Strategy. Government Office letters dealing with saved policies draw attention to the importance of reflecting policy in PPS3 and SHLAAs in decisions. The reason for extending saved policies was to ensure a continued supply of land for development. In this case reliance on Policy SP2 to prevent the proposal would thwart this intention and the Council's ability to start to meet the RSS housing provision requirement. [82, 85]

Prematurity

414. The Council argues that the options for devising a Core Strategy (CS) would be severely curtailed if planning permission was to be granted now; that it would cause such harm to the plan-making process that it ought not to be

permitted at present; it would usurp the collaborative process that LDF preparation is supposed to be; and would not accord with the localism intention of increasing the role and involvement of local people in plan-making. In short, it would be premature to allow the proposal now and that this is the main, but not the sole, concern of the Council. It is a concern shared by QED. [260, 261, 267, 364, 365, 371]

415. The previous Inspector considered that: the scope for greenfield allocations would be likely to be reduced very considerably if the appeal was to be allowed; however, there was no evidence to suggest that any other settlement within the Borough would be deprived of the opportunity to expand where this was being actively sought; St Annes was one of the largest settlements in the Borough where a substantial amount of new housing would be expected to be accommodated; and that no preferable greenfield sites around the town had been suggested. KPT argue that these conclusions have not been undermined by evidence at this Inquiry. [IR320]
416. Given the housing requirement of the RSS (including its requirement that at least 65% of housing should be on brownfield sites) and the fact that, whilst still extant, the LDF would need to take account of this, it is clear that the scope for greenfield provision elsewhere would be limited if permission was granted at Queensway; the scheme would provide 1,150 of the 1,298 provision leaving only 148 that could still be constructed on greenfield sites up to 2021. There is, however, some force in KPT's argument that as the DPD process has been delayed (discussed further below) it is likely that the CS would need to deal with a plan period up to the end of 2029, which is likely to require the release of greenfield peripheral sites over and above Queensway. [260]
417. The Council has produced an Interim Housing Policy (IHP) to assist in decision-making against the background of the need to take into account the higher dwelling requirement of the RSS and the slow progress being made in the production of DPDs. Consultation did take place on the 2008 document and it was adopted by the Council. No such consultation took place on later 2010 changes to the IHP. It is only an informal document because it has no parent policy in the LP, it is not a Supplementary Planning Document, and is at odds with advice within PPS12. Although KPT suggests that FBC is using this as a way of specifically preventing the necessary housing land coming forward, the Council points to the decision at the Nine Acres Nursery site, which is outside settlement limits, to show that the IHP is applied flexibly. Irrespective of this, like the Inspector at the Mowbreck Lane appeal, I consider that little weight should attach to the 2008 version of the IHP and even lesser weight to the 2010 version because of its informal status. [22, 94-98, 266]
418. *The Planning System: General Principles* advises that the refusal of planning permission on grounds of prematurity will not usually be justified especially where an emerging DPD has no early prospect of submission for examination. This guidance does accept that there may be circumstances where a proposed development is so substantial that refusal on prematurity grounds is justifiable because it would prejudice the DPD by predetermining decisions about scale, location or phasing of development. If planning permission is to be refused on grounds of prematurity it needs to be demonstrated clearly how the grant of permission would prejudice the outcome of the DPD process. Also, when a DPD is at the consultation stage with no early prospect of submission for

examination, refusal on prematurity grounds will seldom be justified because of the delay which this would impose in determining the future use of the land in question. Paragraph 72 of PPS3 reiterates that local planning authorities should not refuse applications solely on grounds of prematurity. [105, 268]

419. The Council has embarked on the preparation of a CS but this is at a very early phase and is not even near the consultation stage, with no draft documents having yet been produced. There has been slippage in the suggested dates by which the CS was likely to be adopted and in the four and a half years since the saving of selected LP policies no LDF documents have been prepared. Only a minority of proposed subject papers have been completed, there is nothing in the public domain, numerous stages would need to be gone through to progress the strategy and it is likely that it will be at least the end of 2014 before the CS would be produced. In these circumstances, I find it difficult to see how the proposal, despite its scale, would prejudice the outcome of the process if the Council is not yet in a position to know the starting point of its plan philosophy. The Council's future intentions at this stage can be no more than speculation. That said, there is no evidence to suggest that, as the largest town within the Borough with a good range of facilities, St Annes would not continue to be the principal focus for housing development in the future. [83, 102-103]
420. The LP describes St Annes as a first tier settlement where a large proportion of development in the Borough will be concentrated. In this regard, there has been an assessment of land around Lytham St Annes on behalf of KPT (together with one by the Borough Planning Officer in the context of the October 2011 report on the Queensway proposal). Because of both physical and development constraints, other than the appeal site and land immediately adjacent, there is no other land available around St Annes for greenfield housing development necessary to contribute to the Borough's housing requirement. The 2011 SHLAA confirms that the appeal site is the only area on the edge of St Annes capable of accommodating a large-scale settlement extension. This was not challenged at the Inquiry. It would therefore suggest that there would be unlikely to be any significant prejudice to future development plan policies in relation to the location of future development. [64, 69, 83]
421. Much reference has been made to the Mowbreck Lane appeal decision. There are considerable differences between that scheme and the Queensway proposal whilst at the same time touching on some similar issues. The Inspector there recognised that there were significant issues for the Council to determine in its DPDs regarding the extent, location and scale of additional housing. However, in light of the process, which was then said to be likely to take up to five years, he considered that such a lengthy delay was not one envisaged by guidance within *The Planning System; General Principles*. As such, refusal on the grounds of prematurity could not be justified, a view shared by the Secretary of State. [93, 194, 270]
422. The Inspector's report was dated November 2010 and the Secretary of State's decision letter March 2011. The progress since then by the Council on DPD production has been slow albeit the projected CS is now somewhat closer and it is likely that strategic locations for development will be included in the CS. It is also the case that the scale and quantum of the Queensway scheme

is far greater than the Mowbreck Lane site (on which it was envisaged that up to 264 dwellings could be incorporated) and therefore arguments regarding predetermination of the location and scale of housing within a Borough-wide context have somewhat more force. [262]

423. Furthermore, the Mowbreck Lane Inspector concluded, and the Secretary of State agreed, that even though refusal on the basis of prematurity could not be justified there were other factors which meant the release of the land at that time would be inappropriate. These related to the pre-empting of decisions on revised settlement boundaries and on the release of agricultural land. Having regard to the former matter, this would certainly be the case bearing in mind the fact that the Queensway appeal site currently lies beyond the defined settlement boundary within the LP. Nonetheless, the ability of the appeal scheme to secure the implementation of the Link Road is a significant distinguishing factor between the schemes, as is the fact there is no substantive objection to Queensway on the basis of impact on character and appearance. Furthermore, there is the acceptance that for St Annes Queensway is the only location where major housing could be accommodated. [93, 194, 229]
424. The Council does not point to the loss of Best and Most Versatile (BMV) agricultural land as a reason in its own right for rejecting the proposal. However, it suggests that it adds weight to its argument on prematurity since the loss of major areas of agricultural land ought to be dealt with in the development plan. KPT indicates that some 8.5ha of BMV agricultural land would be lost to the development within the residential area and because of the construction of the T5 road. This updates the position at the last Inquiry when the loss was put at some 9.5ha. [107, 171-172]
425. Reference has been made to the appeal decisions at Mowbreck Lane and Ballam Road where the loss of lesser amounts of BMV agricultural was seen as contributing to the objections to these schemes. Nevertheless, at the previous Queensway Inquiry the Inspector recommended that the loss of soil and agricultural land was not unacceptable and this was not seen as an issue by the Secretary of State. It was further argued at the previous Inquiry that land within the proposed Nature Park should also be included within the calculation of BMV agricultural land loss. About 3ha of BMV land falls within the Nature Park. The Council at this Inquiry sought to argue that this land should be included in the calculation of loss since the proffered Unilateral Undertaking (UU) would secure the Nature Park in perpetuity, thereby implying there could be no reversion back to agricultural land. [177-178]
426. I have no reason to come to a different conclusion to the previous Inspector who considered that the non-residential elements of the scheme would not involve an irreversible loss of agricultural land. The amount of good quality agricultural land that would be lost would not exceed the 20ha threshold formerly regarded as potentially significant in national advice and that within the Nature Park would not be lost or modified. The Council has not expressed its objection in terms of LP Policy EP22, which seeks to protect agricultural land. PPS7, paragraph 28 indicates that the presence of BMV land should be taken into account alongside other sustainability considerations. There is acceptance that the site is otherwise sustainable. I see no substantive reason to take a contrary view to the previous Inspector on the question of loss of

BMV agricultural land and I do not consider the loss of this land adds any great weight to the argument regarding prematurity. [146, 171, 174-175, 179, 353, 363]

427. The thrust of the localism agenda is to allow local decisions to be taken by local people. The Council suggests that in terms of consultation with the local population this should be done through the formal mechanism of DPD preparation. However, informal consultation has been carried out by KPT and this has elicited considerable support for both the Queensway and Link Road proposals from local people. Some 83% of respondents to a questionnaire at an exhibition in 2008 on the Queensway proposal were supportive of the scheme. This is backed up by around 5,700 more recently submitted proforma letters of support, of which 4,000 are from people who live in the locality (representing a range of some 4% to 9% of the population within five wards in Lytham St Annes). [50-53, 273, 306-313, 374]
428. The Council submits that limited weight ought to be attached to the proforma letters given the minimal effort needed by signatories, and an inability to know the appropriate context within which to put this support. An independent on-line newspaper poll would appear to back up the general level of support but I attach less weight to this as it is not possible to know the rigour with which it was carried out. Nonetheless, I consider that this professed support is relevant and weight should attach to what is not an inconsiderable volume from people who have taken the trouble to consider and complete a response. In themselves the various efforts by KPT represent a positive and active effort to engage with the local populace within the spirit of the localism agenda and the Queensway proposal has had a lengthy period in the public domain. [273, 347, 348]
429. Overall, I do not consider the proposed Queensway scheme should be refused on the prematurity grounds.

PPS3

Design, character and appearance

430. There has been no substantive evidence to contradict the conclusions of the previous Inspector regarding the impact of the Queensway proposal on the character and appearance of the area, general design matters and the effective and efficient use of land. His concerns about the eastward-projecting line of housing from the main residential area have been heeded and the revised Master Plan now excludes this. Matters of detailed design, layout and height of buildings could be adequately addressed at the reserved matters stage. I have no reason to suppose that, as per paragraph 69 of PPS3, the scheme would not achieve high quality housing. I therefore concur with the previous Inspector that there is no reason why the proposal should be any less acceptable in terms of its overall design and effect on the character and appearance of the locality than would be normal for an urban extension. [29, 181, 362, IR 304-312]

Housing matters

431. Irrespective of the RSS housing requirement, there is agreement between KPT and the Council that within the Borough there is much less than the five-year housing land supply required by PPS3. There is every likelihood that if permission was granted much of the first phase of housing up to 375 dwellings

would be built relatively quickly, making a contribution to the five-year supply, as stated in paragraph 408 above. This first tranche of development would not be dependent on the completion of the T5 road eastwards and the Link Road. As the previous Inspector also stated, the remainder of the site could contribute in the six-ten year period for which local planning authorities are encouraged to identify specific, developable sites. [61, IR315]

432. The previous Inspector's conclusion that the development would make an appropriate contribution towards the substantial affordable housing needs of the area is equally apposite now. The UU would ensure that the level of affordable housing was not less than 10% of the total housing provision on the site and that as the development would proceed in phases this could rise to up to 30%, if viability provided. QED suggests that the low level of provision would require other sites to deliver a significantly greater proportion of affordable homes than they might otherwise and there could be risk of insufficient provision and an inappropriate distribution. However, the Council does not contest the proposed level of provision and the scheme would deliver more affordable units than have been provided within the Borough in recent years. I have neither seen nor heard substantive evidence to cause a departure from the previous Inspector's conclusion on this aspect. In addition, there is no reason to depart from the conclusion that the scheme would result in an appropriate mix and range of market housing types and sizes. [30, 74, 364, IR321-324]

Highways

433. I consider the relationship of the Queensway proposal to the Link Road in paragraphs 441-447 below. Having regard to other highway and transport related matters there is no substantive evidence to depart from the principal conclusions of the previous Inspector; the diversion of the No. 17 bus service (which has superseded the No. 14 service operative at the time of the previous Inquiry) - to be achieved through a financial contribution secured through the proffered UU - would provide residents of the development with a high quality bus service at least for a period of ten years whilst having only a modest impact on existing users. The scheme would also make adequate provision for travel by other non-car modes of transport – cycling, walking and horse riding. [16, IR334]
434. At the previous Inquiry the Inspector concluded that the acceptability of the scheme in highway and transport terms was predicated on a financial contribution being made to secure the provision of the remaining central section of the Link Road. With this in place, together with the T5 road linking Queensway with it and forming a by-pass to Heyhouses Lane, he concluded that the scheme would not have an adverse impact on the safety or convenience of users of the existing highway network and would be compliant with LP Policy HL2; indeed there would be some benefits in terms of reduced traffic flows and improved environmental conditions on some existing roads. [IR347]
435. Lancashire County Council (LCC), as local highway authority, agrees with the assessment and there is no substantive evidence to counter this. Concerns of QED and others that the provision of these roads would deliver traffic, and especially HGVs, onto residential roads that were not designed for them, was previously considered. But, as then, there is no firm evidence that

this would result in unacceptable problems. What detailed technical evidence that has been provided certainly does not suggest the likelihood of capacity, safety or environmental problems. [350, 384, 392, IR350]

Connectivity

436. The previous Inspector noted that vehicular access to the Queensway development would be provided only at the eastern and western extremities of the site and that it would be better design, and more in accord with integrating new housing areas, for there to be vehicular access from the south-west. This would provide more direct access in the direction of the main built-up area of St Annes. In the absence of such he concluded that the scheme fell short of the highest quality of design. FBC does not raise connectivity as a reason for refusal in its own right but considers it a factor counting against the proposal. [139]
437. Within the context of the present Inquiry KPT explored the possibility of providing a more direct route from the site onto Heyhouses Lane. However, this would be impractical in planning and ownership terms. The route studied would involve the demolition of two dwellings, the land is not within the ownership of the Appellant and would also require the removal of trees protected by a Tree Preservation Order within a Biological Heritage Site. As the previous Inspector noted, even if the buildings and land could be secured, there could be 'ransom' issues. [150]
438. I note KPT's argument that if such an additional access was to be provided it could encourage rat-running through the newly-created housing area, with resultant implications for the residential environment there. However, in my view the likelihood of this could be much reduced through the detailed design of the road and housing layout, which are matters for subsequent consideration if permission was to be granted. [152]
439. Notwithstanding the absence of an additional south-western vehicular access, the accessibility of the site has been assessed using RSS and LCC accessibility scoring systems as being at the higher end of the medium accessibility level. It is an agreed position with the Council in the planning Statement of Common Ground (SoCG) that the site is only a short distance from the town centre and close to a full range of services and facilities. It has good public transport links with regular bus services into the town centre and to Blackpool, would provide for a school within the site and is close to employment opportunities; there would be good public transport links with the diversion through the development of the frequent No. 17 bus service. The UU would also provide for a Travel Plan that could encourage travel by sustainable means. There would be suitable pedestrian and cycle routes to St Annes town centre and to local shopping and employment. [33, 140, 142]
440. For a development of this size and in this peripheral location I share the previous Inspector's view that greater vehicular connectivity would be desirable; it would be more in accord with national advice within PPS1 and PPS3 in relation to the integration of development into its surroundings. However, whilst a negative to weigh in the overall planning balance, I share his view (and that previously expressed by the Secretary of State) that this shortfall in connectivity is not so serious as to be an overriding objection to the proposal. [137-154, 275-282 & IR356-361]

Relationship of the Queensway scheme to the Link Road

441. The Borough Council supports the provision of the Link Road and sees it as beneficial and necessary. A corridor and land for the road's provision is protected under Policy TR13 of the LP. There is common agreement that it is needed to provide a new direct link road between St Annes and the M55 to accommodate growth of the town as the Borough's main urban area. It is necessary to improve traffic conditions in the area where there is presently congestion and where, without it, this would increase. It would aid the situation where there is currently rat-running along the seriously substandard Wild Lane/North Houses Lane, which has a poor safety record in terms of serious accidents. The road would also reduce traffic movements along other local rural roads. Its provision has an assessed benefit-to-cost ratio of 4.6, representing high value for money. I have no reason to doubt that the proposal would result in the considerable benefits attributed to it. [23, 90, 116-118, 125, 135, 294, 296, 298, 315]
442. In terms of the relationship between the Queensway proposal and the Link Road, there is agreement between LCC, as the local highway authority, and KPT that, apart from an initial 375 dwellings, the Queensway scheme is reliant on the Link Road's implementation. Without it there would be significant congestion on roads leading to even greater rat-running along inappropriate highway routes. Conditions would worsen even further along the B5261 (Common Edge Road/Queensway/Heyhouses Lane) corridor with greater delays and unsatisfactory road conditions for drivers and public transport users. With the east-west T5 road connecting to the Link Road the latter would provide the necessary additional capacity to allow Queensway to be fully implemented. The combined scheme would reduce morning and evening peak congestion along the B5261 corridor, with reduced traffic movements along rural lanes. The Link Road would replace Wild Lane/North Houses Lane which would be converted for use by pedestrians, cyclists and equestrians only. There has not been any expert professional evidence provided to challenge these assessments. [43, 106-108, 110, 208, 314, 315]
443. All the land for the construction of the remaining central section of the Link Road is within the ownership of LCC and KPT and there would be no requirement for compulsory purchase. There has never been any intention that the Link Road would be funded from the public purse. The justification to LP Policy TR13 indicates that the whole of the land and funding for the road will be provided by private sector developments. This is confirmed in the Lancashire Local Transport Plan 2011-2021 (LPT3) Implementation Plan. The northern and southern sections of the Link Road, which are already in place, have been secured by private funding. [91, 127, 195]
444. The Queensway scheme would fund the design and implementation of the missing central section of the Link Road at a cost of some £16 million. The UU would ensure that KPT would have invested more than £10 million in the road infrastructure by the time 300 dwellings had been built, with the remaining monies paid in phases with the build-out of successive volumes of housing. If permission was to be granted for both proposals then, with funding secured through the UU, there would be considerable certainty of the Link Road being delivered. In my view, there is little in the argument advanced by QED that the private funding of the road indicates that LCC attaches less importance to

its provision than other schemes. The proposal has policy backing, the support of the Borough Council, as well as significant local support, and it has previously benefited from planning permission. [128, 198, 278]

445. I consider that the funding of the Link Road to be a significantly weighty consideration in favour of the Queensway scheme. Whilst the previous Inspector concluded similarly, the situation now is markedly different in terms of the likelihood of the Link Road coming to fruition since there is a detailed planning application on the table awaiting approval. Although the notion of the Link Road predates the Queensway scheme it would be essential infrastructure for the Queensway scheme, which would rely on its implementation and could not be developed in its entirety without it. There has always been an understanding, as set out in the LP and the LTP, that funding for the road would come from private developers. Its northern and southern completed sections have been so funded. It is the view of both local authorities and KPT that the funding of the Link Road by the Queensway proposal would be compliant with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. I agree; the Link Road would assist in making the scheme acceptable in planning terms, would be directly related to the development and would be fairly and reasonably related to it. [91, 110-111, 114, 119-122, 342]
446. FBC has sought to suggest that the Queensway scheme would not be the only means by which the Link Road could be funded given that there is no evidence that the provision of the road is time-limited; it could be possible to pool section 106 contributions from other developments until 2014 and for the Council thereafter to adopt a CIL charging schedule. However, FBC was unable to point to any present development proposals that would generate any or sufficient resources to fund the road, nor any allowed or proposed developments that could be required to make any financial contribution consistent with the CIL regulations. There is no evidence of any realistic likelihood of the road being provided by any other means. This applies equally to calls made by QED that contributions could be sought from other development, including those from employment schemes around the M55 junction 4. [197-198]
447. There is no policy basis or espoused intention to promote a CIL charging scheme (including a CIL scheme even in draft form) through which the Council could require the payment of any contributions for the road. Furthermore, as LCC points out, any such contributions would be likely to only slowly accumulate whilst construction costs would continue to rise. There would also be a need to purchase land within KPT's ownership, thereby also increasing cost. I am satisfied that the Queensway proposal provides through the UU commitment to funding the only realistic means by which an important beneficial road scheme could realistically come to fruition in a timely manner. [129, 316-318]

Green Belt

448. Within the Queensway scheme as assessed by the previous Inspector, and as agreed by the Secretary of State, only the east-west T5 road would be the contentious element in Green Belt terms. The Inspector considered the road's impact on the Green Belt and concluded that it would be inappropriate development. This is accepted by KPT. Part of the Link Road would also be within the Green Belt and LCC accepts that it too would be inappropriate Green

Belt development. PPG2 makes clear that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should attach to harm by reason of inappropriateness and any other harm. [188, 283, 336, IR389, 456]

449. I have no doubt that the presence of both roads would reduce the openness of the Green Belt to some degree. They would introduce additional man-made features into the essentially agricultural landscape. In the case of the T5 road it would encroach into the countryside and would, to a degree, reduce the visual separation of St Annes and Blackpool, thereby conflicting with two of the purposes of including land within the Green Belt. [283-285]
450. Whilst it is still to be designed in detail, the road would be on a low embankment which would slightly increase its prominence in the otherwise flat landscape though this would by no means be an alien feature within the Lytham Moss area. The need now to cater for culverts in connection with the flood compensation scheme would not materially increase the road's presence. The movement of vehicles along the road would, however, further serve to add to its visual impact, as would any lighting and signage and its roundabout junction with the Link Road. The T5 road would have a slightly sinuous form. This, together with suggested planting alongside, would mitigate its visual impact in what has, in my view, been accurately described as a somewhat 'ordinary' landscape. Nonetheless, I consider there would be some limited harmful impact on the visual amenities of the Green Belt through the introduction of this additional, essentially urban, element. [182, 185, 189, 285, 355]
451. As at the previous Inquiry FBC has sought to suggest that the T5 road could be moved to the south and out of the Green Belt. The previous Inspector considered this and came to the view that this was an unrealistic course of action: movement of the road southwards would mean that the school site could not be provided without removing an area of housing, and significant areas of open space would have to be within the body of the housing site thereby also substantially reducing the housing provision; this reduction in numbers would be likely to make the scheme unviable; and separation of the school from its playing field to the other side of the road, as well as separation of the Nature Park from the housing area, necessitating the crossing of a purpose-built road, would have considerable safety implications and would not be good planning. No evidence at this Inquiry leads me to come to a contrary view. [202-205, IR453-454]
452. In the case of the Link Road, less than half its length would fall within the Green Belt and it would largely run along its eastern boundary except where it turns slightly westwards to form the roundabout junction with the T5 road. It too would have an impact on openness of the Green Belt by reason of its presence including the low bridge over Moss Sluice. Because of its alignment and orientation the road would have minimal impact in terms of reducing the visual separation of St Annes and Blackpool. The visual encroachment into the countryside would be mitigated by the fact that it would run parallel for most of its route with the existing Wild Lane/North Houses Lane. This could be further reduced by linear landscaping alongside and the fact that existing vegetation along its western side would remain. There is no intention to illuminate the road between the northern roundabout junction with Cropper Road/Whitehill Road/Lytham St Annes Way and the intermediate roundabout

junction with the T5 road. Nevertheless, like the T5 proposal, I consider that there would be some limited negative impact on the visual amenities of the Green Belt. [18, 36, 186, 338]

453. Overall, both road schemes would be inappropriate Green Belt development that would reduce the openness of the Green Belt and, in the case of T5, would to a limited degree serve to reduce the separation of St Annes and Blackpool. It is therefore necessary to consider whether the substantial harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify these proposals. Unless this is so then the proposals would conflict with LP Policy SP3, which is protective of the Green Belt. This assessment is carried out below in the overall conclusions and planning balance.

Nature Conservation/Ecology

454. The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) make provision for the designation and protection of European sites, the protection of European protected species and the adaptation of planning for the protection of European sites. Although Lytham Moss is not a European site, whooper and Bewick swans associated with the Ribble and Alt Estuaries Special Protection Area (SPA) and Martin Mere SPA use Lytham Moss for winter foraging. Consequently, an impact on part of this linked habitat could have a negative effect on the integrity of the SPAs. [10]
455. The previous Inspector had originally recorded that the ES for Queensway, the Management Plan for the Farmland Conservation Area (FCA) and the Bird Hazard and Control Plan (BHCP), relating to air safety for Blackpool International Airport, provided sufficient information for an Appropriate Assessment to be made. All the signatories of the Ecology SoCG before the last Inquiry (LCC, Natural England (NE), the Royal Society for the Protection of Birds and KPT's ecological adviser) considered that with appropriate planning conditions and obligations there would be no adverse impact on the nearby SPAs. [219, IR352]
456. Matters have moved on since the previous Inquiry in that the detailed Link Road planning application has been made and this was accompanied by an ES. LCC has always accepted that there would be a need for Appropriate Assessment to consider whether the Link Road and any other plans or projects in combination with it, would be likely to have a significant effect on the European sites. The 'in combination' effect of the Link Road with the Queensway development would be a direct loss of feeding grounds used by SPA-qualifying birds and increased disturbance to, and displacement of, those birds within the feeding grounds that remain. [213, 323-324]
457. LCC carried out an original Appropriate Assessment relating to the Link Road in combination with the Queensway proposal when it remained the planning authority for the road before the application was 'called-in'. This concluded that the proposals would not adversely affect the integrity of the Ribble and Alt Estuaries SPA subject to a comprehensive mitigation strategy being secured through planning conditions and obligations. This was accepted by NE. Since then, fresh and updated surveys have been carried out, the ESs for Queensway and the Link Road have been updated and the original Appropriate

Assessment carried out by LCC has been revisited by its ecologist and by the ecologist advising on the Queensway scheme. [323]

458. The updated ESs, the Habitat Management Plan for the FCA, Habitat and Landscape Management Plan for the Nature Park and the Queensway Bird Hazard Assessment provide sufficient information for Appropriate Assessment. NE continues to support the conclusion of the ecologists that the original Appropriate Assessment remains robust. Both ecologists provided evidence at the Inquiry, including a joint rebuttal of matters raised by QED in its written submission, and this was not challenged by FBC or directly by anyone else. I have neither seen nor heard any other substantive evidence to cast doubt on the conclusion of the Appropriate Assessment. The Secretary of State is now the 'competent authority' in this matter and I see no reason why he should not come to a similar conclusion in making his Appropriate Assessment. There should be no reason for withholding planning permission for either proposal under the Habitats Regulations. [45, 324-325]
459. Having regard to other ecological/biodiversity matters, the two schemes would not have a direct effect on any European Protected Species. The provisions of the Habitat Regulations that relate to licensing do not therefore apply. The Nature Park, to be provided as part of the Queensway development, whilst permitting informal public access would assist in maintaining biodiversity taking into account the loss of open land to the proposed residential development. Its management would be secured by the updated Habitat and Landscape Management Plan, made effective through the mechanism of the UU. There is agreement with LCC that this Management Plan provides a mechanism which would contribute to mitigating any adverse impacts arising from the Queensway and Link Road schemes in terms of impact on SPA birds, a view shared by NE. [325, 326]
460. The proposed 91ha FCA has the primary objective of providing a permanent refuge and feeding area for SPA birds and UK Biodiversity Action Plan farmland priority species. Its purposes also include the mitigation of the development impacts on other features of biodiversity priority, including the proposed Lytham Moss Biological Heritage Site, water voles and farmland birds, and to increase biodiversity on Lytham Moss. The Habitat Management Plan, again secured through the mechanism of the UU, would ensure the provision and maintenance of the FCA in perpetuity. It would restrict management practices and ensure that the area was not used for purposes other than for agriculture and nature conservation. There would also be a qualitative improvement in terms of reliability and regularity of winter feeding for birds given that only crops beneficial to birds would be grown. An Ecological Phasing Plan would ensure that the FCA was laid out and managed prior to any development that could cause habitat loss or displacement of species from their feeding or breeding grounds. [226-230]
461. The previous Inspector considered that the Queensway scheme would be broadly neutral in relation to biodiversity and would not conflict with various habitat-protective RS and LP policies or advice within PPS9. The present ecology SoCG, in summarising the effects of both the Queensway and the Link Road proposals, suggests that there would be compliance with both local and national biodiversity policy. Further, the mitigation proposals would deliver a net enhancement in terms of biodiversity priority species at the Lancashire and

UK levels. This assessment is based on the additional empirical measurement work carried out in the context of the Link Road proposals – which was not available previously. It is not an assessment which has been challenged. I have no reason to come to a contrary view and this is a matter that should weigh in favour of the schemes. [46, 236-238, 326, 389]

462. Blackpool International Airport was previously satisfied with the proposed BHCP agreed between it, NE, LCC and KPT. This provided a protocol to ensure that bird control techniques were employed to avoid the risk of bird strikes without compromising the capacity of the FCA to sustain populations of SPA birds and other farmland birds of biodiversity priority. The Airport was re-consulted because of the need to provide compensatory floodplain (considered in paragraphs 467-468 below). In this regard, it has requested the installation of subsurface methods of storing floodwater to minimise the pooling of water that could attract bird flocks. This would not have any ecological consequences, can be conditioned, the Airport has confirmed that the BHCP continues to be acceptable, and it has no objections to either the Queensway or the Link Road proposals. [167, 231, 232]

463. Other airport-related issues were addressed by the previous Inspector who concluded that none of these raised a serious objection to the Queensway scheme. Nothing within this Inquiry has led me to an alternative conclusion with reference to both Queensway and the Link Road proposals. [IR404-412]

Flooding and related matters

464. The previous Inspector considered the issues of flooding, drainage and ground conditions in some detail in relation to the Queensway scheme noting, in particular, concerns of local residents. He concluded that there were no issues concerning drainage and related matters that could not be dealt with satisfactorily by conditions. There was therefore no overriding conflict with those development plan policies dealing with these matters, including LP Policy EP25 and RSS Policy EM5. [IR392-403]

465. In the context of this Inquiry there has been no countervailing technical evidence to come to an alternative conclusion. FBC, the Environment Agency (EA) and United Utilities have raised no objections. One objector concerned about flood risk, Mr Moor, accepted that had the EA been concerned about flood risk and drainage its concerns would have been made known. The EA has been consulted throughout on both proposals and remains satisfied as to their impact, subject to the imposition of appropriate conditions. [155, 328, 329, 380]

466. PPS25 advocates a sequential risk-based approach to determining the suitability of land for development in flood risk areas, with preference being given to Flood Zone 1. Flood risk has been assessed and flood level data from the EA and flood mapping has been verified by a detailed survey in 2011. The entire residential part of the Queensway proposal lies within the low risk Flood Zone 1. The EA requirement that floor levels of dwellings and the levels of the surrounding ground be raised provides further assurance in respect of the acceptability of building there. Part of the proposed playing fields would be within Flood Zone 2 (medium risk) with part of the T5 and an internal access road lying within Flood Zone 3 (high risk). The roads can be considered as essential infrastructure and there is no reason to doubt that they satisfy the

sequential test of PPS25. I am satisfied also that the roads would comply with the exception test in that the sustainability benefits of the T5 route, the line of which is realistically constrained by the nature of the components of the proposed development, outweigh the flood risk to the road. There would be no conflict with PPS25 advice. [156-157]

467. Of course, a major changed circumstance since the previous Inquiry is the detailed proposal for the Link Road. As part of this would fall within the 1:100 year flood plain the road is to be raised above the predicted flood level to avoid inundation of the road itself. The knock-on effect of ground raising to accommodate this is the requirement to provide some compensatory flood storage. This would only be required in such an event and then only when all existing flood defences fail. [159]

468. The compensatory area, which would lie within parts of the proposed Nature Park, FCA and playing fields, would not be used for normal surface water drainage. Surface water drainage itself could be adequately engineered to be restricted to existing greenfield agricultural rates. The compensatory area is large enough to mitigate for both the Link Road and those parts of the T5 and internal access road within the Queensway scheme that would lie within Flood Zone 3. The works necessary to create the compensatory area would amount to no more than shaving off a maximum of between 310mm and 330mm in any one area and with an average reduction of some 90mm for the combined Queensway/Link Road schemes. The surplus soil would be deposited on the Queensway development and would assist in the requirement for floor and land levels to be raised there. I consider that such minimal works would have no material visual impact on the area. [159-161]

469. I have carefully considered the concerns raised by some local residents and by QED in relation to flooding and drainage and the suitability of the land for construction purposes. However, in light of the continuing conditional lack of objection from the EA, together with the conclusions of the previous Inspector and agreement between the main parties, I am satisfied that there are no justifiable reasons why planning permission for either the Queensway or the Link Road proposals should be withheld on the basis of these issues. [42, 163-169, 380, 392]

Whether any permission should be subject to planning conditions and planning obligations

Planning conditions

470. The planning conditions suggested by the parties and other consultees are set out in Annex A and have been discussed in paragraphs 396-400 above. I consider the conditions as set out are reasonable, necessary and otherwise comply with advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I recommend that they are imposed if the Secretary of State decides to grant planning permission for the two proposals.

Planning obligations

471. There are two planning obligations, one in the form of a Unilateral Undertaking and the other in the form of an agreement. They include a variety of provisions and these are set out in paragraphs 401-404 above. These have been referred to in previous sections of these conclusions. They

are required to mitigate adverse impacts, meet the needs of the proposals and allow the schemes to go ahead. I have had regard to the obligations in the light of Circular 05/2005: *Planning Obligations* and the statutory tests within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The latter states that a planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. There is no disagreement between KPT and the two local authorities that the obligations are compliant with CIL. From the evidence provided I concur. I consider that the obligations are reasonable and proportionate and that, as applicable, any permission should be subject to them. [43, 114, 122, 342, 386]

Overall Conclusions and the Planning Balance

472. It is apt to start by considering the proposals within the context of the Green Belt since this sets a context for assessing their different attributes which might pull in opposing directions.
473. The T5 east-west road component of the Queensway proposal and the Link Road would both be inappropriate development in the Green Belt. Substantial weight should attach to the harm resulting from this. In addition, the roads would reduce openness, in the case of the T5 road this would also to a limited degree reduce the separation of St Annes and Blackpool, and there would be some injury to the visual amenities of the Green Belt. It is necessary to consider whether the substantial harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify these proposals. In this regard what, if any, is the other harm that might arise?

Queensway

474. Having regard to the Queensway scheme there would be conflict with LP Policy SP2, a policy which severely restricts development to categories which do not include those proposed, with development encroaching into the countryside on the periphery of St Annes. However, because of the age of the policy and the background to it, I consider the weight to be attached to Policy SP2 is reduced, particularly in the light of the Ministerial Statement *Planning for Growth*. Given my further conclusions below, this is the only development plan policy with which the Queensway scheme would conflict.
475. Because of its scale, the proposal could have a limiting impact on the scope for allocating other greenfield sites within the Borough as part of the Local Development Framework (LDF) process. That said, there is no evidence to suggest that, as the principal town, St Annes would not continue to be the main focus for development in the future. There is also agreement that because of physical and planning constraints in relation to St Annes the Queensway site is the only realistic greenfield site capable of accommodating substantial housing numbers. In this regard, the significance of the impact on future plan choice must be reduced. Although, because of the stage reached in the LDF process, I do not consider the proposal to be premature, the above limitation would be a negative aspect of the scheme. To a degree, it would pull against the localism intention of more involving local people in the plan-making process.

476. The absence of an additional vehicular access towards the south-western end of the proposed residential area would mean that the scheme would not be as well integrated with the existing urban framework as it might otherwise be. However, whilst a factor to weigh in the balance, given the site's acknowledged sustainable location and overall level of accessibility and connectivity by foot and cycle, this additional negative aspect does not amount in its own right to a fundamental drawback of the scheme.
477. The loss of BMV agricultural land to development would be relatively small and slightly less than when the matter was considered at the previous Inquiry. FBC has not sought to argue this loss as a reason in its own right to refuse the proposal. Like the previous Inspector, I consider that any harm in this respect would be modest; loss of agricultural land is all but inevitable if greenfield sites need to be found to provide additional housing land.

The Link Road

478. Other than the Green Belt impacts already noted, there is no substantive or persuasive evidence to suggest that the Link Road would result in any additional harm, subject to the mitigating and compensatory requirements that could be secured by way of imposed conditions and the proffered planning obligations.

Matters in favour of the schemes

479. The Queensway proposal would accord with RSS Policy L4 in that it would assist in providing dwellings and contributing to the Borough's requirement under the policy of providing 306 dwellings per annum. The RSS remains part of the development plan for the time being although the passing of the Localism Act makes its demise more likely and imminent. This, together with other changed factors since the housing figures in Policy L4 were set, reduces the weight that should be applied to this policy.
480. Nonetheless, PPS3 is clear in requiring planning authorities to provide a continuous five-year supply of deliverable sites available for housing. FBC has failed to do so and the situation has slightly worsened since the time of the last Inquiry, with there now being only an agreed 1.4-year supply. This represents a considerable deficit in supply and in such situations PPS3 urges favourable consideration of housing proposals, although this should be seen in the context of compliance with the development plan and having regard to advice in paragraph 69 of PPS3.
481. The proposal would make a useful contribution to assist in bolstering the Borough's short-term housing requirement as well as that in the medium term. This applies also to the provision of affordable housing where there is an acknowledged substantial need. The scheme would provide an appropriate mix of market housing and there are no issues of design and layout (other than connectivity) given that these are reserved matters. There is no reason to doubt that the scheme would not comply with the requirements of paragraph 69 of PPS3. Other than conflict with LP Policy SP2, given my conclusion regarding LP Policy SP3 reached in paragraph 486 below, the Queensway scheme would be in general conformity with the development plan. Further, there is a strong measure of expressed local support from both residents and businesses in the area for both the Queensway scheme and the Link Road.

482. The submission of a detailed planning application for the remaining section of the Link Road is a significant change factor since the previous Inquiry. The Borough Council is supportive of its provision, which has been a long-held aim underpinned by Local Plan Policy TR13 and by the Local Transport Plan. The fact that planning permission had previously been granted for the road, although now lapsed, is a relevant supportive factor. There would be no conflict with the development plan (given my conclusion regarding LP Policy SP3 reached in paragraph 486 below). The road would improve local traffic and environmental conditions, ease congestion, and be likely to aid highway safety. The provision of an upgraded direct link between St Annes and the M55 motorway would assist the future accommodation of growth in the town and, without it, future traffic conditions would be likely to worsen. The Queensway scheme would provide the funding for the Link Road to be completed in its entirety through the medium of the proffered UU, in respect of which there is agreement that this obligation is CIL-compliant. There are no other foreseeable developments (or combination of developments) that would secure the road's delivery in a timely manner.
483. The Ministerial Statement *Planning for Growth* sets out that it is the Government's clear expectation that the answer to development and growth should wherever possible be 'yes' except where this would compromise the key sustainable development principles set out in national planning policy. Local planning authorities should take account of the need to maintain a flexible and responsive supply of land for key sectors, including housing. There is nothing in either proposal to suggest that sustainable development principles would be compromised. Furthermore, the schemes would result in both direct and indirect employment in terms of construction over a period of several years, there is evidence of local business support for them and one of the principle reasons for the Link Road is to foster and enable the further economic growth of St Annes.
484. There is considerable information, including the Appropriate Assessment carried out by LCC prior to the application for the Link Road being called-in, on the likely impacts of both schemes on nature conservation interests. I am satisfied that this is sufficient for the Secretary of State, as competent authority, to conclude through his own Appropriate Assessment that the schemes, including the proposed mitigation, would not, either individually or in combination with other projects, adversely affect the integrity of the Ribble and Alt Estuaries or Martin Mere SPAs. There should be no reason for withholding planning permission for either proposal under the Habitats Regulations. This is a conclusion reached also by Natural England. Furthermore, with proposed mitigation I conclude that the two schemes, in combination, would also be likely to lead to a net enhancement in terms of biodiversity priority species at local and national levels.
485. In respect of other matters, through the attachment of appropriate conditions and the planning obligations, neither proposal would have adverse impacts on drainage, flooding or the operation of the airport.
486. These latter matters, in particular the ability of the Queensway proposal to fund the provision of the Link Road (whose implementation would itself result in considerable planning benefits) and to make a positive contribution to housing provision, are very significant and weighty considerations in favour of

both schemes. I consider they are sufficient to clearly outweigh the totality of harm of inappropriate Green Belt development, together with the other harm identified. There would therefore be no conflict by either scheme with LP Policy SP3. Very special circumstances exist and, subject to the suggested conditions and the planning obligations, the planning balance is firmly in favour of the proposals such that the two schemes should be granted planning permission.

RECOMMENDATIONS

Queensway

487. I recommend that the appeal in respect of the Queensway proposal should be allowed and that planning permission be granted for the appeal development subject to the conditions set out in Annex A.

Link Road

488. I recommend that planning permission be granted subject to the conditions set out in Annex A.

P J Asquith

INSPECTOR

APPEARANCES

FOR FYLDE BOROUGH COUNCIL

Mr Martin Carter of Counsel	instructed by Mr Ian Curtis, Head of Governance, Fylde Borough Council
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He called

Mr Stephen Ottewell MSc MRTPI	Associate Planner, Urban Vision Partnership Ltd
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FOR KENSINGTON PT PARTNERSHIP

Mr Roger Lancaster of Counsel	instructed by McAteer Associates Ltd
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He called

Mr Rob Bowley Ch Eng MCIWEM	Cole Easdon Consultants
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Mr John Easdon BSc(Hons) CEng FICE MIHT JP	Director, Cole Easdon Consultants
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Mr Francis Hesketh BSc(Hons) CMLI CEnv MICFor MIEEM	Director, TEP
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Mr David Appleton MA NDH MLI	Director, The Appleton Group
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Mr Anthony McAteer Dip TP DMS MRTPI	Director, McAteer Associates Ltd
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FOR LANCASHIRE COUNTY COUNCIL (LCC)

Mr Jonathan Easton, of Counsel	instructed by the County Solicitor
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He called

Dr Sarah Manchester BSc MSc DPhil	Senior Planning Officer (Ecology), LCC
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Mr Nigel Cleave BSc(Hons) MSc CH Eng MICE	Principal Engineer (Highways), LCC
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Mr Rob Bowley Ch Eng MCIWEM	Cole Easdon Consultants
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Mr Francis Hesketh BSc(Hons) CMLI CEnv MICFor MIEEM	Director, TEP
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Mr Jonathan Haine BA(Hons) BTP MRTPI	Deputy Group Head, Development Management Group, LCC
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INTERESTED PERSONS

Mr John Westmoreland	CPRE, Fylde District Group
Mrs Carol Lanyon	St Anne's on Sea Town Councillor
Mrs Brenda Lennox	Local resident
Mrs Palmira Stafford	Local resident
Mr Edward Cook	Defend Lytham
Mrs J Lees	Local Resident
Mr Chris Homer	Local businessman
Mr Fred Moor	Local resident
Mr Chris Howard	Local resident
Mr Bob Dagnall	Local resident
Mr Paul Edwards	Local businessman
Mr Ian Roberts	Local resident
Mr John Ardern	Local resident
Mr Adrian Fielding	Local resident
Mr David Bentham	Local businessman
Mr John Ashworth	Local resident
Mr Richard Eaves	Local resident
Mr Pete Marquis	Local businessman
Mr Anthony Ford JP	Local resident

DOCUMENTS

Kensington PT Partnership

Documents KPT1a – KPT9 were produced for the previous Inquiry and are listed in the Inspector's Report at page 72

KPT10a	Proof of Mr McAteer (general planning)
KPT10b	Summary of Proof of Mr McAteer
KPT10c	Appendices of Proof of Mr McAteer
KPT11a	Proof of Mr Appleton (landscape)
KPT11b	Summary of Proof of Mr Appleton
KPT11c	Appendices of Proof of Mr Appleton
KPT11d	Rebuttal Proof of Mr Appleton
KPT12a	Proof of Mr Hesketh (ecology)
KPT12b	Summary of Proof of Mr Hesketh
KPT13a	Proof of Mr Easdon (highways)
KPT13b	Summary of Proof of Mr Easdon
KPT13c	Appendices of Proof of Mr Easdon (three documents)
KPT14a	Proof of Mr Bowley (drainage)
KPT14b	Summary of Proof of Mr Bowley
KPT14c	Appendices of Proof of Mr Bowley
KPT15	Analysis of letters of support

Fylde Borough Council (FBC)

Documents FBC1/1 – FBC/GM/4 were produced for the previous Inquiry and are listed in the Inspector's Report on page 72

FBC5/1	Proof of Mr Ottewell (Queensway)
FBC5/2	Summary of Proof of Mr Ottewell (Queensway)
FBC5/3	Appendices to Proof of Mr Ottewell (Queensway)
FBC5/4	Proof of Mr Ottewell (Link Road)
FBC5/5	Summary of Proof of Mr Ottewell (Link Road)
FBC5/6	Appendices of Proof of Mr Ottewell (Link Road)

Lancashire County Council (LCC)

LCC1/1	Proof of Mr Haine
LCC1/2	Appendices for the Proof of Mr Haine (planning policy and development control)
LCC1/3	Summary of Proof of Mr Haine
LCC2/1	Proof of Mr Cleave (history, benefits, technical and environmental justification)
LCC2/2	Appendices for the Proof of Mr Cleave
LCC2/3	Summary of Proof of Mr Cleave
LCC2/4	Rebuttal evidence of Mr Cleave
LCC2/5	Appendices for the rebuttal of Mr Cleave
LCC3/1	Proof of Dr Manchester (biodiversity and Appropriate Assessment)
LCC3/2	Appendices for the Proof of Dr Manchester
LCC3/3	Rebuttal evidence of Dr Manchester
LCC4/1	Proof of Mr Hesketh (ecology)
LCC4/2	Summary of the Proof of Mr Hesketh
LCC5/1	Proof of Mr Bowley (drainage and flooding)
LCC5/2	Summary of Mr Bowley's Proof
LCC5/3	Appendices for Mr Bowley's Proof

Core Documents

Core Documents CD1 – CD94 considered at the last Inquiry are listed in the previous Inspector's report on pages 73-75. The following Core Documents are ones submitted in connection with this re-opened Inquiry.

CD95	M55 - Heyhouses Link Road Application dated 29th October 2010
CD96	Environmental Statement (Link Road) Amendments Nov 2011
CD97	Environmental Statement (Queensway) Amendments Nov 2011
CD98	Appeal by The Kensington PT Partnership Site At Land South Of Queensway, St Annes, Lancashire, SoS Decision Letter 30th June 2010 and Inspector's Report
CD99	Statement of Case 2011 KPT
CD100	Statement of Case 2011 LCC
CD101	Statement of view on relevance of the Consultation Draft of the National Planning Policy Framework to the Link Road Proposal 2011 (LCC)
CD102	Statement of Case 2011 FBC (Queensway)

CD103	Statement of Case 2011 FBC (Link Road)
CD104	Statement of Common Ground 2011(Queensway) incorporating addendum to paragraph 3.8
CD105	Statement of Common Ground 2011(Highways) (agreed final draft)
CD105A	Statement of Common Ground (Planning)
CD106	Statement of Common Ground 2011(Ecology)
CD107	Letter dated 7th July 2011 from the SoS giving notice of his decision to re-determine the appeal by KPT site land south of Queensway (APP/M2325/A/09/21 03453)
CD108	Letter dated 7th July 2011 from the SoS giving notice of his decision to call-in the application by LCC for the construction of the Link Road (APP/Q2371/V/1 1/2157314)
CD109	FBC Rule 19 Letter, 15 March 2011
CD110	PIM Inspector's Notes 21 October 2011
CD111	Cala Homes (South) Ltd-v- SoSCLG [2010] ALL ER(D)102 Nov ("Cala 1")
CD112	Cala Homes (South) Ltd-v-SoSCLG and Winchester CC [2011] EWHC97 (Admin) ("Cala 2")
CD113	R (on the application of Cala Homes (South) Ltd)-v- SoSCLG and Another [2011] EWCA Civ 639 ("Cala 3")
CD114	Decision Letter, Appeal by Cala Homes (South) Ltd at Land at Barton Farm, Andover Road, Winchester (APP/L1765/N1012126522) 28 September 2011
CD115	Decision Letter, Appeal by Metacre Ltd Site at Mowbreck Lane, Wesham (App/M2325/A10/2127459)23 March 2011 and Inspector's Report
CD116	Metacre Ltd -v- SoSCLG and FBC [2011] EWHC 2271 (Admin) 1 September 2011
CD117	Environment Agency statutory consultation response (Queensway), 12 December 2011
CD118	SoS Decision Letter, Appeal by Wainhomes (South West) Holdings Ltd Land at Treverbyn Road, St. Austell APP/D0840/AI10/2130022, 31 October 2011
CD119	Appeal Decision, Land at Ballam Rd, Lytham APP/M2325/A/1 1/2150738, 26 October 2011
CD120	FBC SHLAA September 2011
CD121	FBC Housing Land Schedule Report 2010 & 2011
CD122	FBC Special Council Meeting to consider report on position re. revocation of RSS, 5 August 2010
CD123	CIL Regulations 2010
CD124	Ministerial Statement "Planning for Growth", 23 March 2011
CD125	DCLG Environmental Report on the Revocation of RSS (October 2011)
CD126	Localism Act 2011 (Part 6)
CD127	Minute of the Decision of the Special Meeting of the Development Management Committee (10 October 2011)
CD128	PPS3 (2011)
CD129	FBC Development Control Committee 15 December 2010 Report and Minutes

CD130	Report to LCC Development Control Committee 11 March 2011
CD131	Consultation Draft of National Planning Policy Framework
CD132	Amended planning application dated 18 January 2011
CD133	Additional Environmental Information submitted 16 February 2011
CD134	Minutes to Lancashire County Council Development Control Committee 11 March 2011
CD135	Amended flood risk information submitted on 21 November 2011
CD136	Report to Lancashire County Council Development Control Committee, dated December 2011, regarding amended flood risk information
CD137	Minutes to Lancashire County Council Development Control Committee, dated December 2011
CD138	Copy of planning permission ref 5/01/0211 for Heyhouses Link Road
CD139	Lancashire County Council Landscape Strategy - section relating to Mosslands character area
CD140	Letter from Fylde Borough Council dated 17 June 2011 regarding Green Belt issues
CD141a	Design Manuel for Roads and Bridges Vol 11 Section 3 (Parts 7 and 8) November 2011
CD141b	Design Manuel for Roads and Bridges Vol 11 Section 3 (part 8) June 1993
CD142a	Joint Lancashire Structure Plan 2001-2016, Policy 8
CD142b	Lancashire Structure Plan 1991-2006, Policy 34
CD143	Cost Benefit Analysis WebTAG Unit 3.5.4
CD144	Planning Obligation by deed of agreement under TCPA s106 relating to the Completion of M55 to Heyhouses Link (the Link Road s106 agreement)
CD145	Habitats Regulation Assessment M55 to Heyhouses Link Road. A report by Lancashire County Council, February 2011 (the Appropriate Assessment)
CD146	Extracts from The Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations 2010)
CD147	Signed Unilateral Undertaking (Queensway)
CD148	Nine Acres Nursery 10/0766 — FBC Report to Development Management Committee and Minute 13 April 2011
CD149	FBC Local Development Framework Steering Group Meeting Reports and Minutes (Revised Housing Figure Paper and Core Strategy Report) 19 December 2011
CD150	Accidents WebTAG Unit 3.4.1
CD151	Local Transport Plan Implementation Plan for 2011/12-13/14 (extract)
CD152	FBC Local Development Framework Steering Group Meeting Report, 19 September 2011- Emerging Housing Requirement for Fylde (as referred to in Report at CD149)
CD153	FBC Statement of Community Involvement, September 2011

Inquiry Documents

Inquiry documents referred to at the previous Inquiry (referenced IN1-IN34) are listed in the previous Inspector's Report on pages 75-76. Those produced at this Inquiry are referenced INQ and are set out below.

INQ35	Environment Agency letter to LCC, 14 December 2011
INQ36	Opening submissions, FBC
INQ37	Opening remarks, LCC
INQ38	CPRE statement, January 2012
INQ39	Carol Lanyon statement
INQ40	Palmira Stafford statement
INQ41	Bruce Carter statement (filed with INQ82)
INQ42	Brenda Lennox statement
INQ43	J Lees statement
INQ44	Chris Homer statement
INQ45	Fred Moor statement
INQ46	Chris Howard statement
INQ47	Bob Dagnall statement
INQ48	Paul Edwards statement
INQ49	John Ardern statement
INQ50	Letters on notification and lists of persons notified of the Inquiry
INQ51	David Bentham statement
INQ52	John Ashworth statement
INQ53	Richard Eaves statement
INQ54	Population by ward statistics
INQ55	Edward Cook and Margaret Collinson statement
INQ56	FBC Local Development Framework Annual Monitoring Report, December 2011
INQ57	E-mail trail between Francis Hesketh and Natural England last dated 9 January 2012
INQ58	Suggested conditions relating to the Link Road proposal
INQ59	Environment Agency letter of 14 December 2011 to Rob Bowley
INQ60	Pete Marquis statement
INQ61	Andrea Galbraith statement (handed in and not read out at the Inquiry) (filed with INQ82)
INQ62	John Harrison statement (filed with INQ82)
INQ63	Anthony Ford statement
INQ64	Natural England letter, 11 January 2011 to FBC
INQ65	David Bentham letter, 12 January 2012
INQ66	Definitions of population statistical data
INQ67	Natural England letter, 13 January 2012 relating to draft conditions
INQ68	Edward Cook letter, 14 January 2012
INQ69	E-mail from Blackpool International Airport, 17 January 2012, relating to the Bird Hazard Management Plan
INQ70	Mr Simone letter, 21 December 2012 (filed with INQ82)
INQ71	Christine Hedges letter, 5 January 2012 (filed with INQ82)
INQ72	E Wilkes letter, 21 December 2012 (sic)
INQ73	Suggested ecology/biodiversity amendments to conditions for the Queensway proposal
INQ74	FBC closing submissions
INQ75	LCC closing submissions

INQ76	E-mail trail between Natural England and Francis Hesketh last dated 19 January 2012
INQ77	Kensington PT closing submissions
INQ78	Letter of 19 January 2012 on behalf of Kensington Developments (Queensway) Ltd and Kensington Developments Limited relating to the signed Unilateral Undertaking of 9 January 2012
INQ79	E-mail trail between Natural England and Francis Hesketh, last dated 19 January 2012
INO80	QED written statement and attachments
INO81	QED additional written representations
INO82	Bundle of written representations submitted in response to the Inquiry
INO83	Collection of letters of support
INO84	Bundle of proforma letters of support

Plan

A Queensway amended illustrative Master Plan, November 2011 (7230:00:02D)

ANNEX A

LIST OF SUGGESTED CONDITIONS IN THE EVENT OF PERMISSION BEING GRANTED

QUEENSWAY

1. Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission, and the development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
3. Except as provided for by other conditions the development hereby permitted shall be carried out in substantial accordance with the layout shown on Illustrative Master Plan drawing 7230:00:02 D.
4. The details submitted in accordance with condition 1 above shall include details of existing and proposed levels across the site and finished ground floor levels of all buildings. The development shall be carried out in accordance with the approved details.

Ecology

5. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall be avoided between the months of March to August inclusive unless the absence of nesting birds has been confirmed by further surveys or inspections. Such surveys shall be carried out by a suitably qualified and experienced ecologist. If nesting birds (or dependant young) are found to be present, works shall be delayed until such time as nesting is complete and young have fledged.
6. Prior to the commencement of phases numbered A, D, E and F on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development), full details of measures for the creation of habitats in the areas specified in drawing number D1879.01.001L (Habitat enhancement scheme) shall be submitted to the local planning authority for approval in writing. The approved details shall be implemented in full. Details shall be in accordance with sections 9.6, 9.7 and 9.11 of the report 'Land at Queensway St Annes Environmental Statement' (updated November 2011) and section B4 of the report 'Proposed residential and mixed-use development at Queensway, Lytham St Annes, Environmental Statement updated Technical Annex: Ecology, Biodiversity and Nature Conservation, September 2009 Parts A & B' and details relating to the Queensway development within the report 'M55 Heyhouses Link Road, summary of impacts and mitigation for all biodiversity-priority features' (TEP report ref 2599.022, January 2011).
7. Prior to the commencement of any development phase identified on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development), a construction environment management plan corresponding to the development phase shall be submitted to the local planning

authority for approval in writing. The approved plan shall be implemented in full. The plan shall provide for:

- Details of measures to mitigate impacts on biodiversity including a timetable of mitigation works relative to site investigation, site preparation and site clearance.
- Updated surveys to be carried out for features of biodiversity value to inform mitigation proposals.
- Surveys for species listed in schedule 9 of the Wildlife and Countryside Act 1981 (as amended) shall also be undertaken and measures to prevent the spread of any such species shall be implemented if necessary.
- Supplementary feeding of swans within the Farmland Conservation Area if Farmland Conservation Area monitoring indicates this is necessary for the purposes of attracting/habituating swans to the refuge following a change in field pattern and commencement of development.

The Plan shall be in accordance with details provided in:

- Chapter 9 of the report 'Land at Queensway St Annes Environmental Statement' (McAteer Associates Ltd, updated November 2011); and
- Section B4 of the report 'Proposed Residential and Mixed-Use Development at Queensway, Lytham St. Anne's Environmental Statement updated Technical Annex: Ecology, Biodiversity and Nature Conservation, September 2009, Parts A & B'.

8. Prior to any works affecting ditches or watercourses, or within 5m of the top of any associated watercourse bank, the developer shall submit the results of a survey for water voles to the local planning authority for approval in writing. The survey shall have been carried out in accordance with established survey guidelines and shall have been carried out within the preceding 24 months. If water voles are found to be present, a method statement detailing measures that will be implemented for the protection of water voles and their habitat shall also be submitted for approval in writing. Approved details shall be implemented in full.

9. Prior to the commencement of development or site clearance works a further water vole survey shall be carried out in accordance with a methodology that has been approved in writing by the local planning authority. If water voles are found to be present on the site, details of appropriate measures for mitigation and compensation, including appropriate timetables for implementation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable.

Landscaping and soil

10. Prior to the commencement of development phases numbered B and C, E and F, and G and H on drawing number D1879.01.008C (Phasing of mitigation and habitat enhancement in relation to development) landscaping schemes of the residential development area, T5 roadside, school and playing fields shall be submitted to the local planning authority for approval in writing. The approved schemes shall be implemented in full. Schemes shall include details of seed and plant specifications, seeding rates, planting densities, establishment methods,

aftercare, design of culverts to facilitate wildlife connectivity, swales and embankments.

11. Prior to commencement of development details of measures for soil conservation, including stripping, storage, movement and replacement shall be submitted to the local planning authority for approval in writing. Details shall be in accordance with section 8.4.4 of the report 'Land at Queensway, St Annes Environmental Statement'. Approved details shall be implemented in full.

Drainage and flood compensation

12. The development hereby permitted shall be drained on a separate system, with only foul drainage connected into the existing public sewer.

13. No development hereby permitted shall be commenced until a surface water drainage strategy for the development has been submitted to and approved in writing by the local planning authority. The strategy shall include: measures to attenuate surface water discharges to existing 'greenfield' rates by means of a Sustainable Urban Drainage System (SUDS); a timetable for implementation of the SUDS and any other proposed drainage measures; and details of how these are to be maintained. The strategy shall be implemented and commissioned in accordance with the approved details (including the timetable) and shall thereafter be retained in the approved form.

14. Prior to the commencement of development, details of the piling of the proposed pipe work and measures to be incorporated to prevent the drying out of the underlying peat shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

15. No development shall take place until a scheme for the provision and implementation of compensatory flood storage works and associated flood flow culverts through the proposed highway embankments in accordance with the Flood Risk Assessment by Cole Easdon Consultants (November 2011, ref: 3330) has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

Access

16. No development hereby permitted shall commence until a scheme for the implementation of all site access measures and off-site highway works/improvements have been submitted to and approved in writing by the local planning authority. The measures, works and improvements shall include the following: details of the Queensway Roundabout junction (including pedestrian, cycling and equestrian provision); all other pedestrian, cycling and equestrian provision on the B5261; the proposed east-west access road (TR5) and its junctions including that with the proposed M55 Link Road with supporting pedestrian, cycling and equestrian infrastructure; signalisation measures at the St Annes Road East/St Davids Road North and St Annes Road East/Church Road junctions; and improvements to the St Annes Road East/Heyhouses Lane junction. The scheme shall be implemented as approved.

17. Before the development hereby permitted commences, a movement strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include details of the road hierarchy within the site, emergency

access (and its management/enforcement), and the footway, cycleway and bridleway networks together with their linkages to the existing networks. The development thereafter shall be carried out in accordance with the approved strategy.

18. No other development hereby permitted, or any site preparation, shall commence until the new Queensway Roundabout junction (including all pedestrian, cycling and equestrian provision), all other pedestrian, cycling and equestrian provision on the B5261, the western section of the east-west access road (TR5) up to and including the second (development) access and the bridleway to the south of the access road, together with all supporting infrastructure required to link into existing routes at either end, have been completed in accordance with the approved scheme.

19. No more than 375 dwellings shall be occupied on the site until improvement schemes/works at the signalised junctions of St Annes Road East/St Davids Road North and St Annes Road East/Church Road and the priority junction of St Annes Road East/Heyhouses Lane have been completed and made operational in accordance with the approved schemes.

20. No more than 375 dwellings shall be occupied on the site until the east-west T5 road including bridleway and the section of the M55 Link Road from, and including, the Moss Sluice Roundabout to the modified Cropper Road/Whitehill Road/Lytham St Annes Way Roundabout are completed and open to traffic in accordance with details that have been approved in writing by the local planning authority.

21. Prior to any dwelling hereby permitted being occupied, a Travel Plan shall be submitted for the written approval of the local planning authority. The Plan shall include objectives and targets and shall make provision for monitoring as well as promotion, marketing, and provision of a travel coordinator for at least an initial five year period. The approved Travel Plan shall be implemented, audited and updated at intervals as approved.

22. No dwelling hereby permitted shall be occupied until vehicular and other access has been provided to it in accordance with the approved details.

Construction

23. No site clearance or demolition shall commence until a site preparation plan has been submitted to and approved in writing by the local planning authority. The site preparation plan shall include the method and details of clearance, vehicle routing to the site, wheel cleaning and any proposed temporary traffic management measures. The site preparation plan shall be implemented as approved and adhered to throughout site preparation.

24. No construction works shall commence on the site until a construction plan has been submitted to and approved in writing by the local planning authority. The construction plan shall include vehicle routing to the site; parking for construction vehicles; any temporary traffic management measures; and times of access. The construction plan shall be implemented as approved and adhered to throughout construction of the development.

25. Details of any cranes to be operated on the site during construction works, including their height and area of operation, shall be submitted for the written

approval of the local planning authority at least 28 days prior to any crane being brought onto the site. All crane operations shall be carried out in accordance with the approved details.

26. Prior to the commencement of development or site clearance works, details of measures to prevent air pollution or pollution of local ground and surface water during construction shall be submitted to and approved in writing by the local planning authority. All construction works shall be carried out in accordance with the approved details.

27. Prior to the commencement of development, details of a scheme setting out the use of secondary and recycled aggregates shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

Lighting

28. All street lighting within the development shall be in accordance with details, including details of post heights, design, construction, lighting head form and light emissions, which have been approved in writing by the local planning authority. The details shall include measures to minimise artificial light spillage to wildlife habitats including the Nature Park and Farmland Conservation Area and measures to prevent perching birds.

Renewable Energy

29. Prior to the commencement of development, details of a scheme of on-site renewable energy production, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

LINK ROAD

1. The development shall commence not later than five years from the date of this permission.

Reason: Imposed pursuant to Section 91(1)(a) of the Town and Country Planning Act 1990.

2. Written notification of the date of commencement of the development shall be sent to the County Planning Authority within seven days of such commencement.

Reason: To enable the monitoring of the development to ensure compliance with this permission and to conform with Policies DP1, DP7, DP9, W1, RT4, RT9, EM1, EM5 and CLCR1 of the North West Regional Spatial Strategy and Policies SP2, SP3, TR1, TR2, TR3, TR13, EP10, EP11, EP12, EP14, EP15, EP17, EP18, EP19, EP21, EP22, EP23, EP26, EP27, EP28 and EP30 of the Fylde Borough Local Plan.

Working Programme

3. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

- a. The Planning Application submitted dated 29 October 2010 as amended by the additional information submitted on 18 January 2011, 16 February 2011 and 21 November 2011.
- b. Submitted Plans:
 - Drawing No. 13445/PA1 Rev A – Completion of M55 to Heyhouses Link
 - Figure 9.4 – Landscape Strategy Sheet 1 of 3
 - Figure 9.5 – Landscape Strategy Sheet 2 of 3
 - Figure 9.6 – Landscape Strategy Sheet 3 of 3
 - Figure 9.7 – Typical Cross Sections Sheet 1 of 2
 - Figure 9.7 – Typical Cross Sections Sheet 2 of 2
 - Drawing No. 3073/103/02 – Proposed T5/Link Road Roundabout and TR5/TR6 Link Roads Longitudinal Sections Sheet 2 of 2
 - Drawing No. 3073/504 – M55 Heyhouses Link Road (TR6) Typical Cross Sections
 - Drawing 3073/503 – Proposed T5/Link Road Roundabout Arrangement and Moss Sluice Crossing.
 - Drawing No. 3073/SK502/01 Rev B – M55 Heyhouses Link Road Highway Drainage Strategy (Sheet 1 of 2)
 - Drawing No. 3073/502/02 Rev B – M55 Heyhouses Link Road (TR6) Highway Drainage Strategy (Sheet 2 of 2)
 - Drawing No. 3073/512 – M55 Heyhouses Link Road (TR6) Compensatory Floodplain Storage Works
 - Drawing No. D1879.01.011A – Farmland Conservation Area Management Plan Drawing
 - Drawing No. D1879/01.001L – Habitat Enhancement Scheme (Habitat Creation and Management Proposals)
 - Drawing No. D2559.004 – Farmland Conservation Area (Habitat Creation and Management Proposals)
 - Drawing 3073/508 – Typical Section through Highway Culvert
 - Drawing 3073/520 – Topographical Survey October 2011
- c. All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt and to minimise the impact of the development on the amenities of the local area, and to conform with Policies DP1, DP7, DP9, W1, RT4, RT9, EM1, EM5 and CLCR1 of the North West Regional Spatial Strategy and Policies SP2, SP3, TR1, TR2, TR3, TR13, EP10, EP11, EP12, EP14, EP15, EP17, EP18, EP19, EP21, EP22, EP23, EP26, EP27, EP28 and EP30 of the Fylde Borough Local Plan.

Control of Construction Operations

4. No development of any construction site compounds shall commence until a scheme and programme for any site compound areas has been submitted to and approved in writing by the County Planning Authority. Development shall be carried out in accordance with the approved scheme and programme. The scheme and programme shall include the following details:

- a) The location of the site compounds and details of their construction including stripping of soil materials and laying of surfacing materials.
- b) Details for site restoration including removal of all surfacing materials, temporary buildings and plant, re-spreading of soil materials, cultivation and seeding.

No construction compounds shall be located within 200 metres of the following areas:

- a) the proposed Lytham Moss Biological Heritage Site;
- b) the area of the Farmland Conservation Area shown on drawing TEP 1879.01011A or
- c) within the land designated as swan feeding clusters on drawing TEP 1879.01.003A.

The restoration works contained in the approved scheme shall be completed within six months of the Heyhouses to M55 Link Road being opened to traffic including removal of the temporary buildings, plant, compounds and any boundary treatment.

Reason: In the interests of landscape and ecology and to conform with Policies EP11, EP15 and EP17 of the Fylde Borough Local Plan.

5. All plant, equipment and machinery used in connection with the construction of the proposed highway shall be equipped with effective silencing equipment or sound-proofing equipment to the standard of design set out in the manufacturers' specifications and shall be maintained in accordance with these specifications at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users and to conform with Policy EP27 of the Fylde Borough Local Plan.

6. Measures shall be taken at all times during the highway construction operations to minimise the generation of dust. Such measures shall include the watering of all haul and access roads, the spraying of stockpiles containing dust generative materials and the suspension of activities during dry windy conditions when other mitigation measures are ineffective.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users and to conform with Policy EP26 of the Fylde Borough Local Plan.

7. No highway construction operations shall commence until a scheme and programme describing the types of reversing alarms to be fitted to mobile plant used on the site have been submitted to and approved in writing by the County Planning Authority. The scheme and programme shall provide for the fitting of non-audible reversing systems or should include details of alternative measures that will be adopted should non-audible warning systems fail to operate or be unsuitable. Following the written approval by the County Planning Authority the approved reversing alarms shall be fitted to all mobile plant used on the site and thereafter shall be utilised at all times during the construction of the development.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users and to conform with Policy EP27 of the Fylde Borough Local Plan.

8. No road construction operations including the delivery or removal of materials associated with pre-loading shall take place except between the hours of:

0730 to 1830 hours Mondays to Fridays, (except Public Holidays),
0730 to 1330 hours on Saturdays.

No such construction development including the delivery or removal of materials associated with pre-loading shall take place at any time on Sundays or Public Holidays. This condition shall not, however, operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential repairs to plant and machinery used on site.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users, and to conform with Policy EP27 of the Fylde Borough Local Plan.

9. No construction works or works associated with pre-loading shall commence until details of the access points from the road construction site to the public highway have been submitted to and approved in writing by the County Planning Authority. The details shall include: -

- a) The location and construction of each access point from the construction site to the public highway.
- b) The wheel cleaning measures to be provided at each of the access points identified in part a) above including design and location of wheel cleaning facilities to be provided.

The approved wheel cleaning facilities shall be provided in their approved locations prior to the commencement of road construction or pre-loading operations and shall be used by all heavy goods vehicles leaving the site to ensure that no mud,

dust or other deleterious materials are tracked onto the public highway by heavy goods vehicles leaving the site.

Reason: In the interests of highway safety and local amenity and to conform with Policy DP7 of the Regional Spatial Strategy and Policy EP27 of the Fylde Borough Local Plan.

10. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double-skinned tanks may be used as an alternative only when the design and construction has been approved, in writing, by the County Planning Authority.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies EP23 and EP24 of the Fylde Borough Local Plan.

11. Repair, maintenance and fuelling of plant and machinery shall, where practical, only take place on an impervious surface drained to an interceptor and the contents of the interceptor shall be removed from the site completely.

Reason: To safeguard local watercourses and drainage and avoid the pollution of any watercourse or groundwater resource or adjacent land, and to conform with Policies EP23 and EP24 of the Fylde Borough Local Plan.

Highway Design

12. No development shall commence until details of the materials to be used for the surfacing of the Link Road (Central Section) have been submitted to and approved in writing by the County Planning Authority. The details shall include provision for the use of low-noise road surfacing materials. The development shall be carried out in accordance with the approved details and thereafter maintained with materials of a similar nature. Thereafter such low-noise materials shall be used in the maintenance of the wearing course of the highway.

Reason: In the interests of visual amenity of the area and to safeguard the amenity of adjacent landowners and land-users and to comply with Policy EP27 of the Fylde Borough Local Plan.

13. No development shall commence until details for the creation of the bridleway along the line of the existing North Houses Lane/Wild Lane have been submitted to and approved in writing by the County Planning Authority. The details shall include: -

- a) Information on how the proposed bridleway/cycleway will link into the Cropper Road/Whitehill Road/Lytham St Annes Way roundabout at the northern end of the Link Road
- b) details of signage to other rights of way
- c) any measures to secure the segregation of pedestrians, horse riders and cyclists
- d) Details of any resurfacing required to provide a surface suitable for the intended users.

The development shall be carried out in accordance with the approved details.

Reason: In the interests of pedestrians, cyclists and equestrian users and to conform with Policies TR1, TR2 and TR3 of the Fylde Borough Local Plan.

14. The intermediate roundabout shown on drawing 13445/PA1 Rev A shall not be constructed unless planning permission for the Queensway housing development is granted and implemented. In the event that planning permission for the Queensway housing development (appeal ref APP/M2325/A/09/2103453) is refused, no development of the road scheme shall take place until a drawing has been submitted to the County Planning Authority showing a revised road design omitting the intermediate roundabout. Such a drawing shall include information on the revised public rights of way provision, street lighting arrangements, speed limits and landscaping arising from the omission of the intermediate roundabout. The approved revised design and details shall be implemented as part of the Link Road development if the Queensway development is not implemented with it.

Reason: In the interests of visual amenity and to minimise the impact on the openness of the Green Belt and to conform with Policy SP3 of the Fylde Borough Local Plan.

15. Notwithstanding the road design shown on drawing No. 13445/PA1 Rev A, the proposed bridleway adjacent to the eastern side of the proposed road between the intermediate roundabout and the junction with Anna's Lane shall not be constructed as part of the development hereby approved.

Reason: To protect the ecological interests within the proposed Lytham Moss Biological Heritage Site and to conform with Policy EP15 and EP17 of the Fylde Borough Local Plan.

Site Operations

16. All available topsoil and subsoil shall be stripped from any part of the site before that part is excavated or is traversed by heavy vehicles, or before plant or machinery, or roads, buildings, plant yards or stores are constructed on it.

Reason: To ensure the proper removal and storage of soils to ensure satisfactory restoration and to conform with Policy EP22 of the Fylde Borough Local Plan.

17. No movement of topsoil or subsoil undertaken for the purposes of road construction or the construction of the flood mitigation area shall occur during the period 1 October in one year to the 30 April of the following year (inclusive) without the prior written consent of the County Planning Authority. At other times the stripping, movement and re-spreading of top and subsoils shall be restricted to occasions when the soil is dry and friable and the ground is sufficiently dry to allow the passage of heavy vehicles, plant and machinery over it without damage to the soils.

Reason: To ensure the proper removal, storage and replacement of soils to ensure satisfactory restoration and to conform with Policy EP22 of the Fylde Borough Local Plan.

18. No soils or peat shall be sold or otherwise removed from the site without the prior written approval of the County Planning Authority. All such soil and peat shall be retained for use in the landscaping measures shown on figures 9.4, 9.5 and 9.6 referred to in condition 3 to this planning permission.

Reason: To ensure satisfactory restoration and to conform with Policy EP22 of the Fylde Borough Local Plan.

Safeguarding of Watercourses and Flood Mitigation

19. Provision shall be made for the collection, treatment and disposal of all water entering on or arising from the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies EP23 and EP24 of the Fylde Borough Local Plan.

20. No development, including any pre-loading operations, shall take place until the flood mitigation area shown on drawing 3073/512 has been provided in its entirety in accordance with a scheme and programme to be first submitted to and approved in writing by the County Planning Authority. The scheme and programme shall contain the following information:-

- a) Details for the stripping of soils from the areas of land labelled Area 2, Area 3 and Area 4 on drawing 3073/512 and their storage and re-spreading for use in the restoration of the land. The details shall include information on the soil handling techniques to be used to ensure that the quality of the soils is preserved as far as possible.

- b) Details for the soil deposit area shown hatched brown on drawing 3073/512 including proposed contours, stripping and re-spreading of existing soil materials.
- c) The phasing for the construction of the flood mitigation works to ensure that they are undertaken prior to any works being carried out to create the Farmland Conservation Area.

Reason: In the interests of visual amenity, to protect soil resources and to ensure the effectiveness of the ecological mitigation measures and to conform with Policies EP30, EP22, EP15 and EP17 of the Fylde Borough Local Plan.

Archaeology

21. No development shall commence until a scheme and programme, including a timetable, of archaeological investigation, research and mitigation has been submitted to and approved in writing by the County Planning Authority. The archaeological mitigation measures contained in the approved scheme shall be implemented at all times during the stripping of soils for the development of the road.

Reason: In the interests of archaeological understanding and to conform with Policy EP21 of the Fylde Borough Local Plan.

22. At least 14 days of written notice of commencement of a soil stripping programme shall be given to the County Planning Authority. Access shall be afforded at any time during the development to an archaeologist nominated by the County Planning Authority to enable him/her to undertake a watching brief and observe the excavation and to record finds, items of interest and archaeological interest.

Reason: In the interests of archaeological understanding and to conform with Policy EP21 of the Fylde Borough Local Plan.

Landscaping

23. The landscaping shall be carried out in accordance with the details shown on figures 9.4, 9.5 and 9.6 referred to in condition 3 to this planning permission.

The landscaping for phases 1, 2 and 3 shall be carried out in the first available planting season following the completion of phase 3 of the development and shall thereafter be maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures. The landscaping for phase 4 shall be carried out in the first available planting season following the completion of phase 4 of the development and shall thereafter be maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures.

Reason: In the interests of visual and local amenity and the local environment, and to conform with Policy EP11 of the Fylde Borough Local Plan.

24. Prior to the commencement of development, including any pre-loading works, the existing trees and hedgerows identified for retention on figures 9.4, 9.5 and 9.6 referred to in condition 3 of this permission shall be identified and protected from damage by means of fencing or other suitable means of demarcation which shall be retained in position throughout the duration of the highway construction works.

Reason: In the interest of ecology and landscape and to conform with Policies EP11 and EP18 of the Fylde Borough Local Plan.

25. All areas of the site left undisturbed, and all topsoil, subsoil and soil-making material mounds shall be kept free from noxious weeds throughout the construction phases of the development.

Reason: In the interests of visual and local amenity and the local environment and to conform with Policy EP11 of the Fylde Borough Local Plan.

Ecology

26. No development shall commence until a detailed scheme of the mitigation measures to be incorporated into the highway design in order to protect ecological interests have been submitted to and approved in writing by the County Planning Authority. The details shall include: -

- a) Details of the mitigation for water voles including design of the culverts and bridges over existing watercourses to maintain habitat for water voles and details for the creation of new ditches to replace those lost to the road development.
- b) Details of road design and landscaping to minimise impacts on barn owls.
- c) Details of bat roosting opportunities to be incorporated into the design of the new bridge over the Moss Sluice.
- d) Details of street lighting design and control in order to minimise impacts on SPA birds and the nature conservation interests within the Farmland Conservation Area. The details shall include measures to minimise artificial light spillage and measures to prevent perching birds.

The mitigation measures contained in the approved scheme shall be implemented and maintained in accordance with the approved scheme.

Reason: In the interests of ecology and to conform with Policies EP15 and EP17 of the Fylde Borough Local Plan.

27. No development, including the pre-loading works, shall take place until the habitat creation measures within the Farmland Conservation Area as shown on Drawing ref D1879.01.0111A have been undertaken in accordance with a scheme

and programme to be first submitted to and approved in writing by the County Planning Authority. The scheme and programme shall contain details of the habitat creation works to be undertaken based upon the Farmland Conservation Area Management Plan Drawing ref D1879.01.0111A.

Reason: In the interests of ecological mitigation and to conform with Policies EP15 and EP17 of the Fylde Borough Local Plan.

28. No road construction operations, including the pre-loading works, shall take place within 200 metres of the Farmland Conservation Area between 31 October in one year and 30 March the following year.

Reason: In the interests of ecological mitigation, to minimise disturbance to wildfowl population and to conform with Policies EP15 and EP17 of the Fylde Borough Local Plan.