

THE HIGHWAYS ACT 1980
THE ACQUISITION OF LAND ACT 1981
THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE (A6) TO
MANCHESTER AIRPORT A555 CLASSIFIED ROAD)
COMPULSORY PURCHASE ORDER 2013

-and-

THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE
(A6) TO MANCHESTER AIRPORT A555 CLASSIFIED ROAD)
(SIDE ROADS) ORDER 2013

-and

APPLICATION UNDER ACQUISITION OF LAND ACT 1981, SECTION 19

CLOSING STATEMENT OF THE ACQUIRING AUTHORITY

Relevant legal principles

1. It is not a condition precedent of the power to confirm a compulsory purchase order that the confirming authority must be satisfied that the development will probably be carried out; *Chesterfield Properties PLC v. Secretary of State for the Environment* (1998) 76 P. & C.R. 117 *per Laws, J at p. 131*

“The requirement that the Secretary of State find a substantial public interest if he is to justify a Compulsory Purchase Order does not imply that he must conclude on the facts that the related development will probably take place. There is no basis upon which I can hold that such a conclusion is a *sine qua non* for the existence of such a public interest. There may very readily be cases where the Secretary of State concludes (a) that the public interest decisively requires the development to go ahead; (b) that it is less likely, or much less likely, to go ahead without a Compulsory Purchase Order; (c) but that even if the order is made he cannot conclude that it will probably go ahead. I think this is such a case. The development in question here has the benefit of planning permission. It is entirely plain, not least from paragraph 20 of the principal decision letter, that the Secretary of State accepted the substantial merits case put forward in respect of the development scheme (“the last chance to revive the retail economy of Stockton town centre ...”). Accordingly, upon the principal issue in the case the applicants cannot succeed unless they can fault this acceptance by the Secretary of State . . .”

This was followed in *Gala Leisure Ltd v Secretary of State for the Environment, Transport and the Regions* (2001) 82 P. & C.R. 11.

2. For example, it does not have to demonstrated categorically that a licence to relocate GCNs will be granted by English Nature or even that such a grant is probable; per *Pitchford, J. in Moggridge v National Assembly for Wales* [2004] Env. L.R. 18 at para 36.
3. It is not necessary for the Secretary of State to find that that every single objective of a scheme should be achieved if the scheme goes ahead; *Moggridge v National Assembly for Wales* [2004] Env. L.R. 18. In that case the National Assembly for Wales confirmed an Order even though the primary purpose was not justified but that the secondary purpose was made out. In the present case we say that all the stated objectives will be achieved – but *Moggridge* demonstrates that this is not always necessary.
4. The principle that a compelling case in the public interest must be made out in order to override private interests (See Circular 6/2004 para.17) meets the requirements of Article 1 of the First Protocol to the European Convention on Human Rights; Per Carnwath L.J. in *Hall v The First Secretary of State* [2007] EWCA Civ 612 at para 15 (citing the same reference in the earlier Circular 02/03).

“15. It is well-established that a clear case is required, both under domestic law and under the European Convention of Human Rights, to justify depriving a private owner of his land in the public interest. Circular 02/2003 states the principle:

“A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected, having regard in particular to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights...” (para.14)

The courts have accepted that this principle fairly reflects the necessary balance required by the Convention (see *R. (on the application of Clays Lane Housing) v Housing Corporation* [2005] 1 W.L.R. 2229, 2236). Where the balance depends on judgments of planning policy, the Secretary of State's decision will not be open to challenge save on conventional judicial review grounds.”

Are the Orders and the actions that they authorise within the statutory powers?

The CPO

5. As demonstrated in the evidence given by Mr Huda, this compulsory purchase order is for the acquisition of land:
 - (a) for the construction of a highway (the A6MARR) which is to be a highway maintainable at the public expense (s.239(1));

- (b) the improvement of existing highways as shown on the SRO (s.239(2)),
 - (c) for the provision of land in exchange for public open space land required for the scheme (s.239(5));
 - (d) for the acquisition of land which is required for, or for use by the highway authority in connection with the carrying out of works to provide new means of access to premises – either to replace those stopped up under the SRO or where it is considered necessary or expedient in connection with the construction, improvement or alteration of a highway to do so (ss. 129(1)(a), (b) and 129(3); s.240(1));
 - (e) for the acquisition of land which is required for use in connection with the construction or improvement of a highway, or with the carrying out of works required under the SRO – for example as contractor’s compounds or storage areas for materials or spoil(s.240(2));
 - (f) for the purpose of mitigating adverse effects which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway (s.246(1)) and
 - (g) in order to acquire rights over land by creating them as well as for the acquisition of rights already in existence (s.250)
6. We have also explained that the authority is empowered to include within the CPO interests which it has already acquired by agreement in order to clear the title (s.260) and that we wish to retain in the Order those Plots already acquired by agreement.
7. In their evidence Mr Huda and Mr Reid have demonstrated that all the plots listed within the CPO are included for these statutory purposes. In the Orders session Mr Huda has indicated where, in discussion with landowners, it has been possible to reduce the landtake slightly. In relation to Plots 7/4F, 7/4H and 7/7, for example, which are now proposed to be omitted from the CPO, Mr Huda has explained that this has become possible with the approval of departures which have enabled the existing Spath Bridge to be retained. In other cases plots have been able to be reduced or removed as a result of more detailed development of the scheme. [See Modifications Report.¹
8. Insofar as there have been claims that land cannot be acquired for a temporary purpose² this is correct but the CPO does not purport to acquire land on a temporary basis. The absence of any

¹ CD 1104

² Objections 2, 3, 8, 21, 23, 26, 30,37, 38 and 43

statutory power to acquire on a temporary basis necessitates the acquisition of some land required for the construction of the highway or required for the carrying out of works relative to the SRO (s.240) – for example for storage purposes or for use as contractor’s compounds – which will not be needed post construction. In those cases where the land was no longer required for the statutory purposes the land would be offered back to the original landowner under the Crichel Down Rules. The Council would prefer to have negotiated licences to use the land during the period of temporary occupation but in the absence of such agreement needs to keep such land in the CPO in order to achieve the certainty of delivery of the scheme.

The SRO

9. Mr Huda’s evidence has also demonstrated that the Side Roads Order (SRO) provides for:
 - (a) The stopping up, diversion, improvement, raising, lowering of, or other alterations to, the various highways that cross or enter the route of the road scheme or which will be otherwise affected by the construction or improvement of the road (s.14(1)(a)(i));
 - (b) The construction of new highways for the purpose of effecting these alterations and for other purposes connected with the road or its construction (s.14(1)(a)(ii)),
 - (c) Works incidental to these purposes (s.14(1)(c))
 - (d) The stopping up of private means of access to premises adjoining or adjacent to land comprised in the route of the road, or forming the site of any works authorised by the order (ss.14 and 125);
 - (e) The provision of reasonably convenient new means of access to any such premises (ss14 and 125).
10. We have demonstrated how each public right of way affected by the Scheme will be diverted and the respective lengths of the diversion compared with the existing line.³ In some cases, for cost and engineering reasons, where a series of public rights of way cross the line of the road in close proximity, shared crossing points (sometimes also shared with the provision of new PMAs) have been provided. Whilst there have been objections as to shared use of PROWs and PMAs from individual objectors (to which we will return later) there has been no objection from any of the many interest groups interested in preserving and improving the public rights of way network. As Sue Stevenson’s evidence demonstrates there has been close liaison with

³ Evidence of Sue Stevenson MBS 8/2 Appendices 2 and 3.

those groups⁴ and the scheme as a whole will also bring about considerable improvements in the PROW network – with the prospect of further improvements for pedestrians, cyclists and horse-riders following implementation of the scheme.⁵

11. Our evidence demonstrates, therefore, that reasonably convenient alternative routes will be provided as part of the scheme. Whilst there will inevitably be disruption during construction of the new road (which may require temporary road traffic regulation orders during that period) the alternative routes will come on stream when the existing paths are formally stopped up under the SRO. The requirements of s.14(6) are, therefore, met.
12. With respect to the stopping up and re-provision of PMAs there are some objections - which we will consider later. In the large majority of cases, however, there have been no objections and Mr Huda's evidence demonstrates⁶ the way in which reasonably convenient means of access have been maintained or provided in all cases where existing means of access are stopped up.

The Section 19 certificate

13. The section 19 application is required because part of Woodford Recreation Ground (Plots 5/1, 5/1A, 5/1B, 5/1C, 5/1D, 5/1E, 5/1F, 6/1H, 6/1 and 6/1J), comprising 9195 square metres, is required for the works to the existing A555 for the construction of the new shared footway/cycleway and slip road – thus triggering the requirement for exchange land that is not less in area and is equally advantageous to the public. The CPO provides for the acquisition of 16,722 square metres (Plots 5/7A and 5/7D) located approximately 250 metres east of Woodford Road and accessible by an existing footpath (FP14 Hazel Grove to Bramhall), by a new shared used cycleway/footway adjacent to the A6MARR and by a link from Albany Road, Woodford.
14. Mr Huda's evidence⁷ demonstrates how the open space taken from Woodford recreation Ground is used and how the formal uses of that land will be retained. The CPO areas currently used for informal usage will be replaced in a nearby location with good access to local residential areas and will be laid out in an attractive and ecologically beneficial way to provide for the same informal recreational usage as the recreation ground. As the one objection to the section 19 certificate has been withdrawn and no contrary evidence has been presented to the

⁴ MBS 8/1 section 12.

⁵ MBS 8/1 paras 13.5-13.7.

⁶ MBS 2/1 Table 4.1 and MBS 2/2 App. H.

⁷ MBS 9/1 and MBS 9/2

Inquiry it is submitted that there is no reason why the section 19 certificate should not be granted.

15. Subject to consideration of the objections, therefore, the works proposed and the land acquisition which will be authorised by these Orders are within the statutory powers cited in the CPO and SRO.

A compelling case in the public interest justifying the proposed interference with private rights.

16. The evidence before the Inquiry [McMahon⁸, Malik⁹, Stevenson¹⁰] has explained the longstanding traffic problems of this part of the Manchester conurbation. The need for a road link running to the south of the conurbation and providing connections between the north south routes entering the conurbation has been recognised for many years. The recognised need for a link has resulted in various schemes having been proposed - each with slightly different ambitions depending on changes in funding sources¹¹ and in the emphasis in national government policy¹² with respect to the place of road provision in transportation planning.
17. The SEMMMS study¹³ was the result of a major change in transportation policy – requiring a comprehensive study of the transport problems of the area and the identification of a multi modal solution to addressing those problems. Notwithstanding its multi modal approach, the Study identified the need for a road link around this part of the south of the conurbation as a key contributor to addressing the problems of interconnectivity and congestion.
18. Our evidence¹⁴ has demonstrated the many projects, across all transportation modes, that have been, or are in the process of being, addressed since the SEMMMS report was produced in 2001. Our evidence also recognises that there are still parts of the SEMMMS strategy which have yet to be implemented – for example the Poynton Relief Road and the M60-A6 link and other parts which have been overtaken by events (e.g. the need for an eastern rail link to the airport will now be met as part of the HS2 project). However, the SEMMMS strategy was a long term (20 year) strategy and, notwithstanding the economic problems that have slowed

⁸ MBS 1/1

⁹ MBS 3/1

¹⁰ MBS 8/1

¹¹ MBS 1/1 paras.3.6-3.23.

¹² See, in particular, CD 4017 – the Transport White Paper “A New Deal for Transport: Better for Everyone” and CD 4016 “A New Deal for Trunk Roads in England.

¹³ CDs 5002 and 5027.

¹⁴ Sue Stevenson MBS 8/1 paras. 4.1-5.30; Nasar Malik 3/1 paras. 3.11-3.14.

down infrastructure delivery in general, the achievement of its objectives is very much on track with advancement of this current proposal and the positive progress that is also being made with respect to the Poynton Relief Road.

19. The SEMMMS study highlighted the problems of congestion and journey time unreliability in south-east Manchester. These problems impact on public transport, commuters, business travellers and freight operators all of whom rely upon the road network to provide access to jobs and on air quality within residential areas. Mr Malik's evidence demonstrates that these problems remain acute and have deteriorated notwithstanding the implementation of other SEMMMS recommended projects in the area.
20. Major employment developments around Manchester Airport are planned and underway, whilst the importance of accessibility to our regional airports as international gateways (and Manchester airport in particular) has been recognised as a key element in maintaining and improving economic prosperity.¹⁵

The specific traffic problems

21. Mr Malik's evidence¹⁶ has demonstrated that the traffic problems in the south-east of Greater Manchester are significantly worse than in other major cities, and that there is a higher level of congestion in the morning peak than the rest of the Greater Manchester conurbation. Speeds on local roads are very low with a corresponding slowness in journey times. He identifies 7 areas and 6 specific junctions where there are particular congestion problems. A comparison of the levels of traffic increase on east - west and north - south routes demonstrates that significant numbers of vehicles appear to be making the west – east / east – west journey by diverting north to the M60 before crossing east/west to travel southwards down the M56, A34 or A6.¹⁷ There is considerable journey time variability at different times of the day (more than 50% longer journey times in the peaks compared with off-peaks on more than half of the routes surveyed¹⁸). Public transport accessibility from the Stockport area and from other residential areas of south east Manchester to the Airport is limited and slow.¹⁹

¹⁵ McMahan MBS 1/1 paras 4.16-4.18 and 5.2-5.5; Eddington Transport Study Report 2006 (CD 5012); National Infrastructure Plan 2013 (CD 4020);

¹⁶ MBS 3/1 paras. 4.4- 4.6.

¹⁷ MBS 3/1 paras. 4.22-4.30.

¹⁸ MBS 3/1 para 4.16.

¹⁹ MBS 3/2 Fig 4.20.

22. The levels of traffic on local roads are matched by concentrations in traffic accidents on the routes taken by east west traffic²⁰ including within local centres.
23. In order to assess the scheme a study area has been identified and a traffic model validated against existing traffic flows. The validation exercise has demonstrated that the model is robust. All the modelling work has been carried out using industry standard modelling packages and in accordance with Government guidance. From the modelling work it has been possible to predict the nature and quantum of traffic movements with and without the scheme and the predicted route changes that the scheme will bring about. Similarly, in relation to the proposed mitigation measures it has been possible to identify what the effect of introducing traffic management measures would be in terms of attractiveness and choice of routes.

The Objectives of the scheme

24. The objectives of the scheme are set out in full in, *inter alia*, the Statement of Reasons, the Statement of Case and the evidence of Mr McMahon and Mr Malik. Mr Malik references²¹ each of these objectives to the specific traffic problems experienced in the study area and also identifies specific outcomes, agreed by the Project Board, which can be used to measure the success of the scheme in achieving these objectives.
25. The objectives are to:
- Reduce the impact of traffic congestion on local businesses and communities;
 - Improve the safety of road users, pedestrians and cyclists; reduce the volume of through traffic from residential areas and retail centres;
 - Increase employment and generate economic growth: provide efficient surface access and improved connectivity to, from and between Manchester Airport, local, town and district centres, and key areas of development and regeneration (e.g. Manchester Airport Enterprise Zone)
 - Boost business integration and productivity: improve the efficiency and reliability of the highway network, reduce the conflict between local and strategic traffic, and provide an improved route for freight and business travel;

²⁰ MBS 3/2 Figs. 4.21 to 4.24.

²¹ MBS2/1 paras. 3.17-3.31

- Promote fairness through job creation and the regeneration of local communities: reduce severance and improve accessibility to, from and between key centres of economic and social activity;
- Support lower carbon travel: reallocate road space and seek other opportunities to provide improved facilities for pedestrians, cyclists and public transport.

26. The identified specific measurable outcomes are to:

- reduce journey times to/from Manchester Airport and the Enterprise Zone from Wythenshawe, Stockport town centre, Cheadle, Cheadle Hulme, Hazel Grove, Bramhall, and Poynton;
- reduce journey times to/from Handforth Dean from Wythenshawe, Cheadle, Cheadle Hulme, Hazel Grove, and Bramhall;
- reduce journey times and improve reliability on the A6 (Hazel Grove to M60) and A5149 (A5102 to A560) north- south routes;
- reduce journey times and improve reliability on the A560 (Stockport town centre to A5103), A5143, Etchells Road/Finney Lane east -west routes);
- reduce traffic volumes and severance on key routes through local centres: namely the A6 through Hazel Grove, A5102 through Bramhall, Finney Lane through Heald Green;
- reduce the number of road traffic accidents on the above roads through the local centres;
- improve public transport accessibility (reduced journey times for buses) and increase bus usage between Stockport town centre and Manchester Airport;
- improve facilities for and usage by cyclists and pedestrians between Hazel Grove and Manchester Airport;
- improve pedestrian and cyclist facilities and usage on local roads relieved of heavy traffic;
- Improve air quality in the local centres of Bramhall, Hazel Grove, Cheadle Hulme and Heald Green

27. The scheme performs well against each of these objectives and outcomes²²:

- (a) Journey times to and from Manchester Airport from Stockport town centre, Cheadle, Cheadle Hulme, Hazel Grove, Bramhall, and Poynton are all significantly improved;
- (b) Journey times to/from Handforth Dean and Woodford from Wythenshawe, Cheadle, Cheadle Hulme, Hazel Grove, and Bramhall are, in general, reduced²³ – particularly in the peak periods.
- (c) Journey times and reliability are improved in the peak hours on the majority of the north south routes.²⁴
- (d) Journey times and reliability are significantly improved on the A5143 Etchells Road / Finney Lane route, with improvements on the east-west A560 (Stockport town centre to A5103) route in both peak periods and a broadly neutral effect on the A560 west-east movement.²⁵
- (e) Traffic volumes and severance are reduced through local centres on the A6 through Hazel Grove (-18%), on the A5102 through Bramhall, (-3%) and at Finney Lane through Heald Green (-43%).²⁶
- (f) An overall reduction in the number of road traffic accidents on these roads through the local centres is predicted.
- (g) Public transport accessibility will be significantly improved - measured by reduced journey times (a 6% to 23% reduction) for buses and it is considered that this will lead to increased bus usage between Stockport town centre and Manchester Airport
- (h) The scheme will result in a marked improvement in facilities for and usage by cyclists and pedestrians between Hazel Grove and Manchester Airport – in particular a segregated cycleway / footway will be provided along the entire length of the A6MARR;
- (i) Pedestrian and cyclist facilities and usage on local roads will also be improved on roads relieved of heavy traffic through the proposed complementary measures that will be

²² Nasar Malik Proof MBS 3/1 paras. 6.52 – 6.75.

²³ The principal exceptions being the Handforth Dean to Bramhall and Woodford to Bramhall routes where the new junction with Woodford Road creates a delay which does not presently exist.

²⁴ MBS 3/1 Table 6.20.

²⁵ MBS 3/1 Table 6.22.

²⁶ MBS 3/1 Table 6.23

enabled by the traffic reductions created by the scheme. Interconnectivity between the new road and the intercepted local pedestrian and cycle routes is a key element of the scheme.

- (j) In terms of greenhouse gas emissions the scheme is considered to be broadly neutral although the potential for increased public transport usage and the provision of cycleway facilities should make a positive contribution towards reducing carbon emissions. Air quality across the study area as a whole will be improved although there are specific instances (in particular in Disley) where there will be reductions in air quality. .

28. These outcomes also match up well to the objectives in the GM LTP.²⁷

29. One of the positive outcomes is the potential for measures to be introduced to protect communities as a result of road space being freed up. It is recognised that there are also some changes in traffic levels and environmental effects that would be brought about by the scheme and which are negative. In order to take advantage of the benefits of the scheme and to help reduce any negative effects a package of Complementary and Mitigation Measures has been drawn up to take advantage of or to reduce the effect of (respectively) the impact of the scheme. In particular, enhanced mitigation measures have been identified for the A6 corridor south of the connection with the A6MARR in order to reduce the level of traffic which may be attracted onto the A6 by the presence of the new road scheme from other cross country routes. We will return to this later when dealing with the objections.

30. In summary, therefore, the scheme objectives are appropriate and in the public interest. This has been recognised by the grant of planning permission (by the three local planning authorities) for the proposals and by the acceptance by Government of the Business Case and the grant of Programme Entry status by Government. The traffic modelling exercises that have informed the traffic predictions have been robust and are in accordance with current Government advice.

Planning considerations

31. Following the Secretary of State's decision not to call in the planning applications for the Scheme,²⁸ planning permission has been granted for the Scheme by each of the three local authorities concerned, Stockport Metropolitan Borough Council on 25th June 2014, Cheshire East Council on the same date and Manchester City Council on 2nd July 2014.²⁹

²⁷ MBS 3/1 paras.6.76- 6.96.

²⁸ Communicated by letter of 9th June 2014 (CD 2204).

²⁹ See Houghton (MBS/7/2), appendix A for the decision notices.

Supplementary planning permissions have also been issued to cover minor variations to the Scheme and other minor components of it: by Stockport MBC on 30th June 2014 in relation to a portion of the shared use footway/cycleway located on land north of the A555 and east of the A34 incorporating Spath Lane;³⁰ by Stockport MBC and Cheshire East Council on, respectively, 30th June and 21st July 2014, in relation to two drainage headwalls on land north of Mill Hill Hollow;³¹ by Cheshire East Council on 21st July 2014 in relation to earthworks drainage adjacent to the Hill Green accommodation bridge;³² and by Cheshire East Council and Stockport MBC on, respectively, 3rd and 4th September 2014, in relation to the oil pipeline diversion at the Bramhall Oil Terminal.³³ There is a further application in respect of the oil pipeline diversion which is imminent. The purpose of this application is to straighten the line of the diversion and make it more efficient in terms of the route of the pipeline while at the same time better serving the landowner's interest. The Scheme is not dependent on the outcome of this further application but no problem is anticipated in any event.³⁴ Finally, an application has been submitted to Stockport MBC (on 28th August 2014) in relation to the construction of a bund north of the line of the new road, west of the West Coast Main Line and to the east of the Oil Terminal. A decision is expected by the end of November. Mr Houghton is confident of a positive outcome.³⁵

32. Good progress is being made with the work necessary to discharge the conditions attached to the planning permissions.³⁶ The first tranche of discharge submissions in relation to pre-commencement conditions is expected this month with all further discharge submissions in relation to pre-commencement conditions expected during November.³⁷
33. There can, particularly in the light of the oral evidence of Mr McMahon and Mr Houghton,³⁸ be every confidence that the required traffic reductions will be achieved in order to satisfy the enhanced mitigation conditions³⁹ which apply before the new road can be opened to traffic.
34. There is no likely impediment to the Scheme in relation to any outstanding planning matters.

³⁰ Decision notice at Houghton appendices (MBS/7/2), appendix C.

³¹ Decision notices at Houghton appendices (MBS/7/2), appendix C.

³² Decision notice at Houghton appendices (MBS/7/2), appendix C.

³³ Decision notices at MBS/17 and MBS/18.

³⁴ Houghton x day 3 (2/10/14).

³⁵ Houghton x day 3 (2/10/14).

³⁶ Houghton proof of evidence (MBS/7/1), paragraph 4.6.

³⁷ Houghton x day 3 (2/10/14).

³⁸ xx by Mr Willman day 8 (10/10/14).

³⁹ Condition 37 of the Stockport MBC decision notice and condition 8 of the Cheshire East decision notice.

35. A number of objections have referred to the loss of Green Belt land. The “very special circumstances” justification for the Scheme has already been accepted by the planning authorities in granting planning permission. The Secretary of State did not consider it necessary to call in the planning applications on Green Belt grounds (or otherwise). Objections to Green Belt loss should not carry any weight at this stage in the process. The potential for the Scheme to lead to further Green Belt loss is not for this inquiry either but it is no part of the Scheme objectives to facilitate Green Belt development. Any proponents of Green Belt development will need to pursue Green Belt release through an appropriate local plan process. The Government’s commitment to the protection of the Green Belt was re-emphasised in new and revised guidance published on 6th October 2014 making it clear, inter alia, that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the “very special circumstances” justifying inappropriate development in the Green Belt.⁴⁰

Environmental considerations

36. The Scheme has been subject to environmental assessment as part of the planning process and the planning applications were supported by a full environmental statement. As part of the planning process there was consultation with the relevant environmental bodies and a consideration of any objections received from others. The Secretary of State did not feel it necessary to call in the planning applications in order to further examine environmental issues (or otherwise). The planning permissions have not been made the subject of any challenge by way of judicial review and are now well beyond the time by which any such challenge would have to be made. The position is that the environmental issues have already been addressed in the Scheme’s development through the proper democratic process and found not to pose any bar to the grant of planning permission. It is not for this inquiry to re-visit those issues or reach any different conclusion in respect of them.

37. Notwithstanding the above, these submissions address the main environmental issues which have been raised by way of objection to the present orders.

Air Quality

38. It is clear that the overall effect of the Scheme is to provide significant benefits in air quality terms in the area which was the subject of the local air quality assessment carried out as part of the environmental assessment.

⁴⁰ See paragraph: 034 Reference ID: 3-034-20141006 of the National Planning Practice Guidance.

39. These benefits may be summarised as follows:

- a reduction of 844 receptors experiencing concentrations exceeding the annual mean limit value for NO₂
- a reduction from 217 to 145 of receptors experiencing concentrations exceeding 60µg/m³ (the indicator level for likely exceedance of the 1 hour mean NO₂ objective)
- a reduction in annual mean NO₂ concentrations for some 79% of receptors within the assessment area compared with an increase for some 19%
- a reduction in annual mean PM₁₀ concentrations for some 61% of receptors within the assessment area compared with an increase for some 17% (with no receptors subject to concentrations greater than 30µg/m³ with or without the Scheme and hence no receptors subject to exposure exceeding the annual mean limit value of 40µg/m³)
- a reduction within the Greater Manchester AQMA of 780 properties subject to an exceedance of the annual mean limit value for NO₂ although 3 new properties would be brought into exceedance in the Disley AQMA (increasing to 11 when the environmental statement assessment is up-dated by use of the latest emission factors (EFTv6.01) and most recent “gap analysis” (IAN170/12v3))
- a reduction in annual mean NO₂ and PM₁₀ concentrations for, respectively, 94% and 73% of the 8,236 receptors within the Greater Manchester AQMA compared with increases for 4.5% and 2%, although there would be increases of concentrations for both pollutants for the 104 receptors within the Disley AQMA.⁴¹

40. The significant overall benefit of the Scheme in air quality terms is reflected in the fact that the receptors in exceedance which would be benefited by the Scheme outnumber those which would be adversely affected by a factor of 23.⁴² The Scheme produces many more “winners” than “losers” in air quality terms and the localised deterioration in air quality in Disley is clearly outweighed by the overall scale of the benefits.

⁴¹ See generally chapter 8 of the environmental statement (CD 2092) and Colclough main proof (MBS/5/1).

⁴² Ibid.

41. PAULA commissioned Air Quality Consultants (“AQC”) to undertake a review of the air quality evidence presented to the inquiry in support of the Scheme. The review (OBJ/50/02) looked at both the air quality assessment in the environmental statement and Mr Colclough’s proof of evidence (MBS/5/1). It is important to note at the outset that the review concluded that the air quality assessment and methodology which had been used appeared to be generally acceptable and in line with current best practice for non-trunk roads. So much was already clear both from the environmental statement and Mr Colclough’s proof of evidence but the confirmation of these matters from AQC serves to emphasise that, insofar as Mr Houston continues to pursue methodological criticisms of the air quality assessment presented in the environmental statement and in Mr Colclough’s proof of evidence, such criticisms are devoid of substance.
42. It is also pertinent to note at this point that AQC did not put forward any claim that the effects of the Scheme would give rise to a breach of the EU Directive on Air Quality⁴³ (“the Air Quality Directive”). This is not perhaps surprising. The risk assessment of compliance with the Air Quality Directive carried out as part of the environmental assessment of the air quality aspects of the Scheme (in accordance with the then current interim advice note (IAN 175/13⁴⁴)) concluded that the risk rating was low, that is, that the Scheme was compliant with the Air Quality Directive. Moreover, this is not a case which falls within paragraph 5.10 of the draft National Policy Statement for National Networks⁴⁵ which (embodying key factors found in IAN 175/13) indicates that the Secretary of State should refuse consent if the air quality impacts of a scheme would:
- result in a zone/agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant or
 - substantially affect the ability of a non-compliant area to achieve compliance within the timescales as reported to the European Commission.

The Scheme would result in neither of these outcomes.⁴⁶ And so far as concerns Disley in this regard, it is also to be noted (as confirmed by AQC) that the A6 in Disley is not one of

⁴³ Directive 2008/50/EC (CD 4403).

⁴⁴ CD 4418.

⁴⁵ See Colclough main proof (MBS/5/1), paragraphs 2.15-2.19.

⁴⁶ See Colclough main proof (MBS/5/1), paragraph 6.27 and rebuttals MBS/REB/50/1 and 2 passim.

DEFRA's reporting locations for the purposes of compliance with the Air Quality Directive for the North West and Merseyside Zone.

43. AQC's review made essentially three points. The first was that there was insufficient information in the environmental statement to ascertain whether the approach taken had been correctly put into practice. This is a hollow complaint given that the environmental statement has already been accepted by the planning authorities. Be that as it may, the complaint is also unfounded. As Mr Colclough describes (in rebuttal MBS/REB/50/02), the level of information provided in the environmental statement was sufficient to satisfy the requirements of the Environmental Impact Assessment Regulations.⁴⁷ The provision of full technical information was not required, would not have assisted the environmental impact assessment process and would have been quite impractical given that there were over 5,000 road links and 11,000 receptors.
44. The second point was that the enhanced mitigation measures tested in Mr Colclough's proof of evidence (assuming a reduction in traffic speeds in Disley from 41kph to 26kph) had not been shown to be appropriate in terms of air quality outcomes. This does no more than re-state what Mr Colclough's evidence had already made perfectly clear, namely, that the effectiveness in air quality terms of a reduction in traffic volumes through Disley might be neutralised were that to be achieved by a reduction in traffic speed through Disley. Hence it was that Mr Colclough concluded in paragraph 5.28 of his proof that the mitigation scheme designed to discharge the relevant planning condition should provide not only for a reduction in the forecast increase in traffic on the A6 to the necessary levels but should also seek to achieve this without significant reduction in traffic speed through the Disley AQMA.
45. The third point sought to draw attention to the scale of the impact within Disley coupled with a claim that this had been under-represented in the environmental statement. There is no such under-representation of the impact in Disley in the environmental statement. Moreover, in response to two specific matters raised by AQC in this connection, Mr Colclough makes it clear in his rebuttal (MBS/REB/50/2) that he disagrees. First, given that the 3 new exceedances of the annual mean NO₂ limit value reported in the environmental statement to occur with the Scheme are at properties within the AQMA, Mr Colclough does not consider that the AQMA would need to be extended.⁴⁸ Secondly, Mr Colclough points out that the

⁴⁷ The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (CD 4018).

⁴⁸ Response 50/2/019.

Further Assessment A6, Disley issued by Cheshire East Council in December 2011 indicates that property at the Crescent is predicted to experience annual mean NO₂ concentrations of 38µg/m³ in 2016, 12 months before the opening of the Scheme, so that the predicted increases in NO₂ associated with the Scheme would not lead to exceedance of short term objectives under such conditions.⁴⁹

46. Mr Houston's own proof of evidence (OBJ/50/01) returns to the issue of Disley but (presumably in the light of the AQC report which, correctly, does not make any case in relation to breach of European law here) switches the focus of complaint of breach of the Air Quality Directive, with the Scheme in place, to the existing section of the A555 between the A34 and the A5102. This focus on the A555 is then maintained in Mr Houston's rebuttal (OBJ/50/03) to MR Colcough's rebuttal (MBS/REB/50/1) of Mr Houston's original proof. It is unnecessary to say more about Disley at this point. Mr Houston's complaint in relation to the A555 is wholly unfounded. First, as Mr Colcough points out more than once in his rebuttal volumes MBS/REB/50/1 and 3, the Air Quality Directive provides expressly that compliance with the limit values directed at the protection of human health shall not be assessed "*on the carriageway of roads*".⁵⁰ Secondly, even if one were to accept Mr Houston's calculations which seek to carry his point, the fact is that those calculations present concentration levels at a point 4m from the carriageway of the existing A555 (south of monitoring station 31 – Spath Lane East) which is a location "*where members of the public do not have access and there is no fixed habitation*".⁵¹ As Mr Colcough also points out in his rebuttal volumes, such a location is again expressly stated in the Air Quality Directive to be one where compliance with the limit values directed at the protection of human health shall not be assessed.⁵² Thirdly, the simple pro-rata approach (taking account of traffic volumes only) of the calculations made by Mr Houston is in any event inappropriate and yields results which do not match the modelled outcomes (which take account of all relevant factors and not just traffic volumes) as Mr Colcough's rebuttal volume MBS/REB/50/3 demonstrates.⁵³ For good measure, it is also to be noted that Mr Houston has wrongly located the cycle-path on the air quality contour map he appends to his rebuttal proof (OBJ/50/03) and the cycle-path in this location would (so the indicative air quality contours suggest) in fact be in an area

⁴⁹ Response 50/2/018 and 50/2/024.

⁵⁰ Annex III, paragraph 2(c).

⁵¹ Annex III, paragraph 2(a).

⁵² Ibid.

⁵³ At 50/RR05.

with an annual mean NO₂ concentration of 30-40µg/m³. This is well below the 60µg/m³ annual mean NO₂ concentration suggestive of exceedance of the short term exposure limit (which would be the relevant one in connection with the cycle-path).⁵⁴

47. Mr Houston's complaint in his proof (OBJ/50/01) about the use of the receptor approach taken in the air quality assessment lacks merit. This approach is a fundamental requirement of a local air quality assessment as set out in LAQM TG09⁵⁵ and is not the subject of any criticism by AQC who endorse the methodology used. This is an example of Mr Houston parting company with his own expert. Mr Houston's further suggestions in his proof (OBJ/50/01) are equally without merit. These suggestions include ones to the effect that the range of different figures presented in Mr Colcough's proof in relation to air quality outcomes in Disley reveals inconsistency and that it gives rise to the possibility that, had a similar exercise been carried out for the whole Scheme, an overall worsening of air quality might have been indicated. The range of outcomes in Disley is explicable on the basis of the different inputs in relation to emission factors and "gap analysis" (and, indeed on whether any "gap analysis", up-dated or not, is employed) following developments after the environmental statement. And given that the overall picture to emerge from the up-dated assessment for Disley is one of air quality improvement (in the sense of fewer predicted exceedances both with and without the Scheme), had an up-dated analysis been carried out for the whole Scheme, the expectation would be that improvements in air quality would be anticipated in all areas benefiting in air quality terms from the Scheme. All this is carefully explained by Mr Colcough in his rebuttal (MBS/REB/50/1).⁵⁶

Noise

48. Noise has not been a particular feature of the objections of those who have appeared at the inquiry. Noise was appropriately assessed in chapter 13 of the environmental statement⁵⁷ and a summary of the position is contained in Mr Reid's evidence.⁵⁸ Of the 14 parties who have referred to noise in their objections, the position in the short term is that two will experience a reduction in noise levels, four will be subject to minor impact, four to moderate impact and four to major impact. In the long term two will experience a reduction in noise levels, three will be subject to negligible impact, five to minor impact, three to moderate impact and one to

⁵⁴ See Mr Colclough rebuttal volume MBS/REB/50/3 at 50/RR06.

⁵⁵ CD 4419.

⁵⁶ See, for example, response 50/R11.

⁵⁷ CD 2092.

⁵⁸ MBS/4/1 at paragraphs 4.1-4.14.

major impact. As is to be expected, the Scheme produces benefits and disbenefits in noise terms but there are no areas of particular concern. The Scheme has been designed to provide a good degree of mitigation against noise utilising low noise surfacing, the inclusion in the CPO of plots to provide for bunding to protect against noise and the introduction of noise barriers at appropriate locations. 55 properties could potentially qualify for noise insulation under The Noise Insulation Regulations 1975.

Nature conservation

49. Nature conservation was appropriately assessed in chapter 11 of the environmental statement.⁵⁹ Save for the issue of the loss of ancient woodland (addressed below), nature conservation has not materially figured in the objections. For present purposes it suffices to mention only the issue of great crested newts which, given the abundance of this species along the corridor of the new road, was the specific subject of the evidence of Mr Bardot.⁶⁰ In the light of up-dated surveys since the environmental statement, the proposals to deal with great crested newts now involve the creation of 26 ponds (together with the enhancement of a further two) by way of compensation for the 12 ponds lost. In terms of terrestrial habitat, the compensation to be provided will consist of 37ha of specialist habitat, which owing to its superior quality, will sufficiently offset the loss of/damage to 76ha of lesser quality habitat. The mitigation strategy to be pursued (which in this case provides the method by which the compensation will be achieved) has been designed to avoid double-handling of great crested newts and involves, inter alia, the temporary translocation of six of the meta-populations of great crested newts encountered in the Scheme corridor on to third party receptor sites (all of which have been found to be suitable for the task in hand) outside the CPO boundary. The proposals have been shaped by the guidance provided by Natural England when granting a licence in respect of the “advance works” at Styal Golf Course.⁶¹ While Natural England has not provided a view on the draft licence application submitted to them in respect of the current proposals, the proposals are ecologically feasible, in line with guidance on the subject and supported by scheme precedents elsewhere. Thus it was that Mr Bardot was able to express a high level of confidence that a licence would be forthcoming. There need be no concern about any impediment to Scheme from this quarter.

⁵⁹ CD 2092.

⁶⁰ MBS/6/1.

⁶¹ See CD 5530.

50. Agreement has been reached in principle with each landowner concerned in relation to the third party receptor sites.⁶²

Loss of ancient woodland

51. The Scheme involves the loss of 0.08ha of ancient woodland at Carr Wood out of a total of 2.3ha of the same. The direct loss of ancient woodland is therefore small. Paragraph 118 of the National Planning Policy Framework⁶³ provides that “*planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitat, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss*”. The grant of planning permission for the Scheme by the relevant planning authorities (in this particular case Cheshire East Council and Stockport Metropolitan Borough Council) demonstrates that the need for, and benefits of, the Scheme, have already been adjudged to clearly outweigh the small loss of ancient woodland.
52. The Woodland Trust’s claim in its proof (OBJ/54/01) that the Scheme could (the matter is not put higher) result in ongoing deterioration of the ancient woodland by way of indirect impact from new road and associated traffic is answered in the corresponding rebuttal (MBS/REB/54/1) which explains that there would be no material modification to the groundwater regime in the area, that there are no proposals for road related lighting in the vicinity of the woodland and that measures will be taken to control construction dust in sensitive locations such as the woodland in question.⁶⁴ Likewise, the (unspecific) suggestion in Mr Houston’s proof (OBJ/50/01) that the new road might have a zone of influence of 300m into the ancient woodland is countered by rebuttal evidence (in MBS/REB/50/1) that monitoring experience indicates that NO₂ concentrations could reduce by up to 50% within as short a distance as 20m.⁶⁵
53. Mr Houston and PAULA’s point (see OBJ/50/01) that an alternative alignment of the new road to the south of Carr Wood could have avoided impact on the ancient woodland is comprehensively answered in the Council’s evidence. While such an alternative route would command certain advantages (such as the reduction of three junctions to one and a shorter

⁶² See MBS/23 and MBS/39.

⁶³ CD 4001.

⁶⁴ See response 54/R04.

⁶⁵ See response 50/R17.

route from the A6 (from the south) to the A6MARR) its disadvantages decisively outweigh its advantages to the extent that the alternative is not a viable option. The alternative would:

- (a) follow an alignment outwith the currently protected route corridor in Stockport's UDP
- (b) emerge on the A6 directly outside a number of residential properties at Park View and involve, Mr Houston's view notwithstanding, some likely demolition of the same
- (c) fail to provide future proofing for the A6 to M60 (Bredbury) phase of SEMMMS (by involving, again Mr Houston's view notwithstanding, an increased likelihood of further demolition of residential property to enable connection to the future phase of the road as well as placing that phase of the road directly in the line of United Utilities' underground reservoir)
- (d) require construction of two structures over Norbury brook with increased impact on the watercourse
- (e) sever agricultural land in the area
- (f) affect more public rights of way
- (g) produce increased visual impact by the necessity for a road over rail crossing in respect of the Hazel Grove to Buxton railway.⁶⁶

54. Mr Houston argues in his proof (OBJ/50/01) that, in considering the benefits and disbenefits of an alternative alignment to protect the ancient woodland at Carr Wood, there should be left out of account any impact of such an alignment on the future A6 to M60 (Bredbury) phase of SEMMMS because that scheme would be defeated by air quality considerations in that construction of it would add unacceptably to existing air quality problems on the A555. That argument is seriously flawed because it is founded on the proposition, shown above to be false, that the existing A555 section of the A6MARR would be in breach of the Air Quality Directive with the Scheme. Moreover, any future scheme and its impacts will have to be assessed in the future in their own right when the need to do so arises and it is neither appropriate nor possible to assess the air quality impacts of the present Scheme in the context of a future scheme.⁶⁷

Implementation/ No obstacles to scheme coming forward

⁶⁶ See Huda main proof (MBS/2/1), paragraph 3.6.12 and rebuttal MBS/REB/50/1, response 50/R18.

⁶⁷ See rebuttal MBS/REB/50/01, response 50/R16.

55. Funding for the Scheme has been identified, a business case has been submitted and the scheme has Programme Entry status. This is as firm a funding commitment as it is possible get without the statutory orders having been confirmed. The TUBA assessment has demonstrated that, by the approved methods of cost benefit assessment, the Scheme's benefit to cost ratio at 5.06 is very high. Additionally, by improving access to Manchester airport, and to the proposed developments around the airport, total economic output (GVA) generated by the scheme could be up to £492 million over the 60 year appraisal period.⁶⁸
56. Planning permission has been granted by all three local planning authorities. Permission has also been granted for some small additional areas. All that remains outstanding is a revised application in respect of the pipeline to accommodate an objector's concerns and the bund application referred to in paragraph 31 above. Bearing in mind the planning history there is every reason to believe that these revised applications raise no problems with respect to implementation.
57. It is not possible to be categorical about obtaining licences to relocate GCNs as Natural England could not give pre-application advice. However, bearing in mind what has already been permitted at Styal Golf Club there is no reason to suppose that this application to Natural England would be treated any differently from the earlier one. It was recognised in the *Moggridge*⁶⁹ decision (above) that absolute certainty cannot be achieved.
58. Whilst the package of mitigation measures have not yet been approved and specific measures have yet to be confirmed the need for such a package was flagged up at the planning application stage, the local highway authorities are aware of the nature of the packages and again there is no reason to suppose that there will be any problem in bringing them forward – subject in some cases to further consultation with the public. *Moggridge/Chesterfield* again apply.

Compliance with Circular 6/2004

59. The Scheme is in the public interest;⁷⁰ it will achieve the legitimate objectives set for it; the authority has demonstrated precisely the purposes for which compulsory land acquisition is required; acquisition is required now;⁷¹ and there are no planning or other impediments to

⁶⁸ Nasar Malik Proof MBS/3/1, para 9.41.

⁶⁹ *Moggridge v National Assembly for Wales* [2004] Env. L.R. 18 at para 36.

⁷⁰ Circular 6/2004 para. 17.

⁷¹ See McMahon MBS/11/1 paras 9.32 – 9.33; Circular 6/2004 paras 18-19.

prevent the scheme coming forward;⁷² the scheme has the necessary funding;⁷³ and the scheme represents extremely good value for money. The Circular recognises that whilst every effort should be made to acquire land by agreement it is appropriate to commence the compulsory purchase process in tandem with those negotiations.⁷⁴ In this case whilst only a few properties have been acquired it is clear from Henry Church's evidence and Appendices⁷⁵ that the Council has been talking to affected landowners over a considerable period prior to making the Orders and has attempted to reach agreement where possible.

60. The remaining and important issue is whether the public interest recognised above is sufficient to outweigh the interests of the affected landowners. In considering this it is inevitable that this submission concentrates on the objectors. However, Mr Church's evidence indicates at section 6 that he (or other members of the Authority's team) have been negotiating with all affected landowners (whether objectors or not) and the evidence of Mr Huda has demonstrated how all the land within the CPO is required and how it is to be used.

The Statutory Objections to the CPO

Objection No. 1: Harrison Developments Holdings Ltd

61. Occupiers Lane and its verge (Plots 1/1 -1/1A) is owned by Mr Taylor and by Sanctioned Property Securities Limited. This ownership extends along the length of Occupiers Lane including that part of the lane adjoining Easter Cottage.
62. This objector (Harrison Development Holdings Limited) owns land to the north of and beyond the strip of verge to Occupiers Lane and claims a right of way over the Taylor/Sanctioned Property's land onto and over Occupiers Lane (presumably) to the A6. Despite having been asked to provide some evidence of this right of way they have failed to do so. Mr Taylor/Sanctioned Property dispute the existence of this right of way.⁷⁶
63. Occupiers Lane is a private road and has been treated as being itself a PMA leading off the existing line of the A6. It also carries a public footpath FP65. The footpath over the length of Occupiers Lane is proposed to be stopped up and replaced by a new path (Ref. GH) which will join the new line of the A6 (Ref. A) on a broadly north-south alignment. The PMA over

⁷² Circular 6/2004 paras. 22-23.

⁷³ Circular 6/2004 paras. 20-21.

⁷⁴ Ibid paras 24 - 25.

⁷⁵ MBS/10/1 & 2.

⁷⁶ See Henry Church MBS 10/1 paras.6.1 – 6.7, 7.1 – 7.3.

Occupiers Lane is to be stopped up (Ref 7S) over a 100m length. A new PMA (Ref 12) is provided along the eastern section of the Lane giving access to the new line of the A6 at Ref A.

64. The effect of the CPO and SRO between them will be to stop up parts of Occupiers Lane. The western end which presently gives access to the A6 is to be the subject of highway improvement works and would be acquired for that purpose. The Council would acquire the freehold of the eastern end of Occupiers Lane for the purpose of providing a new PMA. The central section of Occupiers Lane is not within the CPO and will remain in the ownership of Mr Taylor/Sanctioned Property. Mr Houston seeks, on behalf of his client, an extension of the PMA to the boundary of the Easter Cottage land. This extension is not required to give access to Easter Cottage and is not requested by the owners of Occupiers Lane. Nor in fact would it give access to Harrison Developments land. Mr Houston's request for the extension was apparently⁷⁷ to ensure that his client only had one landowner to deal with if he was seeking access to the land to the north of the lane.
65. Whilst there are two gaps in the hedge, these are fenced off and there is no sign of an existing access point to Occupiers Lane. Mr Houston, in his proof to the Inquiry,⁷⁸ produces no evidence of a right of access. Under cross examination he was unable to say what the basis of the right of access was – at the very least it does not seem to be the subject of an express grant of a right of access.
66. There being no evidence of a physical means of access there is no PMA to be replaced. There is also no evidence of a right of access or as to what the nature of that right of access might be. The Authority cannot be required to replace something where they have no evidence of its existence. The authority is not acquiring the full length of Occupiers Lane - the central portion of which will remain in the ownership of Taylor/Sanctioned Property. If Harrison Developments come to some agreement with Mr Taylor/Sanctioned Properties Ltd the only other party they will have to deal with is the highway authority – either to get access to the western of the Lane over the highway improvement land or over the PMA at the eastern end. Whatever ransom value there may be in controlling access to Harrison Development's land it will only be payable once – i.e. it would be split between however many landowners actually control access. The highway authority would not be able claim a ransom in respect of their highway and, if Harrison Developments ever do demonstrate that they had lost a right of

⁷⁷ Oral evidence to the Inquiry

⁷⁸ OBJ/01/01.

access then they would be entitled to compensation. Either way, Harrison Developments, if they can prove their right, should be protected.

67. In order to comply with Mr Houston's request, the Authority would have to include a greater length of Occupiers Lane in the CPO. They would, therefore, be acquiring more of Taylor/Sanctioned Property's land in order to extend the PMA. This would not in fact give access to Harrison Developments land but, even if it did, would be providing access to land whose right of access is disputed and for the existence of which no evidence has been produced.
68. The Authority cannot acquire land compulsorily on this basis and the objection should be rejected. In any event, in order not to interfere with whatever control Taylor/Sanctioned Properties may have in relation to verge on the north of the lane the Council has indicated to the owners of that land that it will leave a 1m strip between the highway and the land to the north.⁷⁹ If there is a ransom it will remain. If there is a right of way over that metre strip then that would also remain.

Objection No. 2: Simpson & Livesey

69. These objectors are Trustees and are not in occupation of any of the land being acquired. Any loss that they suffer can be addressed through the compensation code. This includes any diminution in the value of land severed by or held with the acquired land (i.e. land that is injuriously affected by the scheme).⁸⁰ If the Trustees' land has any development potential – although the Green Belt location suggests that this is unlikely – then this can be recognised in the compensation payable (either by obtaining a s.17 certificate⁸¹ of appropriate alternative development or by a recognition of “hope” value)
70. Mr Huda has demonstrated why these objectors' land is required for the scheme. In particular he and Mr Reid have explained why bunding is required for visual and noise mitigation and why, in a countryside and Green Belt location this mitigation cannot be provided by a noise fence. The provision of a segregated cycleway/footway alongside the main line of the road is an integral part of the whole project – as per the objectives and measurable outcomes listed earlier. All the land is required for the statutory purposes.

⁷⁹ MBS/10/1 para. 6.6 (Henry Church)

⁸⁰ Compulsory Purchase Act 1965, s.7.

⁸¹ Land Compensation Act 1961, s.17

71. The location of the bridge has been chosen to cater for the footpaths that converge in this area⁸² and for the PMA serving Jan Shirt's land (and also now providing access for Helen Harrison – see later) and also in consultation with Network Rail. A shorter route for some of these purposes would involve a longer route for other purposes. Mr Seed was unable to demonstrate any real prejudice to these objectors in the bridge remaining where it has been sited. Whilst the route is longer than the existing access/footpath from Old Mill Lane into the woodland the objectors' proposal would lengthen the footpath diversion still further. A single bridge to cater for both sets of movements is a sensible use of resources and a reasonably convenient alternative route both for private access and for the public rights of way.
72. These Plots are required for the scheme; the public interest test is satisfied and outweighs the harm to the objectors' private interests and, in relation to the SRO, the requirements of HA 1980 s.14(6) and 125(3) are met.

Objection No. 3: United Utilities Plc

73. This objection has been withdrawn.⁸³

Objections No. 4 and 5: Helen Harrison/Riding School

74. Unfortunately a substantial part of the area used by Mrs Harrison is required for the construction of the road. The land-take – which had previously included land for environmental mitigation - has been reduced prior to making the Order. The present landtake is unavoidable as the land is required for the re-alignment of the A6.
75. It is not accepted that Mrs Harrison's route towards Mill Lane will be made significantly more difficult as she already has to cross the busy A6 and ride along that road for some distance. Under the Scheme proposals she will have to cross a slightly busier A6 but her route along and across the alignment of the old A6 will carry very little through vehicular traffic (i.e. only buses) together with cyclists and equestrians.
76. The Council is prepared to provide a Pegasus crossing at the signal controlled junction with the re-aligned A6 and a PMA close to the crossing point to mitigate any inconvenience caused to Mrs Harrison.⁸⁴ Whilst the construction works will affect the Wellington Road access this will be managed to cause as little inconvenience as possible.

⁸² FP76HGB, PwWFP62, and FP109HGB

⁸³ WD/06.

⁸⁴ CD 1104 Modifications Report as presented on Thursday 16th October.

77. So far as the route into Carr Wood is concerned, the track leading off Old Mill Lane is certainly a public footpath. The land over which it runs is owned by the Highways Agency and was acquired for the earlier road scheme. It is not accepted, and it has not been proved, that Mrs Harrison has any rights to drive over this footpath. Unless she can demonstrate lawful authority to use this route then driving a motor vehicle on a public footpath is a criminal offence under s.34 of the Road Traffic Act 1988. However, a bridge crossing capable of taking vehicles as well as pedestrians and horses is being provided in order to provide Mrs Shirt with access to her severed land and we have proposed a modification⁸⁵ which would extend that PMA route to the gate in Carr Wood which Mrs Harrison claims to use for access.⁸⁶
78. The Authority's approach has been proportionate and reasonable. The landtake has been kept to a minimum and the authority has gone as far as it can to provide alternative accesses for this objector .

Objection No. 6: Paul Gwinnett, Peak Group

79. The necessity to acquire land owned by this objector is obvious from looking at the CPO plan overlaid on an aerial photograph. In order to cross the line of the existing A6, minimise the impact on Carr Wood and avoid residential property it has been necessary to construct the new road line through this commercial property. Loss of car parking can be mitigated by on street car parking on the old line of the A6 – which is (except for buses) a vehicular *cul de sac*. It has not been possible to identify a location for a replacement building for the one demolished because of Green Belt policy. The objector will be able to claim compensation under the compensation code.⁸⁷

Objection No. 7: Network Rail

80. Network Rail have withdrawn their objection.⁸⁸

Objection No. 8: Mrs Janet Shirt⁸⁹

81. It is recognised that the road will have a severe impact on the land that Mrs Shirt uses for her business but Plot 2/5B is held on licence from SMBC and is to be terminated anyway. Whether her business would be tenable on the remainder of the land she uses (irrespective of the

⁸⁵ CD 1104 Modifications Report as presented on Thursday 16th October.

⁸⁶ Our response is at MBS/11/1 p.10 *et seq.* and MBS/REB/3/1

⁸⁷ Our response to this objection is at MBS/11/1 p. 19

⁸⁸ WD/01.

⁸⁹ Our response is at MBS/11/1 p.22 *et seq.* and MBS/REB/5/1

scheme) is not clear. Our evidence demonstrates that we have done what we can to minimise the landtake and to provide a reasonably convenient alternative access to her severed land. Land is required for storage and compound purposes close to the position where the various bridge works have to be carried out and parts of the objector's land are required for that purpose but can be handed back under the Crichel Down Rules following completion of the Scheme. The reason for the location of the bridge has already been explained; our rebuttal demonstrates that there was consultation which included Mrs Shirt. It is still not clear that Mrs Shirt has a compensatable interest.

*Objection Nos. 9 & 10: Klondyke New Ltd and William Strike Ltd*⁹⁰

82. The road passes through a gap created by the Norbury Brook, residential properties on Macclesfield Road and Norbury Hall as it crosses the A523 and this necessitates taking part of the car park to the Brookside Garden Centre - including their northerly access point. To replace the northerly access the Council will improve the southerly access so that it is capable of operating as both an entrance and exit. It is our view that the numbers of parking spaces can be partly made up by re-organising the car park⁹¹ and that the Garden Centre will benefit from increased passing trade being positioned close to the junction of the new road and the A523. The land take is required for the statutory purpose and a suitable and reasonably convenient alternative access is being provided.

Objection No. 19: Cartwright / Norbury Hall and Cottages

This objection has been withdrawn.⁹²

*Objection No. 20: Mrs Dorothy Mills*⁹³

83. Mrs Mills' concern relates to the loss of land, the diversion of an access route and concerns over the effects of the construction of the road on the sewer. The loss of land cannot be avoided as the route of the road passes through Mrs Mills' land. Re-aligning it to the north would simply impact on other third party land (for example the residential property at Coppice End⁹⁴). Mrs Mills will lose some grazing land but she does own other land that is let out for grazing and some of the landtake under the CPO can be returned to her on completion of the

⁹⁰ MBS/11/1 p.25 *et seq*; HC Proof MBS/18/1 p.18 *et seq*.

⁹¹ The authority has been working with their consultants as to how to re-configure the car park which may involve (at their choice) the loss of the restaurant.

⁹² WD/02.

⁹³ MBS/38/1; MBS/11/1 p.67 *et seq*.; HC Proof MBS/18/1 p.30, *et seq*.

⁹⁴ See the objection of Mr and Mrs Wood below.

scheme. She has a landholding of 16ha and the scheme will involve only 0.8ha in total - some of which can be returned to her on completion. Her access track will be re-routed under the road where it crosses the brook. Bearing in mind the distance of the re-routed track from the road together with the landscaping and noise mitigation proposals her concerns about the safety of riding or taking horses along the new route are, we suggest, misplaced. The access is reasonably convenient and a prudent use of resources – the cost of an on-line tunnel would be disproportionate to the interference caused and require third party land (the rear garden at Coppice End). The sewer will be protected rather than diverted and there is no objection from United Utilities in respect of the effect of the Scheme on this sewer. The landtake has been explained and justified and the replacement access route is reasonably convenient.

*Objection No. 21: Janet E Bourne, Jill E Zeiss, Ann Lomas, Hazel Mort*⁹⁵

84. The landtake is required for the road line - as can be seen on the CPO plan annexed to the rebuttal. The location of the bridge, which will mitigate the impact of severance and provide reasonably convenient alternative means of access, has been chosen because:

- (a) It provides a solution to two land owners in terms of severed land; providing access both to the objector's land and the land owner to the west;
- (b) The location minimises the land take of the objector;
- (c) There is an existing track opposite Mill Hill Farm (the farmstead of the tenant farmer Mr Hall) that leads directly towards the proposed bridge;
- (d) The location also provides a safe crossing point for walkers who currently enjoy the use of Footpaths 31 and 37 that are intersected by the relief road;
- (e) The location of the bridge ultimately rationalises the number of bridges crossing the new relief road. This reduces the construction costs, whole life costs and the ultimately the land take required and also reduces the visual/landscape impacts of the scheme.

85. Bearing in mind all the above and the evidence given on behalf of the objectors, it is submitted that this is a reasonably convenient route both for the affected landowners/occupiers and for the necessary diversion of the public right of way.

Objection No. 22 Michael Kingsley

The Woodford Road land

⁹⁵ MBS/10/1; MBS/11/1 p.69 *et seq*; HC Proof MBS/18/1 p.28, *et seq*.

86. Mr Kingsley has, over a 17 year period entered into a complex series of land and company transactions with respect to his land at Woodford Road. The result (even if unintended) has been that the Authority had no way of understanding the extent or nature of the claimed cross rights over Mr Kingsley's land to the north (now owned by the Highways Agency) and the land to the south (owned by Glenhazl) or, as it turned out, the extent of Mr Kingsley's ownership. In Mr Kingsley's bundle there are numerous requests from Ian Keyte and then Henry Church requesting information as to these rights. Mr Church has given evidence that he only became aware of the blight notice between March and June of this year and of the Glenhazl ownership in August of this year.
87. Nor until his cross examination has there ever been any clear statement from Mr Kingsley as to what he is seeking from the Scheme at Woodford Road. Apparently, it is to secure the future right to construct a road-bridge over the line of the new road to a standard capable of providing access to residential land.
88. All of the above demonstrates how difficult it has been to "negotiate" with Mr Kingsley in the absence of knowledge of the ownership and rights over the land to be acquired and in the absence of a clear indication of what he would "require" of the Scheme in order to sell his land voluntarily. His criticism of Mr Keyte and of Mr Church as having not seriously engaged in negotiation to acquire his land has to be seen in this light. In fact, the record (Mr Church's Appendices and Mr Kingsley's bundle) demonstrate that negotiations did take place and terms were offered but that most of the discussions were hampered by lack of information from Mr Kingsley and his lack of clarity (or misunderstanding) as what could legitimately be achieved in the context of a publicly funded road scheme.
89. On the substantive issue, there are considerable doubts in law as to whether or not his claimed north-south rights have ceased to exist following the transfer to the Highways Agency, and there can be no doubt that he has not any established right to create an access road along an east-west route from Woodford Road all the way to Glastonbury Drive. He has not proved to this inquiry that he has any rights over the P.E. Jones Land by prescription. He has not proved that any rights that he may have are other than for agricultural traffic. He has not proved that those rights can benefit land beyond his own adjacent holding (i.e. the 3 plots (CH316811, CH316815 and CH316814). Any such access that he might have – which cannot be accepted without evidence – are, in our submission, rights to an agricultural access to serve those three (Glenhazl) plots alone.

90. In any event, the obligation of the highway authority to replace or provide a private means access is to provide one which is of similar quality and standard to that existing. On the east-west route Mr Kingsley has not demonstrated that he has any existing right to use the P.E. Jones access and in the absence of that evidence and bearing in mind that he has no direct access onto his own land from Woodford Road we cannot be required to provide him with a replacement one. Nonetheless we have offered him an access as a proposed modification to the SRO. It is up to him whether he accepts our offer.
91. So far as the north-south access is concerned, bearing in mind that the rights granted to Glenhazl were contained in an unregistered transfer and that those rights were not mentioned in the subsequent transfer to the Highways Agency,⁹⁶ there must be considerable doubt as to whether they still exist. In any event, the question whether or not Mr Kingsley has retained rights to construct a road over the line of Footpath 31 is irrelevant to this Inquiry. The Highways Agency land within the line of the A6MARR is still in the CPO. Whilst we cannot acquire an interest of the Crown we can acquire any other interest that might exist in that land and this is how the modified CPO is worded. We can also keep land within the CPO that we have acquired voluntarily in order to clear the title (Highways Act 1980, s.261). Once the Authority has entered under the CPO any rights that Mr Kingsley may have over the land acquired for the scheme will be converted into a claim for injurious affection.⁹⁷ The rights granted to Glenhazl will be unenforceable so long as the A6MARR road is in existence.⁹⁸
92. In respect of the north-south route the Authority's only obligation is to provide Mr Kingsley with a PMA to provide access to his agricultural land. That land has no planning permission and, as Green Belt land, it has no immediate prospect of changing its status. In the modified SRO we have now provided him with such an access. It is only because the separate ownership of the Glenhazl land has effectively been "hidden" from the Authority (the authority was misinformed of the ownership position in the Questionnaire returns and was not informed of the blight notice proceedings) that this extended access was not provided within the original SRO. There can be no prejudice to Mr Kingsley in modifying the Order.
93. The Council only has to provide a reasonably convenient alternative access. Whilst Mr Kingsley may or may not have a "right" to construct an estate road to Woodford Road along the line of the old roadway any interference with that right is a matter for compensation. There

⁹⁶ Accepted in cross examination by Mr Kingsley.

⁹⁷ *Clark v School Board for London* (1873-74) L.R. 9 Ch. App. 120.

⁹⁸ *Simeon v Isle of Wight Rural District Council* [1937] Ch. 525 at 535.

is no principle of law which would require the authority to provide him with a road or with a bridge built to a residential standard let alone to reserve a right for him to construct a bridge to residential road standards at some time in the future - interfering (as it would) with the provided crossing (which includes the footpath diversion).

94. Furthermore, whatever Mr Kingsley's legal rights are, he would need planning permission for such a road and it is unlikely that we would get such planning permission to construct a residential access road through open fields in Green Belt. He can have no "legitimate expectation" that he will get planning permission, or that the highway authority will allow the construction of a ghost island junction for the east west route⁹⁹ or even that residential access will be permitted at that point. We note that he no longer claims to have such an expectation.
95. To found an enforceable "legitimate expectation" for any of these things, Mr Kingsley would have had to show that the relevant authority (in this case both the highway authority and the planning authority) had given a representation which is "clear, unambiguous and devoid of relevant qualification" – see *R. v IRC Ex p. MFK Underwriting Agencies Ltd* [1990] 1 W.L.R. 1545 at 1570 (Bingham L.J.) or as it was put in *R (on the application of Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61; [2009] 1 A.C. 453 at [60] and [134] an "unequivocal assurance". No evidence getting anywhere near this has been presented to this Inquiry.
96. In short Mr Kingsley's interests are being met by the provision of the PMA along the line of the old roadway, over the bridge and then running alongside the road into his land. There can be no valid objection to the CPO and any diminution in value of his agricultural land (including loss of hope value) will be a matter to be sorted out under the compensation code.

Clay Lane

97. No evidence has been presented to you that establishes that the junction configuration provided for Clay Lane as part of the A6MARR scheme does not have capacity to meet the existing usage from Clay Lane and the existing usage generated from Mr Kingsley's land. On the contrary, Mr Malik's evidence demonstrates that the new junction arrangement will operate well within capacity.¹⁰⁰ The width of the approach to the Wilmslow Road roundabout under our scheme is no less than existing. Equally the width at the T junctions across the slip road is no less wide. Mr Malik confirms that the proposed junction should have no less

⁹⁹ Or the north-south route.

¹⁰⁰ MBS/3/1 Table 7.1

capacity than the existing junction. There is no other evidence to suggest that our arrangement has any less capacity than what exists at present.

98. Mr Kingsley may have aspirations for the development of his land off Clay Lane but that land is presently Green Belt and there is no evidence to suggest that that status is going to change. The result of the East Cheshire Local Plan examination is yet to be known.

99. Again, using the definition given above, Mr Kingsley can have no legitimate expectation that the land will be released for development. He has never been given an “unequivocal assurance” “clear, unambiguous and devoid of relevant qualification” that a junction arrangement will be provided or retained in order to facilitate that. Nonetheless, Mr Malik’s evidence is that the proposed junction will have no less capacity than that existing.

The objection as to the negotiation process

100. With respect to Mr Kingsley’s claims that the Authority has not attempted to acquire his land by agreement, Mr Church has demonstrated that this is entirely untrue. However, you may, having heard Mr Kingsley’s evidence, understand how difficult it has been to understand his land ownership and what he is seeking to achieve as a requirement of selling voluntarily. Remarkably, although Mr Church had been negotiating with him for several months Mr Kingsley neither told Mr Church about the blight notice and transfer¹⁰¹ to the Highways Agency nor about the ownership interests of Glenhazl. In other words, being aware that Mr Church was negotiating with him regarding the Plots owned by Glenhazl and the Highways Agency he never considered it relevant to inform Mr Church that he no longer owned the Highways Agency land.

101. Mr Kingsley’s other objections have been addressed in our rebuttal.

102. There is nothing in Mr Kingsley’s objections that should lead to the conclusion that these Orders should not be confirmed. The idea of partial confirmation is clearly not acceptable. We can’t start to construct a road scheme without knowing that we have all the necessary land interests.

103. As Mr Kingsley is the sole director and shareholder of Glenhazl and as he was aware of the CPO he cannot have been prejudiced by our citing himself, rather than Glenhazl in the original CPO. Nor has he ever suggested that he has been so prejudiced.

¹⁰¹ As Mr Kingsley agreed in cross examination, the Transfer to the Highways Agency had occurred in October 2013.

Objection No. 23: David Hall & family

104. In relation to the position of the bridge, the nature of the objection is similar to that raised by Bourne, Zeiss, Lomas and Mort (above). David Hall, in addition to having a very small area of land of his own taken for the scheme is also the occupier of, *inter alia*, the Bourne, Zeiss, Lomas and Mort land under an annual grazing licence. Whilst Mr Hall has occupied much of the land for many years, renewing agreements annually, he has no certainty of occupation. As such his continuing occupation of that land is, in a sense, precarious and that must reflect on what it is reasonable to provide to suit his own personal requirements. It is submitted that, although the proposed arrangement for the replacement PMA will require livestock to pass along the public road for a short distance from time to time, it is reasonably convenient. The Authority is looking at other ways of providing access to the proposed diversion through agreement with the Highways Agency who now own the adjoining land. However, the Authority stands by the route shown on the SRO as satisfying the statutory test.

Objection No. 24: Bramhall Golf Club

105. This objector has now withdrawn the objection.¹⁰²

Objection No. 26: Marcus Quilligotti & family

106. This objector has now withdrawn the objection.¹⁰³

Objection No. 27: Mr & Mrs P Holmes

107. This objector has now withdrawn the objection.¹⁰⁴

Objection No. 28: TSB Banking, Louise Allen

108. This objection is now withdrawn.¹⁰⁵

Objection No. 29 Mr & Mrs Simumba

109. Mr & Mrs Simumba are the owners of two plots of land surrounded by the ownership of Mr & Mrs Holmes. Their land is required for the scheme - as is shown by the overlay of the scheme onto the CPO plans and aerial photographs. They hold the land on a (highly) speculative basis and they will receive market value through the compensation code.

¹⁰² WD/05.

¹⁰³ WD/07.

¹⁰⁴ WD/04.

¹⁰⁵ WD/08.

Objection No. 30 Mrs Lisa Lawson

110. Although the scheme takes only a small area from Mrs Lawson her concern is the effect that it will have on her ability to keep horses and the loss of value of her property as an equestrian property. The last issue is a matter relating to compensation. It is accepted that she already has a relatively small plot for the number of horses that she keeps. The suggestion made by Mr Seed was for the landtake to be reduced by extending the (9m) retaining wall instead of the proposed battered slope. The huge cost of this could not justify the benefit gained. Nor can the Council seek to use its compulsory powers simply to provide replacement land for this landowner.

Objection No. 31 Adrian & Margaret Romagnoli¹⁰⁶

111. The concerns of these objectors relate to pollution, noise, congestion, loss of Green Belt affecting wildlife, health and devaluation of property. The points are made generally rather than with specific examples. The last of these is really a compensation issue and the other matters have been addressed in the main case for the Scheme..

Objection No. 32 Mr & Mrs Freedman

112. The concern of these objectors, specific to their property, related first to whether the proposed connecting cycle route would interfere with their access. It will not – they will have the same width of access as they do now and the proposal will not affect their entry or exit. The swept path drawing/photograph demonstrates this but it is also obvious on plan. Nor will the usage of the cycleway create any safety issues. Cyclists will be slowed down by the positioning of staggered guardrails. There has been a secure by design review and there are no issues that cannot be addressed by detailed design

Objection No. 33 Mr Worthington & Mrs Broadhead¹⁰⁷

113. Essentially these objectors are simply expressing concern that acquisition by agreement has not yet been achieved. Henry Church's evidence¹⁰⁸ indicates that he has been in discussion with their agent and that drainage issues have been raised by them which are the subject of investigation and discussion.

¹⁰⁶ MBS/11/1 p.116 *et seq.*

¹⁰⁷ MBS/11/1 p. 120

¹⁰⁸ MBS/12/1/p.35 and MBS/12/2 App. HC25

*Objections No. 34, Paul & Melanie Darnell; No. 35 Mrs Rowland; No. 36 David & Richard Jones; No. 37 James Fielding/Fielding Family*¹⁰⁹

114. As Mr Seed recognised in his evidence and presentation to the Inquiry, these objectors all raise very similar points.

115. Essentially, their concern is about sharing an access track serving their land with the public bridleway that is proposed. They suggest, *inter alia*, that it is too narrow and that instead a segregated private access track should be provided running parallel to the bridleway. This has been considered, but the cost of providing such a track would be out of all proportion to the (a) benefit that it would provide and (b) the impact of the scheme on these objectors' landholding. By the standards that Mr Seed himself quoted, when applied properly to the type of shared way that is being proposed, the proposed shared use track is of adequate width safely to accommodate the proposed uses.

*Objection No. 38 Christopher Shenton*¹¹⁰

116. Mr Shenton's main concern, as voiced through Mr Seed, was in relation to the width of the shared cycleway and PMA leading to and over Spath Bridge. However, for all his graphic (and possibly contrived) photographs of a hay turner on the road and bridge, this is an existing problem as the path already is a public footpath. The addition of cyclists will not create any significant extra problems and warning signs and a mirror can be introduced to ensure that cyclists are aware that farm traffic may be using the road. The path does meet appropriate design standards and there has been consultation with Vulnerable Road User Groups (VRUG).

Objection No. 39 Andrew De Coninck

117. This objector's land has been removed from the scheme as it is no longer necessary to keep open the option to replace Spath Bridge. Mr de Coninck still appears in Table 2 of the CPO as having the benefit of a right of way over the bridge. His objection, however, seems to have been related to the originally proposed landtake which will now not occur. Insofar as there might be an issue raised as to the shared use of the bridge crossing our case is the same as in response to Mr Shenton.

Objection No. 40 British Overseas Bank & WGTC Nominees

118. This objection has been withdrawn.¹¹¹

¹⁰⁹ MBS 11/1 pp.122, 124, 127 et seq. (the response to Roland was omitted in error); MBS/12/1 pp. 42, 43, 44, 53; MBS/REB/35, 36 & 37

¹¹⁰ MBS/11/1 p.130 et seq; HC proof MBS/10/1 p,51; MBS/REB/23/1

Objection No. 41 Vanessa R

119. This objection has been withdrawn.¹¹²

*Objection No. 42 Alan & Veronica Walker*¹¹³

120. This objection concerns the Little Acorns Nursery and the issue relates to the extent of landtake. Our evidence has demonstrated the shared use cycleway/footways and bridleways are part of the main scheme objectives and that the landtake cannot be reduced.

*Objection No. 43 Mr & Mrs R Hankinson*¹¹⁴

121. The objector is clearly concerned by the fact that road schemes along this corridor have been in the offing for many years and that the route line has changed. There are complaints of lack of consultation – which we have rebutted – demonstrating that the objector was consulted as long ago as 2012. It is suggested that the present line has been over dominated by the desire to avoid woodland. Our rebuttal evidence indicates that there were a number of factors which led to the choice of the present line and that there are strong practical reasons for the choice.

122. The objectors express concerns about trespass from the diverted footpath – if this can be demonstrated as occurring or likely to occur it can be addressed at the implementation stage. At the moment it is only an assertion which could be made about all the paths in the area. There is also concern expressed about the height of the bridge over the railway – however that is a matter beyond the Authority’s control – it is down to the requirements of Network Rail. The objector makes a large number of detailed points to which we have responded and many of which can be the subject of detailed negotiations.

*Objection No. 44 W Nixon & Sons*¹¹⁵

123. There is a complaint here about land-take and negotiation but it is the objector (or agent) who has failed to engage with the Authority. Land is required for temporary soil storage and some is required for GCN mitigation – both types of land are required for the scheme. The objector also sees some advantage in the road scheme and wishes the Council to create a new access to benefit its business. The proposed access is not, however, required by the Orders nor is it justified or appropriate.

¹¹¹ WD/08.

¹¹² WD/03

¹¹³

¹¹⁴ MBS/11/p145 et seq.; MBS 10/1 p.47; MBS/REB/61/1.

¹¹⁵ MBS/11/1 p 158 et seq.; MBS/10/1 p. 56; MBS/REB 25/1 and MBS/REB /25A/1.

Objection No. 45 B & K Dumville¹¹⁶

124. The original objection requested an access off the new road. This is not possible as the road design seeks to limit the number of accesses and the existing access from Ringway Road will remain. The evidence given by Mrs Steer raised questions over the replacement of the greenhouses that will need to be demolished and problems with dust. Dust during construction will be kept to a minimum and there will be a Code of Construction Practice to ensure this but not all can be avoided. Mr Church has found it difficult to advise on the question whether a replacement greenhouses could be justified because of lack of financial information from the objector. Once he has the necessary information he will be able to advise on whether a replacement can be justified. The rejoinder proof asked for signage – which would be contrary to Manchester City Council’s signage policy.

Objection No. 25 D M Westbrook¹¹⁷

125. Whilst Mr Westbrook clearly invested a lot of time and thought into suggesting an alternative design for the Chester Road junction the various design approaches that were worked up to represent his ideas demonstrate no advantages over the current scheme and in one case positive disadvantages in terms of standards.

126. With respect to Mr Westbrooks original suggested design¹¹⁸ the following problems were apparent:

- (a) The approach angles of the signalised junction have angles of intersection less than 70° off plan. The Design Manual for Roads and Bridges (TD 50/04) highlights a number of inherent problems associated with angles of intersection less than 70° namely;
 - (i) priority may not be obvious to drivers;
 - (ii) inter-visibility within the junction inter-visibility zone is adversely affected;
 - (iii) undesirable high speed turning movements may be possible on the obtuse angles of the junction;
 - (iv) difficulty in locating secondary signals satisfactorily.
- (b) Land take from nine properties on Chester Road and Woodford Road;

¹¹⁶ MBS/10/1 p.54(HC proof); MBS/11/1 p.160 et seq.; MBS/REB/26 and 26A.

¹¹⁷ MBS/11/1 p.86 et seq.; MBS/REB/25/1/2

¹¹⁸ MBS/REB/25/2 App. A

- (c) Five properties to access their driveways from within the junction itself;
- (d) Properties at 165, 167, 177 and 236 Chester Road would have limited access and egress due to the position of the necessary traffic islands;
- (e) The land take required is outside of the current CPO;
- (f) The design is outwith the current planning consent boundary.

127. Two alternative layouts were developed by the Council that were suggested by Mr Westbrook.

128. The first¹¹⁹ although better than the original put forward by Mr Westbrook, also suffered from a number of design faults. The disbenefits of this layout are as follows:-

- (a) The scheme requires additional private land outside the current CPO extents (1575sq m);
- (b) The extent of works on Chester Rd extends to additional properties (173-181);
- (c) The layout is outwith the current planning consent boundary;
- (d) The potential disturbance from the junction on the residential properties on Chester Road is approximately the same so that the “pollution” concerns that he has would not be addressed.

129. The second¹²⁰ had the following problems:

- (a) The layout requires the realigned Chester Road to travel on an alignment that requires a number of departures from standard. These are shown on the drawing
- (b) The junction location is in effect brought closer to the residential properties of Chester Road when compared to the approved design;
- (c) It has not been demonstrated that it would operate satisfactorily

130. In short the first design was materially worse than the adopted design; the second impacted on residential property; and the third was below standard. None have been shown to operate more satisfactorily than the adopted design.

Macclesfield Road Objections:

Objections No.12 C Krystek & U Krystek-Walson; No. 15 Mr & Mrs Hadfield; No. 16Mr & Mrs Hunt; No. 17 Mr & Mrs Burke; No. 18 Mr Clayton & No. 48 Mr and Mrs Hufton

¹¹⁹ MBS/REB/25/2 App. C

¹²⁰ MBS/REB/25/2 App. D

131. Whilst it is recognised that each objector may have their own individual objections to the scheme the points made by those who did not appear seem to have followed the same form and the objections from those who did appear cover similar ground.
132. The complaints as to lack of consultation are simply not made out. Sue Stevenson's evidence describes the extensive consultation exercises that were undertaken prior to finalising the scheme and prior to the submission of the planning applications. Choice of junction arrangement and design was one of the specific features of those exercises. Furthermore, relating to the Macclesfield Road residents, two rounds of Local Liaison Forums (held on a round table basis) were held to allow those living nearest the scheme to have an opportunity to ask detailed questions and talk to the various experts including the designers about the details of the scheme. A variety of design options were discussed with residents including the routing of cyclists, potential provision of parking layby, the width of the retained footways and the provision for pedestrians.
133. Also during the design process the operational capacity of the proposed junction configuration has been assessed. The need for a junction at this location and the design of the lane configuration has been considered at different stages of the design. Following concerns raised at the local liaison forum sessions the interaction of this junction with the Fiveways junction was specifically modelled and assessed. Mr Malik's evidence describes the junction in some detail¹²¹ and demonstrates that the operation of the proposed junction has been modelled together with the Fiveways junction. That modelling shows that both the A6MARR / A523 Macclesfield Road and the A523 Macclesfield Road / A5143 Dean Lane 'Fiveways' junctions are predicted to operate within theoretical capacity with no queuing interaction between the two junctions. This does not mean that there will be no queues during the peak period but the queue lengths will not cause backing up problems to affect the Fiveways junction.
134. Increased traffic on Macclesfield Road as a result of the scheme will inevitably have some impact on local residents and may make their exit movements from their drives slightly more difficult. However, there is good forward visibility (because of the wide pavements and it being a straight road) and the situation here will not be significantly different from other locations on Macclesfield Road.

¹²¹ MBS/3/1 paras 7.26 et seq.

135. Whilst objectors concerns over property values are recognized, if they can demonstrate that the usage of the new road has diminished the value of their properties through noise, vibration, smell, fumes, smoke or artificial lighting then compensation may become payable under the provisions of the Land Compensation Act 1973. So far as disruption during the construction period is concerned it is inevitable that there will be some impact on local residents but the Council is instituting Codes of Practice which should ensure that this is kept to minimum.

*Objection No.11 Mr & Mrs Gilchrist*¹²²

136. In addition to raising the concerns common to the Macclesfield Road objectors Mr & Mrs Gilchrist raise a specific issue relative to their own property and the driving manoeuvres that they consider will be made less safe or convenient. Their concern with respect to drivers mistaking the purpose of their signalling is recognised but in fact the scheme proposals do not make this situation significantly different. The width of the road will not be any less and, in fact, the hatched area provided to protect the right turning lane to Ashbourne Road should help to prevent the problem that they have identified caused by the proximity of their house to the Ashbourne Road junction and the Tesco entrance and exit.

137. The junction has been designed with regard to national standards and has, and will continue to be, subject to safety audits at the different stage of the project. The stage 1 safety audit carried out to date in relation to Macclesfield Road did not identify a problem with the access/egress arrangements to/from Mr & Mrs Gilchrist's property

138. The points that they raise in relation to consultation have been addressed in Sue Stevenson's evidence and in the two rebuttals responding to their evidence before the Inquiry.¹²³

139. Air quality after the road has come into operation, although clearly affected by the increase in traffic (classed as moderate adverse for NO₂ and negligible for PM10s¹²⁴), is, however, within the stipulated national air quality standards which are intended to protect human health.

*Objection No. 13 Mr & Mrs Deen*¹²⁵

140. This objection raises issues relating to the severance effect of the road on pedestrians wishing to access the countryside from Macclesfield Road. However, the junction is fully signalled with pedestrian facilities and whilst a road is an obstacle to be crossed there is no reason to

¹²² MBS/11/1/p.31; MBs/REB/8 and MBS/REB/8A

¹²³ MBS/8/1; MBS/REB/8 and MBS/REB/8A

¹²⁴ MBS/REB/8A p. 13 response 11/RR10.

¹²⁵ MBS/11/1 p.42 et seq.; MBS REB/9/1

suggest that it would put people off accessing the countryside any more than any other road crossing would do so.

141. Mr and Mrs Deen also raise the issue of the impact of the Scheme on Disley and query the TUBA assessment and many of the statements made by the Authority in Scheme documentation. Whilst no doubt such scepticism is healthy it is also unfounded and unsupported by any evidence.

*Objection No. 14 Mr Barson & Ms Whittingham*¹²⁶

142. Several of the points made by these objectors were based on misunderstandings as to what the junction provision was going to be and which were corrected in our rebuttal. However, the suggestion throughout that the junction has not been carefully designed demonstrates a complete misunderstanding of the process of design development that the Scheme has undergone. The rebuttal and Mr Malik's evidence in chief demonstrate that the scheme has gone through a process of robust assessment both in terms of design of junctions and traffic modelling and the evidence of Sue Stevenson demonstrates that there has been consultation with the public with respect to the design and location of junctions on the route and that this consultation process has resulted in changes being made to the scheme. Ultimately, however, the design and siting of junctions has to balance a range of considerations.

Objection No. 46 Julie Waddicor

143. This objector was concerned with the impact of the road on Green Belt and rural character; she felt that the consultation process was "fraught with confusion and obfuscation" and was disappointed that a multi modal study had produced a road proposal. She also raises the point that at one time the Authority had not referred to Carr Wood as being ancient woodland. Our response in our rebuttal really summarises the whole of the case for the road and its history. The A6MARR road scheme has, of course, emerged as a result of a multi modal study – it being recognised that the particular problems that it seeks to address can only be dealt with by a road proposal.¹²⁷ This does not mean that the other (multi modal) measures proposed by SEMMMS have been ignored – in fact most of them have already been achieved. There is no alignment that anyone could sensibly put forward that does not go through the rural area and the green belt. The issues in relation to Carr Wood have been addressed earlier. So far as consultation is concerned there can be no doubt that a comprehensive and long lasting

¹²⁶ MBS/REB/14/1

¹²⁷ See the evidence of Mr Malik; MBS 3/1

consultation process has been carried out – although those whose views are the minority may be disappointed with the process.

*Objection No. 47 Paul Summerton*¹²⁸

144. This makes unsubstantiated allegations of illegality – which are refuted.

Objection No. 49 Sheila Oliver

145. We have produced a separate note in response to Mrs Oliver’s allegations about process.¹²⁹

The allegations she makes are incorrect and based on a misunderstanding both of the law and the facts. Her other objections are general and unspecific.

Objection No. 50 Steve Houston, Chair PAULA

146. This objection has been addressed above when dealing with air quality.

147. *Objection No. 51 Greg Willman*¹³⁰

148. For all the Inquiry time that Mr Willman took up, his points actually come down to the following.

149. He does not believe that the traffic modelling has been carried out competently. He considers that it should have been “independently” checked. He feels that the traffic modelling and its results could have been better explained to the public by some form of micro simulation such as Paramics and he does not understand how it can be argued that the enhanced mitigation measures will reduce traffic flows by a specific amount if the precise package of measure has not yet been agreed.

150. Independent and competent modelling. Mr Willman has no evidence of his own – apart from some piecemeal and partial e-mail correspondence with a consultant whose level of knowledge of the scheme and of the work behind the modelling is unknown and who is not here to be questioned. You will clearly have to consider what help that evidence is. Mr Willman’s unsupported implication that the modelling process carried out by professional consultants such as Mr Malik, with inputs from Highways Forecasting and Analytical Services division of Transport for Greater Manchester and the Systra consultancy, might not be independent, competent and honest cannot be given any credence at all.

151. Visual representation. Mr Willman has simply failed to grasp the difference between the type

¹²⁸ MBS/11/1 p.167

¹²⁹ As part of MBS/REB/49/2.

¹³⁰ MBS/REB/30/1

of model that has been used to predict the routing decisions of traffic over a large network such as Saturn and a modelling technique which can give a visual representation of traffic movements over a smaller area once those routing decisions have been made. Whilst Mr Malik has accepted that micro simulation software can be used to predict traffic assignment the visual element of the programme will only provide a visualisation of what is happening in particular areas. It cannot assist the viewer in understanding why or how the routing decisions that have resulted in that interaction are being taken in the wider network. It is not the appropriate tool for the task. It would be enormously expensive and time consuming to programme to produce something that would not provide any more useful information or representation of that information and it simply is not justified.

152. The package of enhanced mitigation measures. Mr Willman fails to understand how traffic modelling works. Mr Malik has stated¹³¹

“For modelling purposes, an increase in journey time of between 1 and 3 minutes has been modelled along the A6 east of the scheme to reflect the potential mitigation measures. This increase in journey times is based on knowledge of the likely speed impacts of the range of measures that could be considered for this corridor.”

153. There a number of possible ways in which this element of increase in journey time could be introduced onto the A6. It is not necessary to know now precisely what measures will be adopted. What needs to be known now is that there is a range of measures available and feasible which in combination could produce that increase in journey time. That information is known and the local planning authority and the local highway authority have clearly been satisfied that the level of journey time change and the level of associated reduction in traffic can realistically be achieved otherwise they would not have imposed the planning condition.

*Objection No. 52 Charlotte Valek*¹³²

154. This raises general points about existing congestion, loss of woodland and green areas, pollution and the need for the road – all of which have been dealt with above.

*Objection No. 53 Linzi & Perry Wood*¹³³

155. These objectors are the owners of the property on the other side of the line of the road from Ms Mills. They take issue with the extent of the landtake and the impact on their property. As

¹³¹ MBS/REB/30/1

¹³² MBS/11/1 p. 182

¹³³ MBA/11/1 p.183.

already indicated, there are landscaping proposals and a noise barrier in this location. There are a number of factors which have defined the route in this location. Someone's land is going to have to be taken in order to construct the road. Our evidence demonstrates why the road follows the route that it does and that we are taking the minimum landtake.

Objection No. 54 The Woodland Trust

156. This objection has been addressed above when dealing with environmental matters.

Objection No. 55 Paul Galligan

157. Mr Galligan's two main concerns are:

- (a) the diversion of the oil pipe-line – which the Council is in the process of addressing through a new planning application and which we have every reason to believe will be successful;
- (b) his desire to secure the diversion of a footpath – which we cannot accommodate because it is not required as part of this scheme.

Objection No. 56 Peter Simon

158. Mr Simon has raised some points about his not being kept informed. He has perhaps not appreciated the measures that have been taken to keep the public informed and the publication processes associated with the Orders and this Inquiry. His substantive objections seem to be that a second orbital road echoing the line of the M60 in South East and South West Manchester either side of the Airport should not be built by stealth and that a road scheme is fundamentally the wrong approach. Our evidence in chief at the Inquiry (Malik McMahon and Stevenson) has explained exactly why this road is justified and we stand by that.

*Objection No. 57 Joanna Hulme*¹³⁴

159. This raises similar points to those of Julie Waddicor (Green Belt/rural area impact/consultation) and we do not repeat the points made in response. She disputes the fundamental premise of the scheme that better access east-west across the south of the conurbation is required and that a new road is the only way to deliver this. However, again she offers no evidence of her own. She expresses concern over traffic increases in Disley. The authority has taken account of concerns over those increases – and thus is proposing the package of enhanced mitigation measures that will reduce the increase in traffic.

¹³⁴ MBS/34/1

*Dr Riley Objector 60*¹³⁵

160. She is concerned about traffic on Threaphurst lane and Torkington Road after the scheme is implemented. Our modelling demonstrates that in 2017, with the A6MARR and with the proposed enhanced mitigation, the traffic on both roads will reduce compare with the position without the A6MARR. Dr Riley does not appear to accept this and offers no evidence of her own on how traffic flows will alter.

Objection No. UNKNOWN

161. There is no substantive objection here.

CONCLUSION

162. In relation to both Orders the statutory tests have been met. The CPO is compliant with the requirements of Circular 6/2004 and with Article 1 of the First Protocol to the European Convention on Human Rights. A compelling case in the public interest has been demonstrated and it has been shown that the Authority has acted proportionately and democratically. The balance of public and private interest supports the making of these Orders. In our submission, none of the objections either singly or in combination should lead the Secretary of State to come to the view that the Orders should not be confirmed.

163. We ask, therefore, that you recommend that they be confirmed with the modifications that we have put forward. All relevant parties are, or should now be aware of, the nature of those modifications¹³⁶ and we hope that you, and the Secretary of State, will take the view that the orders can be confirmed without the need to go through any further advertisement process.

Stephen Sauvain Q.C.

Alan Evans

Kings Chambers

Manchester, Leeds and Birmingham

16th October 2014

¹³⁵ MBS/37/1.

¹³⁶ See MBS/ 29 and 30.