

APPLICANT - LANGTREE PP AND PANATTONI.

**PUBLIC INQUIRY HELD UNDER SECTION 77 OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**A PUBLIC INQUIRY INTO THE OUTLINE APPLICATION [ALL MATTERS RESERVED
SAVE FOR ACCESS FOR PLANNING PERMISSION FOR THE CONSTRUCTION OF UP
TO 287,909 M² OF EMPLOYMENT FLOORSPEACE AT LAND SOUTH OF GRAPPENHALL
LANE/CLIFF LANE, GRAPPENHALL, WARRINGTON, CHESHIRE [KNOWN AS "SIX:56"]**

INSPECTOR – DR ROGER CATCHPOLE.

9-12 AND 23-26 MAY 2023.

THE OPENING SPEECH OF THE APPLICANT

Housekeeping:

List of Appearances at this inquiry for the Applicant:

1. Sasha White (Kings Counsel) as advocate instructed by Andrew Piatt (Partner) of Gateley Legal calling the following witnesses:
 - 1.1. David Rolinson [Factual and Planning]
 - 1.2. Carl Taylor [Landscape impact]
 - 1.3. Jim MacQueen [Heritage]
 - 1.4. Alex Vogt [Highways]
 - 1.5. Liz Seal [Ecology]
 - 1.6. John Drabble [Air Quality]
 - 1.7. Matt Kinghan [Employment Land – Planning]
 - 1.8. Andy Pexton [Employment Land – Agency]
 - 1.9. Additionally Dani Fiumicelli [Noise] has provided a report.

The structure of the opening speech

2. The structure of this opening speech is as follows:
 - 2.1. Section 1 – The main issues before this inquiry.
 - 2.2. Section 2 - The introductory context to this application.
 - 2.3. Section 3 - The agreed policy and factual background in this matter.
 - 2.4. Section 4 - What is actually proposed by the planning application?
 - 2.5. Section 5 - The matters on which the Secretary of State wishes to be informed on?
 - 2.6. Section 6 – Consideration of the main issues identified by the Inspector.
 - 2.7. Section 7 – Summary and Conclusion.

Section 1 – The main Issues before this inquiry

3. As determined at the CMC¹ in February the main issues to be determined are as follows [Main Issue 1-8] in addition to another three main issues [Main Issue 9-11]:
 - 3.1. Main Issue 1 – Whether the proposal is inappropriate development?
 - 3.2. Main Issue 2 – Whether the harm by reason of inappropriateness and other harm is clearly outweighed by other considerations so as to amount to very special circumstances to justify the grant of planning permission?
 - 3.3. Main Issue 3 – The effect of the proposal on the SAM Bradley Hall Moated Site.
 - 3.4. Main Issue 4 – Whether the proposal complies with the EIA Regulations?
 - 3.5. Main Issue 5 – The effect of the proposal on the highway network?
 - 3.6. Main Issue 6 – The effect of the proposal on local air quality?
 - 3.7. Main Issue 7 – The effect of the proposal on landscape character?
 - 3.8. Main Issue 8 -Whether the site is appropriate for the proposed development considering the development plan and national planning policy?
 - 3.9. Main Issue 9 – Would the grant of planning permission be premature in the light of where the emerging plan is and the guidance in the NPPF relating to such matters?
 - 3.10. Main Issue 10 – What harm is there to be considered overall?
 - 3.11. Main Issue 11 – Are there circumstances which outweigh the harm to amount to very special circumstances?
4. Frankly these issues can be summarised as to whether the harms:
 - 4.1. To the Green Belt [as set out in NPPF 148] which are caused by inappropriate development and must be given substantial weight.
 - 4.2. To other matters such as the air quality, BMVAL, heritage harm, the R6's allegation of prematurity and the harm to landscape character [as set out in NPPF 148]
 - 4.3. Are outweighed by other considerations so that they amount to very special circumstances.
5. There can be no doubt that the Government attaches great importance to Green Belts – that is stated in terms by paragraph 137 of the NPPF. Its fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
6. Green Belts also have five purposes:²
 - 6.1. Purpose 1 – to check the unrestricted sprawl of large built-up areas;
 - 6.2. Purpose 2 – to prevent neighbouring towns merging into one another;
 - 6.3. Purpose 3 – to assist in safeguarding the countryside from encroachment;
 - 6.4. Purpose 4 – to preserve the setting and special character of historic towns;

¹ See paragraph 4 of the CMC Note.

² See paragraph 138 (a) to (e) of the NPPF.

- 6.5. Purpose 5 – to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
7. Therefore in making this decision the starting point, and fixed point, is that substantial weight must be given to any harm to openness and the effect on the five purposes of the Green Belt and suitable weight as determined by the decision maker to any other harm resulting from the proposal.³
8. However it is open to the decision maker to conclude that the harm can be “clearly outweighed” by other considerations in which case they will amount to very special circumstances.
9. Therefore it is fundamental that the policy in the NPPF is not a bar to inappropriate development on Green Belt Land but it requires a policy hurdle to be passed that is onerous and high – namely the existence of very special circumstances which “clearly outweigh” the harm identified.
10. That is the theory.
11. It is also necessary to look at the practice because it will be the strongest contention of the Applicant that in this case the benefits of granting consent are incredibly weighty and will amount to very special circumstances.
12. This argument is not ambitious or unrealistic but lies four square within the arguments which have been endorsed by the Secretary of State very recently – 2021 – in four other large scale employment proposals in this location which have been granted planning permission after call in inquiries. [See DRo4]:
- 12.1. Tritax, Wigan – Permission approved for 27,891 sqm by Secretary of State – 21 June 2021.
- 12.2. Harworth Group, Bolton – Permission approved by Secretary of State – 21 June 2021.
- 12.3. Omega St Helens – Permission approved by Secretary of State – 11 November 2021.
- 12.4. Parkside, Newton Le Willows – Permission approved by S of S – 11 November 2021.⁴
13. As you will hear from Mr Pexton in evidence it is the fundamental contention of the Applicant that the current need for this development is compelling and incredibly weighty – indeed fairly and understandably it weighs heavier in the balance that the harm that is accepted to be caused by the grant of planning permission as the evidence will show.

Section 2 - The introductory context to this application.

14. There are some overarching points to make in opening:

³ Paragraph 148 of the NPPF.

⁴ It is also fair to record that on the 11 November 2021 the Secretary of State dismissed an application for Peel Investments at Haydock, St Helens for 167,225 sqm.

- 14.1. Point 1 – This is an application for a very significant quantum of floorspace – It is the view of the Applicant that this site is an incredibly good one when one considers the market requirements and needs for such a development. It is perfectly located on the boundary of two strategic and national motorways. Additionally it is located perfectly within the Northwest, and in close proximity to the major conurbations of Merseyside and Greater Manchester which are home to millions of people. Consequently the Applicants seek permission for nearly 300,000 metres of floorspace.
- 14.2. Point 2 – This site can be delivered. The Applicant has the necessary options and finance to deliver the site and weight can be put on the delivery of the benefits. The only factor which precludes delivery is the current absence of a planning permission for it within the Warrington Area.
- 14.3. Point 3 – This proposal accords with the key objectives of the NPPF. One of the overarching objectives of the NPPF is to help build a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right place and at the right time to support growth, innovation and improved productivity.⁵ Additionally there is a social objective satisfied by the provision of jobs and investment which will obviously assist in the wellbeing of those that work on the site.
- 14.4. Point 4 – The economic context of the application site – The Northwest need investment. It is a critical part of the levelling up agenda of central government. The Northwest lags behind other parts of the UK in economic strength and investment. This inequality will not be changed overnight but the proposal will assist materially by creating a major new employment facility with the manifest benefits that will be set out to this inquiry.
- 14.5. Point 5 – The proposal accords with the key aims of the development plan – the importance of inward investment could not be clearer in the development plan reflected in both its strategic policy and strategic objectives.
- 14.6. Point 6 – This proposal accords with the key aims of the emerging development plan – the emerging plan additionally seeks investment and growth – this is not a plan for stagnation but a plan which seeks the increase in prosperity, investment and jobs.
- 14.7. Point 7 – The LPA’s decision not to object is highly pertinent – This application was subject to significant and detailed scrutiny by the LPA. It sat before them for nearly 3 years before being considered by committee. It is highly material that the LPA have historically supported this proposal both in the March 2022 decision and in the draft allocation of MD6. Even with the interim recommendations of the Inspectors in December 2022 the LPA’s informed decision of February 2023 is not to object to the grant of planning permission and additionally to instruct BE to respond to the Inspectors. That is highly weighty and should be given weight. It is also highly pertinent that they do not seek to allege prematurity to their own plan if planning permission is granted.
- 14.8. Point 8 – The application provides an incredible opportunity for economic benefits and growth – The ability to bring this forward exists – there is the land options, the demand and the availability of the land. This opportunity to create a game changing development exists now in Summer 2023.

⁵ Paragraph 8 of the NPPF

- 14.9. Point 9 – The Rule 6 party have not carried out a reasonable or fair planning balancing exercise in their evidence – Mr Groves will give evidence tomorrow. His evidence understandably sets out in detail why planning permission should not be granted but it will be our contention that his evidence is not a balanced exercise for reasons that will become clear.
- 14.10. Point 10 – We are in an economic crisis, and we must embrace growth or there will be significant social and economic consequences – The UK has and is experiencing severe economic turbulence due to factors familiar to us all. The next few years are seminal in determining the future economic health of the UK. It is the contention of the Applicant that this proposal will be an incredible driver for economic investment, growth and jobs if permitted.

Section 3 - The agreed policy and factual background in this matter.

15. The following matters are agreed and not in dispute but are important factors to consider in this matter:
- 15.1. The Site – Amounts to 98.09 hectares. The historic use of the land was for and is currently for agriculture.
- 15.2. The LPAs - In terms of relevant local planning authorities most of the application site lies in Warrington [92.16 hectares] with a small amount of the Southeast of the site falling within Cheshire East [See page 6 of the POR] amounting to just over 5.93 hectares.
- 15.3. Warrington Borough Council - Warrington is a borough of 200,000 people. It was designated a new town in 1968. There are areas of material deprivation – 11 Super Output Areas fall within the 10% most deprived nationally [2.18, WLP page 13]
- 15.4. Cheshire East Council – granted planning permission in May 2022.
- 15.5. The Development Plan:
- 15.5.1. Local Plan Core Strategy – July 2014.
- 15.5.2. Appleton Parish Thorn Ward Neighbourhood Plan to 2027 – Amended Version – February 2017.
- 15.6. The Emerging Development Plan:
- 15.6.1. Warrington Updated Proposed Submission Version Local Plan – September 2021 – Subject to an EIP – September – October 2022.
- 15.7. Green Belt Designation - The whole of the application site lies within the Green Belt.
- 15.8. The Key Heritage Assets - The relevant heritage assets are:
- 15.8.1. Asset 1 – Bradley Hall Moated Site – Scheduled Ancient Monument – which comprises the buried and earthwork remains of a medieval moated site for a medieval manor house which is to be retained.
- 15.8.2. Asset 2 – Bradley Hall Farmhouse and barn – Locally listed [NDHA]
- 15.8.3. Asset 3 – Tanyard Farm building – Grade II*.
- 15.8.4. Asset 4 – Barley Farmhouse – Grade II.
- 15.8.5. Asset 5 – Booths Farmhouse – Grade II.
- 15.8.6. Asset 6 – Booths Farm Shippon – Grade II.
- 15.8.7. Asset 7 – Beehive Farmhouse – Grade II.
- 15.8.8. Asset 8 – Yew Tree Farmhouse – Grade II.

- 15.8.9. Asset 9 – Non – designated assets – See MacQueen Table 1.1.
- 15.8.9.1. Bradley Hall and Barn.
- 15.9. Inappropriate development in the GB - The proposed development is inappropriate development as so defined by planning policy and in particular the NPPF.
- 15.10. EIA development - The proposal constitutes EIA development and has been accompanied by an ES.
- 15.11. Landscape Character Areas:
 - 15.11.1. The majority of the site falls in NCA 60 [Mersey Valley] [CD4.49]
 - 15.11.2. A small part of the southern land falls in NCA 61 [Shropshire, Cheshire and Staffordshire Plain]
 - 15.11.3. The vast majority of the site falls within Local landscape character Area Type 1 – Undulating Enclosed Farmland – 1B Appleton Thorn.
 - 15.11.4. All LCA's are characterised to have a medium sensitivity [Taylor page 35]
- 15.12. Potential viewpoints of the development:
 - 15.12.1. 27 viewpoints – both near and far – were considered in the ES with 9 having wireframe photomontages [Taylor 5.89]

Section 4 - What is actually proposed by the planning application?

- 16. The proposal is as follows:
 - 16.1. It is an outline planning application with all matters reserved save for access.
 - 16.2. Therefore matters relating to appearance, landscaping, the layout and the scale of the development are reserved and will require the subsequent approval of the LPA.⁶
 - 16.3. The total red line area is 98.09 hectares of which permission is sought to utilise 62.9 for development of buildings and other development.
 - 16.4. Demolition of 6 existing agricultural buildings [See Demolition Parameters Plan]
 - 16.5. The construction of up to 287,909 sqm gross internal employment floorspace principally in Use Class B8 but with some ancillary E(g)(i) use floorspace (offices) in buildings ranging in height from 16 metres to 30 metres:
 - 16.5.1. In four zones – A, B, C and D. [See Development Cells Parameters Plan]
 - 16.5.2. In Zone A [2.33 ha] it is sought to allow maximum floorspace of 8,919 sqm in 1-3 units with a maximum building height of 83.50 AOD.
 - 16.5.3. In Zone B [32.84 ha] it is sought to allow maximum floorspace of 146,417 sqm in 1-6 units with a maximum building height of 84 AOD in Zone B₁ and 91 AOD in Zone B₂.
 - 16.5.4. In Zone C [5.06 ha] it is sought to allow maximum floorspace of 24,155 sqm in 1 unit with a maximum building height of 79 AOD.
 - 16.5.5. In Zone D [22.67ha] it is sought to allow maximum floorspace of 108,418 sqm in 1-3 units with a maximum building height of 79.50 AOD in Zone D₁ and 78.00 in Zone D₂.
 - 16.5.6. Therefore there could be 4 units up to 13 units across 62.9 hectares of developed land.
 - 16.6. The provision of car and lorry parking.

⁶ Section 3 of CD 4.33 – This development's planning application form.

- 16.7. The provision of noise bunds and landscaping within the site.
- 16.8. The creation of ecological works and drainage features.
- 16.9. In terms of changes to the highway network:
 - 16.9.1. The existing access will be altered with the creation of two new roundabouts off Grappenhall Lane [See Access Parameters Plan]. These will constitute the main access into the development site. There will be a western access roundabout [SEE Drawing 75002 PO2] and an eastern access roundabout [See 75001 PO3]
 - 16.9.2. The internal form and layout of the roads will be for subsequent determination, but it is envisaged that there will be two internal main estate roads.
 - 16.9.3. Off-site it is envisaged there will be improvements:
 - 16.9.3.1. to the Cliff Lane Roundabout [Plan 05002 PO2]
 - 16.9.3.2. To Junction 20 of the M6 [Plan 75011 PO6]
 - 16.9.3.3. To Pedestrian and Cycle accessibility on Grappenhall Lane [75014 PO2]
- 16.10. The creation of a SAM 30 metres buffer zone in which no buildings will be allowed to be built in or encroach into this area.
- 17. Additionally it is envisaged although not sought by this planning application that the Bradley Hall Farmhouse will be retained and re-used for conversion.

Section 5 - The matters on which the Secretary of State wishes to be informed on?

- 18. Paragraph 7 of the Secretary of State letter of the 22 November 2022 is seminal in setting out the matters in particular on which the Secretary of State wishes to be informed of and they are namely:
 - 18.1. The extent to which the proposed development is consistent with the Government policies for the protection of the green belt in the NPPF [Paragraph 7a]
 - 18.2. The extent to which the proposed development is consistent with the development plan for the area [Paragraph 7b]
 - 18.3. Any other matters the Inspector considers relevant.

Section 6 – Consideration of the main issues raised by the Inspector.

- 19. There are 11 main issues to consider, 8 from the CMC note and an additional 3 of relevance having considered the evidence post exchange:
 - 19.1. Main Issue 1 – Whether the proposal is inappropriate development?
 - 19.1.1. It is accepted absolutely by the Applicant that the proposal amounts to inappropriate development as defined by paragraph 149 of the NPPF.
 - 19.2. Main Issue 2 – Whether the harm by reason of inappropriateness and other harm is clearly outweighed by other considerations so as to amount to very special circumstances to justify the grant of planning permission?
 - 19.2.1. In the view of the Applicant under this heading there are 2 potential harms – harm to openness of the GB and harm to the purposes of the GB that need to be considered.

19.2.2. Before considering these harms the sites contribution to the GB has to be considered:

19.2.2.1. In the Green Belt assessment carried out by this authority the application site was only classified as making a moderate contribution to the GB overall [CD 4.99].

19.2.2.2. Additionally there was an important conclusion that the removal of the draft allocation area would not harm the overall function and integrity of the Warrington Green Belt.

19.2.3. In terms of effect on openness to the GB the following points are made:

19.2.3.1. There is helpful guidance on this in the NPPG.

19.2.3.2. This amounts to definitional harm to the green belt – inappropriate development will lead to the loss of openness in every case. It is just the degree of harm that requires consideration.

19.2.3.3. Openness is open textured and visual impact is implicitly part of that concept.

19.2.3.4. It is both a visual and spatial consideration.

19.2.3.5. There is acceptance that the proposal will have a significant effect on the spatial aspect of openness of the GB in this location [Taylor 7.7]

19.2.3.6. The level of effect on visual influence is very local [Taylor 7.15]

19.2.3.7. However the Applicant can accept the conclusion in the POR that the effect on openness will be a significant harm [POR 10.12 March 2022]

19.2.4. In terms of harm to the purposes again the Applicant endorses the position of the LPA that the harm amounts to in essence to one purpose.

19.2.5. Harm to Purpose 3 – Encroachment to the Countryside – Notable.

19.2.6. Consequently it would not lead to harm to purposes 1, 2, 4 and 5 for reasons set out by Mr Rolinson in paragraphs 6.15 to 6.19.

19.2.7. Consequently it will be accepted by the Applicant that there is significant harm to the openness of the Green Belt [Harm 1] and to one of the purposes of the Green Belt namely encroachment [Harm 2] to which substantial weight must be given in the planning balance.

19.2.8. The next issue is to consider whether that harm is outweighed by other considerations which will be returned to later in view of the need to consider whether there are other harms to consider.

19.3. Main Issue 3 – The effect of the proposal on the SAM Bradley Hall Moated Site and other heritage assets.

19.3.1. The law and policy require such matters to be considered.

19.3.2. Of particular note one needs to consider:

19.3.2.1. Section 66 of the PLBCAA “requiring a decision maker to have special regard in the case of listed buildings as to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

- 19.3.2.2. NPPF 199 – Great weight should be given to the designated heritage assets conservation irrespective of the level of harm to its significance.
 - 19.3.2.3. NPPF 200 – Any harm to or loss of the significance of a designated heritage asset should require clear and convincing justification.
 - 19.3.2.4. NPPF 202 – where a development proposal will lead to less than substantial harm to a designated heritage asset the harm should be weighed against the public benefits of the proposal.
 - 19.3.2.5. NPPF 203 – The effect of an application on the significance of a NDHA should be taken into account in determining the application.
 - 19.3.2.6. Policy QE8 of the WLPCS indicates that designated and locally listed HAs should be appropriately protected and enhanced.
 - 19.3.2.7. Policy AT-D2 of the NP seeks to conserve and protect the integrity and fabric of historic buildings.
- 19.3.3. It will be the case of the Applicant that in accordance with NPPF 202 and 203 there are 6 HA which need particular consideration because Mr MacQueen identifies harm to them:
- 19.3.3.1. HA 1 - SAM – Bradley Hall Moated Site – Less than substantial [NPPF 202] – Minor to moderate.
 - 19.3.3.2. HA 2 - Grade II* - Tanyard Farm building – Less than substantial [NPPF 202] – Minor.
 - 19.3.3.3. HA 3 - Grade II – Barley castle Farmhouse – Less than substantial [NPPF 202] – Minor.
 - 19.3.3.4. HA 4 - NDHA 1 – Bradley Hall and Barn – NPPF 203 – Minor.
 - 19.3.3.5. HA 5 - NDHA Tanyard Farm Buildings – NPPF 203 – Minor.
 - 19.3.3.6. HA 6 - NDHA – Bradley Hall barn buildings – NPPF 203 – Major- Minor.
- 19.3.4. Therefore in consequence of Mr MacQueen’s evidence there is a third harm – harm to both designated and non-designated heritage assets.
- 19.3.5. Additionally in the light of Mr MacQueen’s conclusions on harm it will require two balancing exercises imposed by NPPF 202 and 203 which in essence will require consideration of the public benefits.
- 19.3.6. It will be the contention of the Applicant that the public benefits are weighty and do outweigh the harm.
- 19.4. Main Issue 4 – Whether the proposal complies with the EIA Regulations?
- 19.4.1. The Planning Inspectorate expressly raised three additional issues with regard to the ES by way of letter dated 21 February 2023.
 - 19.4.2. Those matters have been addressed twice by the Applicant in the evidence at DRo8 and in correspondence from Gateleys.
 - 19.4.3. In summary it is the position of the Applicant that:
 - 19.4.3.1. The Further information statement meets the issues raised.

- 19.4.3.2. The Supporting Ecology and Nature Conservation ES Technical Paper Addendum meets the issues raised.
- 19.4.3.3. In summary there are no further cumulative impacts, and the proposed development is not a source of hazard that could result in a major accident or disaster.
- 19.4.3.4. The additional surveys endorse rather than contradict the conclusions of the ES.
- 19.4.3.5. The further information should be read in conjunction with the original ES and the two addendums provided [October 2020 and November 2021]
- 19.4.4. Therefore the information cumulatively and collectively before this inquiry meet fully the requirements of the EIA regulations in this matter.

19.5. Main Issue 5 – The effect of the proposal on the highway network?

- 19.5.1. This proposal has been examined to a very detailed level by the Applicants.
- 19.5.2. Additionally extensive discussions have been held with WBC and NH in relation to the local and national network.
- 19.5.3. Additional analysis was also undertaken during the consideration of the application.
- 19.5.4. The key points to note in opening which will be expanded on by Mr Vogt in evidence is:
 - 19.5.4.1. WBC do not conclude that the proposal will lead to harm to the road network.
 - 19.5.4.2. NH do not conclude that the proposal will lead to harm to the national network.
 - 19.5.4.3. There will be a substantial package of transport improvements.
 - 19.5.4.4. Those will include a 1.2 kilometre shared pedestrian and cycle route.
 - 19.5.4.5. Those will include a contribution of £687,800 of a bespoke bus service that will benefit future employees and existing employees at the adjacent trading estate.
 - 19.5.4.6. There will be significant mitigation works to the A50 Cliff Lane/B5356 Grappenhall Lane roundabout.
 - 19.5.4.7. There will be significant mitigation works to the M6 Junction 20 dumbbell roundabouts.
 - 19.5.4.8. Consequently there will be no harmful residual cumulative impact on the road network.

19.6. Main Issue 6 – The effect of the proposal on local air quality?

- 19.6.1. The effect on air quality principally will be as a result of traffic movements and in particular the emissions caused by those vehicles in terms of nitrogen dioxide and fine particulate matter as Mr Drabble identifies those most likely to reach or exceed health-based standards.
- 19.6.2. Before considering such effects however one must appreciate that those two emissions have decreased significantly in the UK since 2005 with NO₂ reducing by 63% and particulates by 28%.

- 19.6.3. Detailed monitoring has been undertaken by WBC in accordance with its Local Air Quality Management duties.
- 19.6.4. Evidence will show that in some locations pollutant levels will marginally increase.
- 19.6.5. However those increases are not significant and will not cause health-based air quality standards established by Government to be exceeded.
- 19.6.6. When one considers the Air Quality Objectives of Government they will not be exceeded if planning permission is granted.
- 19.6.7. Additionally Air Quality Management Areas will not be significantly affected either.
- 19.6.8. Consequently evidence will be presented that establishes that there will be very limited harm to Air Quality if planning permission is granted.

19.7. Main Issue 7 – The effect of the proposal on landscape character and visual amenity?

- 19.7.1. There are a few preliminary points to make – the way GVLIA is constructed it is impossible to replace agricultural land with a built development without getting a degree of harm. That is inevitable irrespective of location, LCA or other factors.
- 19.7.2. In this case it is the view of the Applicant that there will be harm but that is inevitable. [Taylor Table 2]
- 19.7.3. Additionally the context of the site is the existence already of existing large warehousing and distribution buildings adjacent to the site which influence context.
- 19.7.4. But the range of harms are not far reaching.
- 19.7.5. The two most significant harms are to LCA 1B which is the Appleton Thorne LCA and additionally to the SAM where the harm is identified as moderate/substantial.
- 19.7.6. In other respects the harms are slight moderate adverse or less.
- 19.7.7. In terms of visual effects Mr Taylor is of the view that:
 - 19.7.7.1. There will be some substantial adverse impacts on Viewpoints 1-8 but those predominantly are within 500 metres of the site.
 - 19.7.7.2. Frankly it would be impossible to locate buildings of this size and scale without expecting such harms.
 - 19.7.7.3. However it will be the evidence that such effects are inevitable, and context must be remembered that this site does not have any landscape designations and is not valued landscape for the purposes of Paragraph 174 of the NPPF.
 - 19.7.7.4. Therefore there is a fourth harm – harm to landscape character and visual amenity that will need to be added to the planning balance.

19.8. Main Issue 8 -Whether the site is appropriate for the proposed development considering the development plan and national planning policy?

- 19.8.1. Section 38(6) requires a certain approach to be taken:
 - 19.8.1.1. The relevant policies of the development plan must be considered. [See Statement of Common Ground, POR of March 2022 and Mr Rolinson's planning evidence].

- 19.8.1.2. A decision must be reached whether they are complied with or not.
[Appendix 2 of the opening]
- 19.8.1.3. Then weight must be given to those policies [Appendix 2 of opening]
- 19.8.1.4. Then an overall judgment must be made as to whether the proposal complies or not with the development plan [See Appendix 2 of opening and Mr Rolinson paragraph 4.51] in which the Applicant says it does.
- 19.8.1.5. Then other material considerations must be considered as to whether they support or contradict the conclusion reached in conjunction with the development plan and then they must be weighed to see whether they disturb that conclusion or not.
- 19.8.1.6. It is the clear position of Mr Rolinson that the proposal accords with the development plan as can be seen by Appendix 2 of this opening speech.
- 19.8.1.7. In this case there are 3 material considerations that might indicate otherwise:
 - 19.8.1.7.1. The NPPF [MC1]
 - 19.8.1.7.2. The NPPG [MC 2]
 - 19.8.1.7.3. The Emerging development Plan [MC 3]
- 19.8.1.8. It will be the case of the Applicant that those three material considerations do not contradict the judgment that the development plan should be followed in this case. Indeed they support the conclusion that planning permission should be granted for the proposal.

19.9. Main Issue 9 – Would the grant of planning permission be premature in the light of where the emerging plan is and the guidance in the NPPF relating to such matters?

- 19.9.1. The Inspectors have recommended in an interim letter, that is now the subject of consultation responses up until the 26 April 2023, a significant and substantial amendment to the emerging plan and the deletion of MD 6 thereby reduction the quantum of employment land proposed in the emerging plan by a very significant margin.
- 19.9.2. It is the position of the Applicant that the Inspectors have made a fundamental and critical error in their interim letter of the 16th of December 2022 for the reasons set out by Mr Kinghan. They have requested that the EIP be re-opened to consider the issue.
- 19.9.3. It is not necessary or appropriate for this inquiry to seek to resolve those matters because they are for determination at another place.
- 19.9.4. What is relevant for this inquiry is that the Applicant contends that these issues are far from concluded for the reasons set out in Mr Kinghan's proof.
- 19.9.5. We therefore say the Local Plan that is emerging still has to resolve decisively this issue and therefore there can be no issue of prematurity.

19.9.6. The Rule 6 party say there is an issue of prematurity and because of NPPF 48-50 the grant of permission would be premature and cause prejudice to the emerging plan process.

19.9.7. The Applicant makes the following points to contradict that assertion namely:

19.9.7.1. The plan still has some way to go because substantial objections have been raised to the deletion of MD6 by the Applicant. Therefore there are still significant unresolved objections to the emerging plan which must affect the weight to be given to the emerging plan [NPPF paragraph 48(b)]

19.9.7.2. It is still not known whether the Inspectors will re-open the EIP or not. [NPPF paragraph 48(a)]

19.9.7.3. The decision to grant permission would not undermine the plan-making process because this is not a case of either or in terms of the retention of the other employment sites particularly Fiddlers Ferry Power Station allocation of 101 hectares gross. That site is coming forward – there is a planning application before the LPA. It will therefore not predetermine decisions about the scale, location or phasing of new development that is central to an emerging plan [NPPF paragraph 49(a)]

19.9.7.4. The emerging plan is at an advanced stage but still has some way to go [NPPF paragraph 49(b)]

19.9.7.5. The grant of permission would not prejudice the outcome of the plan-making process [NPPF paragraph 50]. There is no such contention from the LPA.

19.9.7.6. The only contention is from the Rule 6 party who will not suffer any prejudice to the plan under consideration as their views have been heard both at the draft EIP and at this inquiry.

19.9.7.7. The whole essence of prematurity is to provide a degree of protection to the LPA promoting such a plan and no such protection is sought by the LPA at this time which is highly pertinent.

19.9.7.8. Therefore as will be articulated by Mr Rolinson we do not accept the contention of prematurity made by the Rule 6 party and give that harm no weight.

19.9.7.9. It is finally important to say that even if you endorse the Rule 6's position and say it will cause prematurity then that is a harm that must be weighed in the balance. It is not mandatory to refuse if made out. It is just another factor for weighing against the grant of planning permission and is not like paragraph 111 NPPF which requires refusal if there is a severe highway impact or paragraph 134 which states that development that is not well designed should be refused.

19.10. Main Issue 10 - What harm is there to be considered overall?

19.10.1. Therefore on the Appellant's own case there are potentially 6 harms to be considered in the planning balance:

- 19.10.1.1. Harm 1 – Loss of Openness to the Green Belt – Substantial. [See Main Issue 2] [Rolinson Paragraph 6.20]
- 19.10.1.2. Harm 2 – Effect on purpose 3 of Green Belt purposes – Encroachment to the Countryside – Substantial. [See Main Issue 2] [Rolinson paragraph 6.20]
- 19.10.1.3. Harm 3 – Harm to designated and non-designated heritage assets – limited/moderate weight. [See Main Issue 3] [Rolinson paragraph 6.21]
- 19.10.1.4. Harm 4 – Harm to landscape character and visual amenity – Moderate/Substantial weight. [See Main Issue 7] [Rolinson paragraph 6.21]
- 19.10.1.5. Harm 5 – Loss of BMV Agricultural Land of 24.65 ha – Limited Weight. [Rolinson paragraph 6.21]
- 19.10.1.6. Harm 6 – Effect on air quality – Very Limited Weight [See Main Issue 6] [Rolinson paragraph 6.21]
- 19.11. Main Issue 11 – Are there very special circumstances that outweigh the harm
 - 19.11.1. It is the contention of the Applicant that there are 9 considerations which could amount to very special circumstances namely:
 - 19.11.1.1. Consideration 1 – The Policy support for the proposal.
 - 19.11.1.2. Consideration 2 – The Need for the proposal
 - 19.11.1.3. Consideration 3 – The Lack of Alternatives to meet the need.
 - 19.11.1.4. Consideration 4 – The locational advantages and deliverability of the site
 - 19.11.1.5. Consideration 5 – The Economic benefits of the proposal
 - 19.11.1.6. Consideration 6 – The Social benefits of the proposal
 - 19.11.1.7. Consideration 7 – The highway improvements of the proposal
 - 19.11.1.8. Consideration 8 – The Environmental benefits of the proposal
 - 19.11.1.9. Consideration 9 – The grant of planning permission by Cheshire East.
 - 19.12. I will now deal with them in turn.

Consideration 1 – The Policy support for the proposal.

- 20. It is the strong contention of the Applicant that the current extant policy and emerging policy strongly supports the proposal:
 - 20.1. Planning policies and decisions should create the conditions in which businesses can invest, expand and adapt [NPPF paragraph 81]
 - 20.2. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development [NPPF paragraph 81]

Consideration 2 – The Need for the proposal

- 21. It will be contended by the Applicant that there is a compelling need for the employment floorspace comprised in this development because:
 - 21.1. Need requires a consideration of demand v supply.
 - 21.2. In terms of demand currently and in the future:
 - 21.2.1. There is a dramatic need for warehouse space in the region.

- 21.2.2. There is evidenced by the Warrington 2021 EDNA report which identifies a need for an additional 300 hectares of future land for such use.
- 21.2.3. That report is the consequence of work by a leading consultancy BE Group.
- 21.2.4. That report is endorsed by Mr Kinghan broadly for the purposes of this inquiry.
- 21.2.5. However if an adjustment is carried out by Mr Kinghan, then 280 hectares is needed.
- 21.2.6. The SEWEA proposed allocation (which includes the application site) is required to meet this need in addition to Fiddlers Ferry.
- 21.2.7. In addition the level of enquiries currently is very high with 121 enquiries amounting to requirements in excess of 800,000 sqm focussed on the Greater Warrington area and nearly 3,000,00 sqm on the wider area.
- 21.3. In terms of supply:
 - 21.3.1. There are only 17 units currently in the NW [Pexton 14.5 plus Magnitude, Middlewich] with a total floorspace of 311,981 sq. m.
 - 21.3.2. In Warrington there are none.
- 21.4. If one then considers both supply and demand across the wider area:
 - 21.4.1. There is only 12- or 13-months' supply based on a five- or ten-year average take up of either 284,843 or 316,885 [Pexton paragraph 14.5 and Appendix 3]
 - 21.4.2. If one uses the take up from 2021 of 573,907 sqm then obviously that supply would not last more than 5 months.
- 21.5. If one considers both supply and demand in Warrington, then there are currently no sites available [Pexton 14.2] which is remarkable.
- 21.6. Recent research indicates that the North West's supply of "big box" units is at a record low [Model Logic quoting of Savills Big Shed Briefing January 2023].
- 21.7. In conclusion on need therefore there is a compelling and urgent need for additional floorspace and an extremely limited supply of available buildings and land capable of delivering modern logistics facilities.

Consideration 3 – The lack of alternatives to meet the need.

- 22. It is common ground between the LPA and the Applicant that there are no non-GB sites on which to meet the need identified in Warrington [POR 10.344]
- 23. The simple point is that in order for logistic sites of this magnitude and scale it is simply not possible to meet the need in the existing urban areas and due to the very significant GB areas surrounding Warrington it is self-evident that the only means of meeting the need is by utilising GB land.
- 24. That conclusion is reinforced by the updated work of Mr Rolinson in his Appendix DR05 which concludes that there are no sites available in the short or medium term outside the GB.
- 25. Even the R6 party does not contend the existence of an alternative site in which the need could be met.

Consideration 4 – The locational advantages and deliverability of the site

26. The Appellants will call the foremost local agent in logistics and distribution – Mr Andy Pexton. His evidence was endorsed by the Secretary of State in the Parkside inquiry of 2021.
27. His considered and informed view is that Six 56 is a prime location (also the conclusion of Model Logic see page 7) with immediate access to the M6/M56 and is an established distribution location.
28. The application site almost lies in the centre of the high population area encompassing Warrington, Liverpool and Manchester. That view is endorsed by the work of Model Logic [Pexton Appendix 9]. Indeed the logistical qualities of this site are remarkable:
 - 28.1. Within 13 minutes are 649,000 people.
 - 28.2. Within 1 hour are 8, 120,000 people.
 - 28.3. Within 2 hours are 22,424,000 people and the cities of Birmingham, Liverpool, Manchester, Sheffield, Bradford and Carlisle. [Netherlands as a whole has a pop of 17.5 million].
 - 28.4. Within 4 hours 54.94 million people which is about 90% of the UK's population.
 - 28.5. It is in striking distance of the Port of Liverpool ranked number one port for port centric logistics.
29. Warrington is by far the most attractive location amounting to 63% of take up when compared against the 7 sub areas and therefore is the most successful location [Pexton 14.7]
30. The site is perfectly suited in terms of location. That is endorsed by the consideration of 22 competitor sites and the conclusion that Six56 is the best site when one considers population.
31. In contrast Fiddlers Ferry site is much further from the strategic road network being 5.5 miles from the M62 Junction 7 and 8.6 or 11.8 miles from the M6/M62 intersection.
32. The site is available, suitable, achievable and can be delivered as a matter of urgency. [Rolinson 5.25]

Consideration 5 – The Economic benefits of the proposal

33. The Applicants have benefitted from a social economic supporting document by leading consultants Amion Consulting which has been updated for this inquiry. It is of note the same consultancy's work was a fundamental piece of evidence accepted by the Inspector at the Parkside inquiry.
34. Its key conclusions are noteworthy:
 - 34.1. The proposal will lead to over 183 jobs for the 6.5-year construction period resulting in a net GVA of £81.75 million.
 - 34.2. The proposal once operational will lead to a range of direct jobs of between 3129 to 4113 and net additional GVA of between 118 to 134.9 million pounds.

- 34.3. There will be a number of indirect jobs as well of between 1097 to 1441.
- 34.4. There will be significant training and apprenticeship opportunities.
- 34.5. There will be very significant benefits therefore in economic terms for the locality, region and UK if planning permission is granted.

Consideration 6 – The Social benefits of the proposal

- 35. The proposal will have material social benefits with 70% of jobs provided at NVQ level 2 or lower which matches the jobseekers allowance with around 55% of claimants seeking elementary occupations. In the local ward there are 1800 residents seeking out of work benefits in the five local wards.
- 36. These benefits are material.

Consideration 7 – The highway improvements of the proposal

- 37. There is no objection to the highway effects of the proposal once the mitigation and improvement works are considered from the LPA or National Highways.
- 38. There is no severe impact on the highway network. There is no safety issue arising from the grant of consent.
- 39. There will be very substantial highway improvements required by condition and the Section 106 agreement as will be set out by Mr Vogt.
- 40. Additionally the proposed improvements to the bus network represent a moderate benefit of the proposal (Rolinson para 5.52).

Consideration 8 – The Environmental benefits of the proposal

- 41. There is no objection to the ecological effects of the proposal from the LPA or Natural England.
- 42. There is no allegation that the information provided is deficient or any more surveys should have been or should be done.
- 43. The proposal will deliver at least a 10% BNG across the site [Seal paragraph 7.1]
- 44. Additionally there will be an additional sum for the predicted residual impacts on breeding skylark and overwintering lapwing and starling.

Consideration 9 – The grant of planning permission by Cheshire East.

- 45. One of the two relevant LPAs carried out a planning balance and granted planning permission in the same national policy context. That decision has not been challenged by

anyone as unlawful. That permission is extant and a material consideration to this application.

Overall judgment on whether there are Very Special Circumstances in this Application or not?

46. As will be stated in evidence by Mr Rolinson he takes the view that the other considerations set out above do demonstrate the existence of very special circumstances which clearly outweigh the six harms identified also above.

Overall judgment on whether there are public benefits which outweigh the harm for the purposes of paragraph 202 of the NPPF.

47. It is also contended that all these considerations can amount to public benefits for the purposes of paragraph 202 of the NPPF.
48. That is a view that was endorsed in the POR in relation to non-designated heritage assets [Paragraph 10.361]
49. That is a view that was endorsed in the POR in relation to heritage assets [Paragraph 10.362]

Section 7 – Summary and Conclusion

50. There is a massive economic problem of under provision of suitable, available and deliverable employment land of this size, merit and accessibility. The change in retail and delivery markets has been strengthened and enhanced by Brexit and Covid emphasising the need for such sites in this perfect location.
51. The evidence will show that the grant of planning permission will lead to the delivery of a state-of-the-art economic development which will have far reaching and weighty benefits which outweigh the accepted and acknowledged six harms that will also arise.

9 May 2023.

**SASHA WHITE K.C.
LANDMARK CHAMBERS.**

APPENDIX 1 – CHRONOLOGY.

- 1990 – Town and Country Planning Act passed into law.
- 2004 – Planning and Compulsory Purchase Act passed into law.
- 2007 – Warrington Landscape Character Appraisal [CD 4.51]
- July 2014 – Warrington Local Plan Core Strategy adopted.
- February 2015 – High Court challenge to parts of the housing policies succeeds which result in the removal of certain parts of the housing chapter but all other policies in the LP remain unaltered.
- 2016 – LPA carry out Green Belt assessment with application site falling within GA 10 and parcels AT6-8 were within application site. [See Pare 152 of POR]
- 2016 – BE Group report for WBC Employment Needs Study.
- 2016 – Spawforths instructed to develop and submit planning application for the site.
- February 2017 – Appleton Thorn Ward Neighbourhood Plan made.
- 7th March 2017 – First pre-application meeting with LPA. [Followed by subsequent pre-application meetings on 6/12/2017, 21/06/18, 30/07/2018, 31/08/2018]
- 2017 – Green Belt assessment.
- July 2017 – Preferred Development Options published by LPA identifying the Site to be removed from GB for employment related development.
- April 2018 – LPA provides a scoping opinion concluding the proposal does amount to EIA development.
- May 2019 - Outline Application (all matters reserved except for access) comprising the construction of up to 287,909 m² submitted to two LPAs [98.09 hectares] – 92.16 hectares in Warrington and 5.93 hectares within Cheshire East forming 4 developable cells⁷ and a maximum developable area of 62.9 hectares, in a range of 7-13 buildings across the site.
- 15 May 2019 – Application validated by Warrington Borough Council [2019/34799].
- 24 May 2019 – Application validated by Cheshire East Council.
- 9 May 2019 – PPA signed with WBC.
- June 2019–October 2019 – Consultation undertaken by WBC.
- 16 October 2020 – First amendment of Application with an ES addendum and removal of change of use of Bradley Hall Farm in proposal.

⁷ Cell A = 2.33 Ha, Cell B = 32.84 Ha, Cell C = 5.06 Ha, Cell D = 22.67 Ha.

- October-November 2021 – Further round of consultation undertaken.
- November 2020 – Application for National Distribution Centre on land north of barley castle lane dismissed on appeal by Secretary of State.
- 2021 – BE Employment Needs Assessment Refresh Update.
- April 2021 – LPA undertake Green Belt Site Selection – Implications of Green Belt release.
- July 2021 – NPPF 4 published.
- August 2021 – Emerging Local Plan Employment Demand Need Assessment [CD4.93]
- September 2021 – Proposed Emerging Warrington Local Plan submission version. Policy MD 6 proposes the Southeast Warrington Employment Area [SEWEA] of 137 hectares for employment use and removal of the land from the Green Belt.
- 17 November 2021 – Secretary of State grants planning permission Parkside Employment Scheme outside St Helens [for 1 million square feet]. [CD4.126]
- November – December 2021 – Further round of consultation undertaken by LPA.
- November 2021 – Second Amendment of Application included updated landscape and visual technical paper with main change a reduction in height of buildings from 40 metres to 30 metres.
- December 2021 – Members receive a briefing from officers on the scheme.
- 2 March 2022 – Agenda for Development management committee issued.
- 10 March 2022 – Warrington's Development management Committee consider the application with a recommendation for approval.
- April 2022 – Application referred to the SoS due to the site's location within GB and the scale of the proposed development.
- 22 April 2022 – Warrington Proposed Local Plan submitted to SoS for Examination in Public.
- 4 May 2022 – Cheshire East Strategic Planning Board approve the grant of pp.
- 16 May 2022 – In response to third party requests to call in for determination the application the Secretary of State decides not to call in the application and is content that it should be determined by the local planning authority.
- 19 May 2022 – Cheshire East Council grant planning permission for the development in their administrative area.
- 26 May 2022 – Secretary of State directs LPA not to grant planning permission without specific authorisation.

- 6 September to 6 October 2022 – Hearing Sessions of the Emerging Plan EIP.
 - 22 November 2022 – Application called in by the Secretary of State. [CD4.150].
 - 16 December 2022 – Emerging Local Plan Inspectors issue a post hearing letter stating that requirement for employment land of 316.26 hectares should be reduced to 168 hectares.
 - 10 January 2023 – SWP granted Rule 6 status by PINS.
 - 13 January 2023 – BE Group response to the PINS Inspectors letter [CD4.162]
 - 1 February 2023 – Application reported back to LPA DMC. The LPA resolve not to provide evidence either supporting or objecting to the proposed development.
 - 3 February 2023 – Letter received from EIP Inspectors regarding Local Plan draft modifications.
 - 8 February 2023 – The Planning Inspectorate write to the Applicant’s solicitor requesting additional information pursuant to Regulation 25 of the TCP (EIA) Regulations 2017.
 - 15 February 2023 – Case Management Conference held.
 - February 2023 – LPA Committee Report.
 - 15 March 2023 – Council formally publishes a schedule of main modifications. The schedule includes a reduction in the employment land to 168 hectares and the deletion of the SEWEA.
 - 15 March – 26 April 2023 – Consultation period on main modifications. The Applicant, by way of Spawforths, have submitted extensive objections to the proposed modifications.
 - 11 April 2023 – Submission of Proofs of Evidence by Applicant and Rule 6 party.
 - 9 May 2023 – Commencement of the Public Inquiry.
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**APPENDIX 2 – COMPLIANCE OR NOT WITH THE DEVELOPMENT PLAN FOR THE
PURPOSES OF SECTION 38(6) OF THE TCPA 1990**

DOES THE PROPOSAL COMPLY WITH THE DEVELOPMENT PLAN			
THE 2014 LOCAL PLAN CORE STRATEGY			
	STRATEGIC OBJECTIVES		
	W1, W2, W4, W5	SEE DR PARAS 4-5	
	POLICY	COMPLIANCE OR NOT	WEIGHT
1.	CS 1 – DELIVERING SUSTAINABLE DEVELOPMENT	YES	FULL
2.	CS 2 – QUANTITY AND DISTRIBUTION OF DEVELOPMENT	YES	FULL - LIMITED
3.	CS 4 – TRANSPORT	YES	FULL
4.	CS 5 – GREEN BELT	YES	FULL - LIMITED
5.	PV 1 – DEVELOPMENT IN EXISTING EMPLOYMENT AREAS	YES	FULL
6.	PV 3 – STRENGTHENING THE BOROUGH'S WORKFORCE	YES	FULL
7.	POLICY CC2 – PROTECTING THE COUNTRYSIDE	PARTIAL NON	FULL
8.	SN 7 – ENHANCING HEALTH AND WELLBEING	YES	FULL
9.	QE 1 – DECENTRALISED ENERGY NETWORKS AND LOW CARBON DEVELOPMENT	YES	FULL
10.	QE3 – GREEN INFRASTRUCTURE	YES	FULL
11.	QE 4 – FLOOD RISK	YES	FULL
12.	QE5 – BIODIVERSITY AND GEODIVERSITY	YES	FULL
13.	QE6 – ENVIRONMENTAL AND AMENITY PROTECTION	YES	FULL
14.	QE 7 – ENSURING HIGH QUALITY PLACE	PARTIAL NON	FULL
15.	QE 8 – HISTORIC ENVIRONMENT	YES	FULL
16.	MP 1 – GENERAL TRANSPORT POLICIES	YES	FULL
17.	MP 3 – ACTIVE TRAVEL	YES	FULL
18.	MP 4 – TRANSPORT INFRASTRUCTURE IMPROVEMENTS	YES	FULL
19.	MP 5 – FREIGHT TRANSPORT	YES	FULL
20.	MP 7 – TRANSPORT ASSESSMENT AND TRAVEL PLANS	YES	FULL
21.	MP 8 – WASTE	YES	FULL
22.	CC 2 – PROTECTING THE COUNTRYSIDE		
THE 2017 APPLETON PARISH THORN WARD NEIGHBOURHOOD DEVELOPMENT PLAN 2017			
52.	POLICY AT – D1 - DESIGN	PARTIAL NON	FULL
53.	POLICY AT – D2 – LOCAL LANDSCAPE CHARACTER	PARTIAL NON	FULL
54.	POLICY AT-D3 – FLOOD RISK	YES	FULL
55.	AT-TH1 – TRAFFIC MANAGEMENT	YES	FULL
56.	AT – TH2 – SUSTAINABLE TRANSPORT MEASURES	YES	FULL
57.	AT- E1 – NEW LOCAL EMPLOYMENT OPPORTUNITIES	YES	FULL
SUMMARY OF POSITION ACCORDING TO MR ROLINSON'S EVIDENCE – 28 POLICIES, 24 COMPLIED WITH AND 4 PARTIAL NON-COMPLIANCE.			