



Ministry of Housing,  
Communities &  
Local Government

Tony Collins  
Collins & Coward

Our ref: APP/F4410/W/18/3197290  
Your ref: 17/00301/FULM

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8 July 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MOTO HOSPITALITY LIMITED  
LAND NORTH EAST OF JUNCTION 37 OF THE A1(M) MOTORWAY, MARR  
ROUNABOUT, DONCASTER, DN5 7AS  
APPLICATION REF: 17/00301/FULM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of B M Campbell BA(Hons) MRTPI who held a public local inquiry on 11–14 and 18 December 2018 into your client's appeal against the decision of Doncaster Metropolitan Borough Council to refuse your client's application for planning permission for the construction of a new Motorway Service Area (MSA) to comprise Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network, provision of landscaping, signage, infrastructure and ancillary works, in accordance with application ref: 17/00301/FULM dated 5 February 2017.
2. On 5 April 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

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

3. The Inspector recommended that that the appeal be dismissed and planning permission be refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with the recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having taken account of the Inspector's comments at IR3, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Procedural matters**

6. The Secretary of State notes that parties have agreed which drawings should be formally determined (IR4) and has proceeded on that basis.

## **Policy and statutory considerations**

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Doncaster Core Strategy (2012) and saved policies from the Doncaster Unitary Development Plan 1998. The Secretary of State considers that relevant development plan policies include those set out at IR18-26.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Department for Transport Circular 02/2013. The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

## *Emerging plan*

10. The emerging plan comprises the Draft Local Plan which has been published for consultation, concluding in October 2018. The Secretary of State considers that the emerging policies of most relevance to this case include Policy 13 Strategic Transport Network which refers to the provision of secure lorry parking facilities and road side service areas along the strategic road network to meet future demand where appropriate.
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the draft Local Plan is still at an early stage and has not yet been submitted for examination, objections are not yet fully resolved and the policies may be subject to change, the Secretary of State considers that the draft plan carries limited weight.

## Main issues

### *Green Belt*

12. The Secretary of State agrees with the Inspector's approach to the application of policy set out in IR179-181. He has considered whether the proposal amounts to inappropriate development in the Green Belt. For the reasons given at IR182, he agrees with the Inspector that it does not fall within any of the exceptions in paragraph 145 of the Framework. He has considered whether the proposal falls within the exception set out at paragraph 146(c) of the Framework. For the reasons set out at IR187-190, he agrees with the Inspector's conclusion that MSAs are aimed at providing services for drivers on the strategic road network and are not aimed at catering for the needs of drivers on the local highway network (IR188). He further agrees that while there is an identified need for additional HGV parking in the area, this need does not call for an operation of the size proposed to be built (IR189). Overall he agrees with the Inspector's conclusion at IR190 that the proposal does not comprise local transport infrastructure, and therefore considers that the proposal does not fall within the exception set out at paragraph 146(c) of the Framework. The proposal therefore represents inappropriate development in the Green Belt and should not be approved except in very special circumstances.  
Inappropriate development is, by definition, harmful to the Green Belt.
13. The Secretary of State has gone on to consider whether the proposal preserves the openness of the Green Belt and whether it conflicts with the purposes of including land in the Green Belt. For the reasons given in IR193-200, the Secretary of State agrees with the Inspector at IR200 that the proposal would not preserve the openness of the Green Belt. For the reasons given at IR201-205, he also agrees with the Inspector at IR203 that the development would result in a substantial spread of the built environment beyond the well-defined line of the motorway and over an area almost devoid of development, and that this significant material encroachment into the countryside would be in conflict with the purposes of keeping land within the Green Belt, specifically, safeguarding the countryside from encroachment.
14. Overall the Secretary of State agrees with the Inspector in IR230 that as well as the harm from inappropriateness, the development would result in significant harm to the Green Belt from the effect on openness and conflict with the purposes of including land within the Green Belt. He further agrees that the harm to the Green Belt attracts substantial weight against the proposal (IR230), and that the development is in conflict with policy CS3 of the Core Strategy (IR208).

### *Landscape, loss of countryside and visual amenity*

15. For the reasons given at IR209-210, the Secretary of State agrees with the Inspector's conclusion at IR231 that the harm is not insignificant given that minor adverse impacts in landscape and visual amenity terms would remain at year 15 and that no matter how well it is designed, landscaped and screened, the provision of an MSA on the appeal site would result in the permanent loss of a large expanse of open land in the countryside given over to an urbanising form of development. The Secretary of State agrees that significant weight should be attributed to these matters, and that there is conflict with the requirement of policy CS3 to protect and enhance the countryside (IR210).

### *Loss of agricultural land*

16. The Secretary of State has taken account of the Inspector's analysis (IR211-214 and IR232) regarding the agricultural land that would be lost to the development, and notes that some 36% of the appeal site comprises best and most versatile agricultural land. He notes that concerns have been raised regarding the accuracy of the Agricultural Land Classification assessment but agrees with the Inspector at IR213 that no technical evidence has been presented to challenge the most recent report. For the reasons given in these paragraphs, the Secretary of State agrees with the Inspector that the loss of agricultural land, including best and most versatile land, carries moderate weight against the proposal (IR232) and is in conflict with policy CS18 (IR214).

### *The need for an MSA*

17. The Secretary of State has considered the Inspector's analysis at IR220-228 and IR233 of the need for an MSA. While the distance between existing MSAs exceeds the recommended minimum as set out in C2/2013, he agrees with the Inspector's view that the distance between MSAs is recommended rather than mandatory, and that a distance of an additional 1 to 3 miles would be unlikely to add significantly to the drive time between MSAs (IR222). The Secretary of State also notes that each of the identified excessive distances include stretches of trunk road that include signed services, and agrees with the Inspector that while the signed services do not provide all the services required for an MSA, they do make a positive contribution to the safety and well-being of the travelling public (IR223). Overall the Secretary of State agrees with the Inspector's conclusion at IR228 that there is no pressing need to provide an additional MSA on the appeal site. He also agrees with the Inspector that while there is a specific need for additional HGV parking in the area, providing for that specific need does not, of itself, justify the provision of a new, full scale MSA. The Secretary of State agrees with the Inspector at IR233 that the need for an MSA at the appeal site carries limited weight in favour of the proposal.

### *Other matters*

18. The Secretary of State agrees with the Inspector's analysis at IR229 and IR234 that the provision of jobs would be of benefit to the local economy, but that as the proposal is located in the Green Belt and not in an identified employment area, this benefit attracts only very limited weight in favour of the proposals.
19. For the reasons given at IR215-219, the Secretary of State agrees with the Inspector that there is no material harm to weigh in the balance in respect of highway conditions, air quality, heritage assets, noise and light pollution, litter or other matters raised by the JRP or other interested persons.

### **Planning conditions**

20. The Secretary of State has given consideration to the Inspector's analysis at IR171-175, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

## **Planning obligations**

21. Having had regard to the Inspector's analysis at IR176-177, the planning obligation dated 12 December 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

## **Planning balance and overall conclusion**

22. For the reasons given above, the Secretary of State considers that the scheme is in conflict with Policies CS3 and CS18, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
23. The Secretary of State considers that the need for an MSA attracts limited weight in favour of the proposal, and that the economic benefits attract very limited weight in favour.
24. The Secretary of State considers that the harm to the Green Belt attracts substantial weight against the proposal, that the harm to the landscape, loss of countryside and visual amenity together attract significant weight against the proposal and that the loss of BMV agricultural land also attracts moderate weight against the proposal.
25. The Secretary of State considers that the proposal is inappropriate development in the Green Belt, which should not be approved except in very special circumstances which will not exist unless the potential harm to the Green Belt and any other harm from the proposal are clearly outweighed by other considerations. He considers that there is nothing that individually or cumulatively clearly outweighs the harm identified so as to amount to very special circumstances.
26. The Secretary of State concludes that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that the appeal should be dismissed and planning permission refused.

## **Formal decision**

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a new Motorway Service Area (MSA) to comprise Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network, provision of landscaping, signage, infrastructure and ancillary works.

### **Right to challenge the decision**

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
29. A copy of this letter has been sent to Doncaster Metropolitan Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Maria Stasiak*

Authorised by the Secretary of State to sign in that behalf



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

**by B M Campbell BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Date: 9 April 2019**

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## **TOWN AND COUNTRY PLANNING ACT 1990**

**DONCASTER METROPOLITAN BOROUGH COUNCIL**

**Appeal made by**

**MOTO HOSPITALITY LIMITED**

Inquiry Held on 11 – 14 & 18 December 2018

Accompanied site visit undertaken on 19 December 2018

Land north east of Junction 37 of the A1(M) Motorway, Marr Roundabout, Doncaster DN5 7AS

File Ref: APP/F4410/W/18/3197290

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## ABBREVIATIONS LIST

<b>Term</b>	<b>Acronym</b>
Air Quality Management Area	AQMA
All Purpose Trunk Road	APTR
Area of Special Landscape Value	ASLV
Community Infrastructure Levy	CIL
Green Belt sub-area – Adwick Le Street 5	ALS5
Department for Transport Circular 02/2013	C2/2013
Design Manual for Roads and Bridges	DMRB
Doncaster Core Strategy 2012	CS
Doncaster Unitary Development Plan 1998	UDP
Environmental Statement	ES
Highways England	HE
Joint Rural Parishes	JRP
Landscape Character Area	LCA
Landscape and Visual Impact Assessment	LVIA
Local Road Network	LRN
Motorway Service Area	MSA
National Planning Policy Framework	NPPF
Planning Practice Guidance	PPG
Regeneration Priority Area	RPA
Statement of Common Ground	SoCG
Strategic Road Network	SRN
Tree Preservation Order	TPO

## CASE DETAILS

### **File Ref: APP/F4410/W/18/3197290**

### **Land north east of Junction 37 of the A1(M) Motorway, Marr Roundabout, Doncaster DN5 7AS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Moto Hospitality Limited against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 17/00301/FULM, dated 5 February 2017, was refused by notice dated 18 December 2017.
- The development proposed is construction of a new Motorway Service Area (MSA) to comprise: Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a Fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network. Provision of landscaping, signage, infrastructure and ancillary works.

### **Summary of Recommendation: The appeal be dismissed**

## PRELIMINARY MATTERS

1. By letter dated 5 April 2018 the Secretary of State issued a direction recovering the appeal for his own determination. The reason given is that the appeal involves proposals for significant development in the Green Belt.<sup>1</sup>
2. When the appeal was submitted, matters relating to impact on the Strategic Road Network (SRN) remained outstanding such that Highways England (HE) was granted Rule 6 status. However, by letter dated 2 October 2018 HE withdrew from the inquiry having reached a satisfactory outcome with the Appellant.<sup>2</sup> Two Statements of Common Ground between HE and the Appellant can be found at document CD93.
3. The application, the subject of this appeal, was accompanied by an Environmental Statement (ES). The ES has been reviewed in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and has been found to be satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. None of the statutory or other consultees has suggested that the ES is in any way inadequate.
4. The proposal has not been altered since the application was determined by the Council. Nonetheless, during the course of the inquiry, the main parties sought to clarify which of the many drawings submitted should be formally determined. Those agreed upon are listed in condition 2 of the proposed conditions ([Appendix 3](#)) and a short comment on their inclusion or exclusion is provided in the list of core documents ([Appendix 2](#)). An additional drawing was added at document CD100 – illustrating tree pit details.
5. An executed planning obligation under section 106 of the Town and Country Planning Act 1990 was submitted during the course of the inquiry and can be

<sup>1</sup> Letter on appeal file APP/F4410/W/18/3197290

<sup>2</sup> Ibid

found at document CD97. A Community Infrastructure Levy (CIL) Compliance Statement is to be found at document INQ1.

6. I undertook an unaccompanied site visit of the general area (including signed services and Ferrybridge Services to the north) on 10 December during the afternoon peak period before opening the inquiry the following day. An accompanied visit took place on 19 December following the close of the inquiry. In addition to inspecting the site itself and the A635, we walked from a residential property along Green Lane through Long Plantation towards the northern edge of the site and went to viewpoints 1-4 as identified in the Appellant's landscape evidence (**Document APP8, fig 14A & 14B**). Following that accompanied visit I re-visited the signed services to the north and Ferrybridge Services on my own as agreed with the parties.

## **THE SITE AND SURROUNDINGS**

7. The appeal site comprises some 15.1 hectares of agricultural land in the north east quadrant of the Marr roundabout at junction 37 of the A1(M). Formed from a portion of two adjoining fields, it is divided internally by the Mellinder Dike drain running north-south. Existing hedgerows mark the line of the drain which continues to the north beyond the site boundary. Overhead cables currently cross the site.
8. The site has a short boundary with the slip road leading off the southbound carriageway of the motorway and the boundary continues around the roundabout and in an easterly direction along the north side of the A635 leading to Doncaster. The boundary with the A635 is defined by a tree and hedgerow line to the rear of a large layby between the site and the road and includes a telecommunications mast. On the southern side of the A635 is a dense tree belt known as Ducker Holt.
9. The eastern boundary of the site is defined by a substantial linear belt of woodland known as Long Plantation (protected by a tree preservation order (TPO)) which stretches between the A635 and Green Lane to the north. The northern boundary cuts through the existing fields with more farmland extending north to Green Lane but including two further woodland areas, Stane Hill Plantation and Stane Hole Plantation (also protected by a TPO).
10. The eastern field slopes down from approximately 45m AOD to 35m AOD in an east-west direction towards the Dike, whilst the western field slopes more gently with higher ground on the western side varying from 37m AOD to 38m AOD. There are a few free-standing trees within the site and the location of a small former plaster pit.
11. There are some useful photographs of the appeal site in section 4 of document CD74.
12. The site lies within designated Green Belt, just off the north-west fringe of Doncaster. The nearest urban settlement is Scawsby, approximately 1km to the east. The village of Marr lies some 1.3km to the west of junction 37 and Brodsworth village, also on the other side of the motorway, is some 1.8km to the north west of the site.

13. The nearest residential properties to the appeal site are located along Green Lane and Town View Avenue to the north west and on the far side of Long Plantation. Scawsby Hall and Stone Hill School lie some 900m to the east and Marr Grange Cottage 730m to the south west.
14. To the north of the site at junction 38 the A1(M) changes status from motorway to a trunk road, the A1, and continues for that stretch extending from junction 38 to just south of the junction with the M62 where it reverts once again to A1(M) motorway. There are two signed services on each side of this stretch of trunk road – Carcroft and Barnsdale Bar North on the northbound side and Darrington and Barnsdale Bar South on the southbound side. Facilities available at these signed services are set out in a table attached to the Statement of Common Ground (SoCG) at document CD92. These and MSAs on the wider motorway network are depicted on a map at Document LPA2, fig.5.2. (see also document APP12 appendix 9)
15. Figure 1 in document APP8 and the aerial photograph at document INQ10 give an appreciation of the site in its context.

## **RELEVANT PLANNING POLICY**

16. The Development Plan for the area includes the Doncaster Core Strategy (2012) (CS) and the saved policies of the Doncaster Unitary Development Plan 1998 (UDP). In addition, there is a draft Local Plan published for consultation with the consultation period concluded on 26 October 2018. The policies which the main parties agree as relevant to this proposal are listed in the SoCG. (Document CD92)
17. Whilst I have taken all relevant policies into account, I have set out below those most pertinent to the case.

### **Doncaster Core Strategy (Document CD84)**

18. **Policy CS1 Quality of Life** supports proposals which contribute to Core Strategy objectives including: providing employment opportunities; strengthening communities; are place specific in design, work with their surroundings and enhance the built and natural environment; are accessible by a range of transport modes; and which protect amenity and are well designed.
19. **Policy CS2 Growth and Regeneration Strategy** seeks to distribute growth and regeneration so as to support prosperous and sustainable communities by improving the economic performance of towns, promoting regeneration and tackling deprivation
20. **Policy CS3 Countryside** seeks to protect and enhance the countryside. National Green Belt policy is to be applied, including a presumption against inappropriate development other than in very special circumstances.
21. **Policy CS7 Retail and Town Centres** requires town centre uses to be located according to the Retail Hierarchy as set out.
22. **Policy CS9 Providing Travel Choice** supports proposals which make an overall contribution to the improvement of travel choice and the transport network.  
CS9 (D) 1. Supports facilities for lorry parking and roadside service areas where appropriate.

23. **Policy CS14 Design and Sustainable Construction** seeks high quality design, contributing to local distinctiveness, reinforcing the character of local landscapes and building traditions, responding positively to existing site features and integrating well with its immediate surrounding area. CS14 (C) requires design and layout to adapt to a changing climate and to use energy, water and materials in the most efficient way possible.
24. **Policy CS18 Air, Water and Agricultural Land** aims to conserve, protect and enhance air, water and land resources both in terms of quantity and quality.

### **Saved policies of the Doncaster Unitary Development Plan** (Document CD85)

25. **Policy ENV1** sets out the general extent and purposes of including land in the Doncaster Green Belt reflecting four of the five purposes as set out in more recent national policy guidance (preserving the setting and special character of historic towns is not included).
26. **Policy ENV3** states that development within the Green Belt other than for purposes as specified within the policy will not be permitted except in very special circumstances – reflecting Government policy that was in force at the time, but which has since been superseded.<sup>3</sup>

### **Draft Doncaster Local Plan** (Document CD86)

27. **Policy 13 Strategic Transport Network** includes at (D) 4. the provision of secure lorry parking facilities and road side service areas along the SRN (including overnight stay accommodation and toilet facilities, where possible) to meet future demand, where appropriate.

### **National Policy**

28. The **National Planning Policy Framework** (NPPF) contains up to date Green Belt policy to which Core Strategy policy CS3 refers. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved other than in very special circumstances which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Substantial weight is to be given to any harm to the Green Belt. (paras.143 & 144) The construction of new buildings is inappropriate other than for specified exceptions, none of which embrace buildings at an MSA. (para.145) Certain other forms of development, which include local transport infrastructure which can demonstrate a requirement for a Green Belt location, are not inappropriate provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. (para.146)
29. **Department for Transport Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development** (C2/2013) sets out Government policy relating to motorways and trunk roads. Annex B addresses roadside facilities for road users on motorways and all-purpose trunk roads (APTR). The Circular is consistent with the NPPF in identifying the primary function of roadside facilities as supporting the safety and welfare of the road user.

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<sup>3</sup> PPG 2 Green Belts

30. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours. The network of service areas on the SRN has been developed on the premise that opportunities to stop are provided at intervals of about half an hour. However, timing is not prescriptive as travel may take longer on congested parts of the network. Thus, the recommendation is that the maximum distance between motorway service areas should be no more than 28 miles. Further, given that speed limits vary on the SRN, the recommended maximum distance between signed services on trunk roads should be the equivalent of 30 minutes driving time. The distances are considered appropriate regardless of traffic flows or route choice. (paras.B4-B8)

## THE PROPOSAL

31. The new MSA would provide an amenity building (3,959 sqm), a 103-bedroom lodge (2,865 sqm), a fuel filling station (261 sqm) together with a canopy over the fuel pumps, and a drive through coffee unit (205 sqm). The main car park would provide 492 spaces shared between the amenity building and lodge, including 6 electric charging points (with pre-installed underground ducting to facilitate future increased demand) and 22 spaces for the disabled with another 14 bays for motorcycles. Other separate parking areas would be provided to accommodate 96 HGV spaces, 1 abnormal load bay, 12 caravan spaces, 19 spaces for coaches, 36 spaces at the drive through (two of which would be accessible), 8 spaces at the fuel filling station and 26 spaces for staff parking (two of which would be accessible).
32. Vehicular access to and from the MSA would be gained from a new arm on the roundabout between the exit slip road from the southbound carriageway of the A1(M) and the A635 to Doncaster. Direct access to the MSA from a dedicated slip lane for vehicles travelling southbound on the A1(M) was deleted from the proposal on the advice of HE. Within the site, as is usual for MSAs, signage would separate the traffic, directing it to the appropriate parking area or required facility. New bus stops are proposed outside the site on the A635 and 20 cycle parking spaces in the service yard to encourage staff to travel other than by car.
33. The main buildings – that is the amenity building and lodge – would be located in the opposite corner of the site to the access, in front of a planted mound right in the far north east corner. In front of the amenity building would be outdoor seating areas and space for a number of external concessions with a picnic area to the south. Within the building the normal facilities found at MSAs such as toilets, showers, hot food outlets and shops would be provided.
34. The main car park would extend in a westerly direction from the front of the lodge and amenity building. To the south of this would be the drive through, coach and caravan parks and the one space for an abnormal load. The lorry park would be situated in the south east corner with the fuel filling station to the west of it towards the access into the site. Land within the site close to the access would be left open, landscaped and planted and would accommodate a flood water channel and attenuation basins.
35. The site would be landscaped throughout with heavily planted edges. Most notably a new 10–15m wide woodland buffer along the eastern boundary (parallel to Long Plantation) and a 15–20m wide woodland buffer along the

currently open north western boundary would meet at a tree planted mound in the north east corner behind the main buildings.

36. The main entrance façade to the amenity building would have a faceted arrangement with fin walls defining directional change between large glazed screens. Other elevations would, in the main, be treated with blockwork at low level and horizontal format cladding above. The main roof would be a mix of flat roofed areas and one large shallow roof plane. Roof lines would over-sail the principal glazed façade with V shaped columns supporting the roof in a colonnade-like arrangement. A lower canopy to the southern end would be similarly supported.
37. The lodge building would have a simple L shaped plan form. Although of two storeys, it would be similar in height to the amenity building. Roof forms would be a mix of flat and shallow sloping mono-pitches and the entrance would incorporate glazed features and a projecting canopy, once again supported on V shaped columns.
38. Further detailed descriptions of the proposal are included in documents CD65 section 5, CD74 section 7, CD76 section 4 and APP10 section 4. There is a wealth of drawings detailing the proposed layout of the site, the design and external appearance of the buildings and landscaping ([Documents CD1 - CD63](#)). These include computer generated views of the buildings and aerial views of the site. A useful booklet of the drawings at A3 size is to be found at Document INQ2.

## **MATTERS NOT IN DISPUTE BETWEEN THE COUNCIL AND MOTO HOSPITALITY LIMITED**

### ***Green Belt***

39. Whilst there is disagreement on whether the proposal would amount to inappropriate development in the Green Belt, the effect on openness, and whether there would be conflict with two of the five purposes of including land in the Green Belt; it is agreed that there would be no conflict with the following three purposes:

*Purpose (a) to check the unrestricted sprawl of large built up areas;*  
*Purpose (b) to prevent neighbouring towns merging into one another; and*  
*Purpose (d) to preserve the setting and special character of historic towns.*

### ***Gaps between MSAs***

40. Relevant gaps between existing MSAs that exceed the recommended distances in C2/2013 are: ([see Document LPA2, fig.5.2](#))
  - between Ferrybridge (M62) and Woodall (M1) – 31 miles
  - between Doncaster North and Ferrybridge (via the A1 and A1(M)) – 29 miles

### ***Alternative sites* ([Documents CD66, APP2 section 3.5, APP10 paras.9.1.26-9.1.50, INQ16 paras.32-54](#))**

41. Despite a suggestion to the contrary in the Council's Statement of Case and evidence, it is now agreed that if the need for an MSA is accepted (the need is disputed by the Council), then there are no suitable alternatives to be preferred to the appeal site. Sites around junction 35 are unsuitable being located too

close to Blyth MSA to the south. In addition, potential sites did not perform as well as the appeal site in relation to Green Belt considerations, loss of agricultural land, flooding and on highway grounds. There is insufficient distance between junctions 35 and 36 for an on-line site. No site is available at junction 36 because all four quadrants have been developed. Again, the distances between junctions 36 and 37 and between 37 and 38 are insufficient for an on-line site. Land at junction 38 is too close to Ferrybridge, is considered unsuitable for highway reasons, is in Green Belt and comprises grade 2 agricultural land.

42. Potential sites along the M18 are discounted as not bridging the gaps identified or performing less well than the appeal site.
43. At A1(M) junction 37, an MSA on the south-west and north-west quadrants would have a greater impact on the Green Belt and affect a designated Area of Special Landscape Value (ASLV) and the south-east quadrant comprises the Ducker Holt woodland. The north-east quadrant is agreed as being most suitable.

### ***Highway matters***

44. Two SoCG have been agreed with HE and can be found at document CD93. The first sets out highways and transport matters associated with the SRN that are agreed and concludes that the appeal should not be dismissed on highway grounds insofar as it relates to the SRN. The second relates to the level of parking provision and confirms no objection to the full future year parking requirement (year 2027) being provided at the outset.
45. A further highways SoCG has been agreed with the Council. The document sets out agreed highways and transport matters associated with the Local Road Network (LRN) and concludes that the appeal should not be dismissed on grounds of impact on the LRN.

### ***Landscape***

46. The findings of the Landscape and Visual Impact Assessment (LVIA) submitted with the planning application are accepted. It is common ground that once the development and landscaping has matured, there would be no impacts greater than minor adverse in landscape and visual amenity terms.<sup>4</sup> (**Document CD76 section 10 and Table 10.11 in particular**)

### ***Design***

47. During the inquiry, the Council changed its stance in relation to design considerations, confirming that it took no issue with the design of the scheme and that there would be no conflict with policy CS14 which requires high quality design.

### ***Other matters***

48. There are no issues on ***ecological grounds, drainage or flood risk.*** ***Archaeological concerns*** can be addressed by the imposition of a suitable condition if planning permission was to be granted and there is no impact on any above ground ***heritage assets.***

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<sup>4</sup> The LVIA Table 10.11 contains a typographical error as noted in document CD92 – there is no “moderate adverse” effect in year 15

## THE CASE FOR DONCASTER METROPOLITAN BOROUGH COUNCIL

As noted above, the Council made a number of concessions during the inquiry, but its final case is as summarised in its opening and closing submissions (**Documents INQ4 and INQ14**)

The main points are:

### Whether the proposal amounts to inappropriate development in the Green Belt

49. The Appellant's stance that the development is not inappropriate because it falls within NPPF paragraph 146(c) *local transport infrastructure which can demonstrate a requirement for a Green Belt location* is not made out.
50. Paragraph 145 of the current NPPF, formerly paragraph 89 of the NPPF 2012, says the construction of new buildings in the Green Belt are to be regarded as inappropriate other than for specified exceptions, none of which apply to the appeal proposal. As new buildings are included as part of the appeal proposal, paragraph 145 applies and the development is thus inappropriate. Paragraph 146 covers "other forms of development" and thus must be addressing forms other than the construction of new buildings. It does not therefore apply to the appeal proposal. The Appellant accepted in cross examination that if that is a correct interpretation of paragraphs 145 and 146 then the development must be inappropriate.
51. This interpretation is entirely consistent with the judgement in *R(oao Mrs Jean Timmins) v Gedling Borough Council* [2015] EWCA Civ10 wherein the Court of Appeal held that paragraph 89 (now 145) was "exclusively" the way in which the construction of new buildings could be not inappropriate. The Appellant's interpretation, namely that paragraph 146 can also provide for other types of new buildings in Green Belt is contrary to this judgement as it would mean that paragraph 145 (89 as it was then) is not a closed list of exclusive exceptions.  
**(Document INQ14 attached judgement)**
52. The fact that paragraph 146(f) includes as not inappropriate "development brought forward under a Community Right to Build Order or Neighbourhood Development Order" does not lead to the conclusion that it embraces new buildings. There are a number of other types of development that can be brought forward pursuant to such Orders<sup>5</sup> and it is these to which paragraph 146(f) refers – not new buildings which remain to be considered under paragraph 145. Accordingly, simply as a matter of legal interpretation, the development cannot be not inappropriate, because it involves the construction of new buildings in the Green Belt.
53. In addition, the proposed MSA does not constitute "local infrastructure" provided for by paragraph 146(c). An MSA is not "local" given that it serves a national need and will only be afforded limited use by local trips. The MSA would be located on the SRN operated by HE which, by definition, comprises nationally significant infrastructure. Indeed, the Appellant's own surveys included within the Transport Assessment demonstrated that only 3.8% of interviewees using

<sup>5</sup> See Planning Practice Guidance Paragraph: 010 Reference ID: 41-010-20140306 through to Paragraph: 013 Reference ID: 41-013-20140306

MSAs were doing local trips. ([Document CD67 para.6.54](#)) The second limb of paragraph 146(c) is that the development can demonstrate a requirement for a Green Belt location. This ties in with the need for an MSA in this location which the Council does not accept and so a requirement for a Green Belt location is not demonstrated.

54. Even if the proposal did fall within paragraph 146(c), such development is only not inappropriate provided it preserves Green Belt openness and does not conflict with the purposes of including land in it. The stance of the Appellant's planning witness was not that there would be no harm or conflict but rather that the extent of harm/conflict would be acceptable. He argued that paragraph 146 must be interpreted as allowing for some acceptable degree of harm to openness/the purposes. Such an argument is contrary to case law. See in particular in *R.(oao Amanda Boot) v Elmbridge BC* [2017] EWHC 12 (Admin) where, having reviewed the authorities, it was held that where there was a finding of harm to the openness of the Green Belt, it followed that the openness would not be preserved. ([Document INQ14 attached judgement paras.17-40](#))
55. There can be no degree of acceptable harm to openness and, by the same token, the same must also be true of conflict with the purposes of including land in the Green Belt – any degree of conflict must contradict paragraph 146. The Court of Appeal judgment in *Samuel Smith Old Brewery v North Yorkshire County Council* [2018] EWCA Civ 489 does not change this position. In that judgment the Court of Appeal established that whilst there could be an impact on openness, this impact could be either harmful or benign. ([Document INQ14 attached judgement, para.38](#))
56. The starting point, in any event, must be the policies in the Development Plan and in the instance UDP policy ENV3 is the relevant policy for determining applications in the Green Belt. It includes no exception for local transport infrastructure. ([Document CD 85 page 62](#)).
57. The proposal constitutes inappropriate development in the Green Belt.

### **Effect on the openness of the Green Belt and the purposes of including land within it**

#### ***Spatial dimension - openness***

58. The proposed development would result in the loss of 15.1 hectares of currently open, undeveloped countryside in the Green Belt. This would result in significant harm. It is hard to see how any other conclusion could be reached. Indeed, the Appellant's planning witness conceded that he was unaware of any decision relating to the Green Belt where a development of such scale had not been found to harm the spatial role of openness. The reality remains that a significant three-dimensional space of entirely open undisturbed land would be permanently removed from the Green Belt. This can only result in significant harm. Landscape mitigation to screen the development has no bearing on the spatial dimension.

#### ***Visual dimension - openness***

59. There is an obvious overlap with landscape and visual amenity issues under this section. The Council did not call its own evidence on these matters as it accepts the findings of the LVIA as confirmed in the SoCG. The LVIA, in accordance with industry standards, correctly identifies the potential environmental effects at three points: during construction, on completion and after 15 years so as to

enable effects to be understood and considered throughout the life cycle of the development. The LVIA concludes that there would be minor adverse impacts in landscape and visual amenity terms. This clearly contravenes the openness of the Green Belt and should be afforded substantial weight.

### **Purposes of including land in the Green Belt**

#### **Purpose (c) – safeguarding the countryside from encroachment**

60. For the purposes of review in 2016, the Green Belt in the Borough was divided into 64 general areas that were assessed against how well the 5 purposes were being fulfilled. The Appeal site lies in the south western corner of Adwick Le Street 5 (ALS5). Although in relation to purpose (c), the area did not score highly, the appeal site is significantly more sensitive to encroachment than ALS5 as a whole which accommodates a degree of built development. In contrast, the appeal site, whilst adjacent to the A1(M) and the A635, comprises open fields with a cluster of deciduous plantations in the area immediately surrounding the site. The Long Plantation in particular separates the site visually and spatially from Scawsby. The site has a strong rural character and a moderate-high sensitivity to encroachment. As such it performs well in terms of its contribution to purpose (c) and significantly better than ALS5 as a whole. The scale of the appeal proposal would be a significant encroachment into the countryside in conflict with purpose (c) and would cause significant harm to the Green Belt.

(Documents CD87 page 67 & LPA2 paras.4.3.30-4.3.35 and 5.3.19-5.3.24)

#### **Purpose (e) – assist urban regeneration, by encouraging recycling of derelict and other urban land**

61. Area ALS5 scored highly in relation to this purpose being one of 20 of the general areas contiguous with the Borough's defined Regeneration Priority Areas (RPA). The protection of the entirely greenfield appeal site assists in directing development towards brownfield land within development limits, albeit that it is further from the RPA than ALS5 as a whole. Facilities provided at the MSA such as the hotel, or café/restaurants where business meetings could be held, could result in the site becoming a destination in its own right rather than simply providing roadside facilities for users of the A1(M). This could affect the viability of providing facilities within the RPA and discourage visitors from entering and using other facilities in Doncaster. (Document LPA2 paras.5.3.27-5.3.31)

### **Other harm**

#### **Landscape and visual amenity**

62. Policy CS3 of the CS states that proposals which are outside development allocations will only be supported where they, '*protect and enhance the countryside*'. As with the discussion of Green Belt policy above, this policy does not envisage an acceptable degree of harm to the countryside. Rather, where a proposal fails to protect and enhance the countryside, it is contrary to the policy. Here, the proposal would result in minor adverse impacts on the countryside in landscape and visual amenity terms and result in the loss of 15.1 hectares of countryside. On any view, this does not protect or enhance the countryside and thus the proposal must be contrary to Policy CS3. Similarly, it must also be contrary to paragraph 170(b) of the NPPF, which seeks to recognise the intrinsic character and beauty of the countryside. (Document CD84 policy CS3)

### **Agricultural land**

63. The Council does not dispute the Appellant's figures on the loss of agricultural land but the development would still lead to the loss of a substantial amount of high quality agricultural land. Policy CS18 of the CS accepts the loss of such land only where it conforms with the Growth and Regeneration Strategy. This strategy is reliant on the settlement hierarchy which, unsurprisingly, envisages that the Green Belt will not be developed except for appropriate development. Nowhere within the policy is it suggested that Green Belt development of this nature is consistent with the Strategy. Accordingly, the loss of agricultural land is contrary to policy CS18. (**Document CD84 policy CS2**)

### **Need for an MSA**

64. Whether there is a need for an MSA is resolved through applying C2/2013 and is reliant on whether the maximum spacing distances identified in it are exceeded.
65. The Circular makes clear that "*In determining applications for new or improved sites, local planning authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons*" (Paragraph B8). This can only mean that if the maximum distance is not exceeded, the spacing between MSAs is not a relevant consideration and thus it cannot be said that there is a need for an MSA to 'plug a gap'. Moreover, C2/2013 "recommends" the maximum distance of 28 miles between MSAs which denotes a less onerous requirement than other aspects of the Circular which set out "*mandatory*" provisions and "*minimum*" requirements.
66. The Council does not suggest that there is anything inherently objectionable with going below the maximum distances identified in the Circular. However, where this would require the development to be situated in the Green Belt, the Council makes the obvious point that if the maximum distances are not exceeded, it cannot be said that there is a need for an MSA.

### **Are the maximum distances exceeded?**

67. As a matter of fact there is a gap in excess of 28 miles between MSAs. However, to simply rely on this represents an incorrect interpretation of the Circular. The gap that the Appellant seeks to address is comprised of travelling along both trunk road and motorways. Applying the Circular correctly, this cannot give rise to a gap that justifies a need for an MSA. There is no existing gap of 28 miles between MSAs travelling only on motorway that the proposal would address (thus paragraph B6 is satisfied); and one cannot travel more than 30 minutes between signed services on the trunk road (thus paragraph B7 is satisfied).
68. MSAs, by definition, cannot be provided on trunk roads. It would be perverse to interpret paragraph B6 as requiring a maximum distance between MSAs of 28 miles notwithstanding the fact that the relevant 28 mile gap is comprised of roads where an MSA could not possibly be provided. It would be an error in interpretation of the Circular to conclude that there is a need for an MSA here, given that the maximum distances in paragraphs B4 – B7 of the Circular are not exceeded.
69. Even on the Appellant's best case, these maximum distances are, '*only slightly exceeded*' and within those gaps between MSAs there are signed services that

contribute to safety and welfare (**Document CD67 para.2.10**). On the Appellant's best case the need is not sufficient to justify this development in the Green Belt.

### **Existing trunk road service stations**

70. There is no justification for disregarding contributions made by the signed services on the A1 on highway safety grounds. Insufficient assessment has been made to establish that any has a poor safety record, or that the merge and diverge tapers from Design Manual for Roads and Bridges (DMRB) TD41/95 should be applied. Furthermore, HE has taken no action in relation to these services nor is there any evidence to suggest that it considers them to be dangerous. (**Documents INQ7 & INQ14 paras.5.4.2-5.4.5**)
71. It would be wrong to discount the signed services on grounds of not meeting the minimum parking requirements set out in C2/2013. That would rely on an incorrect application of the Circular. Paragraph B26 is plain that "*Where a site is subject to a pre-existing sealed agreement which specifies the levels of parking provision, this shall continue to apply until such time as the scale and/or scope of on-site activities is extended*". Accordingly, since the existing services are all subject to sealed agreements (as they must be), the requirements they are expected to meet are those set out in those agreements and not what the Circular now requires. Moreover, paragraph B28 makes clear that levels of parking provision may be adjusted to reflect local conditions through a process of site-specific negotiation. No evidence has been submitted to suggest that the parking provision at any of the signed services is insufficient for the needs of motorists when considered individually or together.
72. The minimum requirements for signed services are substantially met through the existing A1 roadside facilities, save for in respect of free parking (which was met in part) and access to a cash operated telephone. But in any event, these minimum requirements apply to "*various types of roadside facility that may be eligible for signing from the strategic road network*" (paragraph B17) – all of the A1 roadside facilities are already signed.
73. The contribution made by existing services cannot be discounted simply by applying current standards retrospectively. Furthermore, less harm to the Green Belt would result from bringing these existing services up to standard than in constructing the new MSA. In addition, it is pure speculation to suggest that these services will be wiped out if the trunk road is upgraded to motorway and there is nothing to say when or if this upgrade will proceed.

### **Conclusion on need**

74. There is no need for an MSA in this location but even if a need for roadside facilities was identified, this should involve the minimum interference with the Green Belt to meet that need. The proposed MSA goes substantially in excess of what would be required. The mere fact that there are other MSAs in the Green Belt is no justification for this proposal.

### **Is the harm clearly outweighed by other considerations?**

75. If C2/2013 is correctly applied, then there is no need for an MSA and thus no other considerations to weigh in the balance. In the alternative, need only arises from the maximum distances in the Circular being slightly exceeded and given that these distances are "recommended" rather than mandatory that is

insufficient to override Green Belt policy. The harm to the Green Belt is to be afforded substantial weight and there are a number of additional harms as well as conflict with the Development Plan as a whole.

76. The benefits of the proposal do not clearly outweigh the harm and thus very special circumstances necessary to justify the development do not exist.

### **Accordance with the Development Plan?**

77. There is nothing in CS policy CS9 on which the Appellant relies to support a proposal of this nature in the Green Belt.
78. For the reasons given the proposal does not conform with the Development Plan as a whole. That being the case, the presumption in favour of sustainable development does not apply. There is no reason to depart from the default position that proposals contrary to the development plan should be refused.

## **THE CASE FOR THE JOINT RURAL PARISHES (JRP)**

*At the inquiry, the JRP addressed a written statement (**Document INQ6v2**) which was submitted along with attached appendices A-Q. Its case is summarised in its closing submissions (**Document INQ15**)*

*The main points are:*

### **Loss of Agricultural Land**

79. The initial agricultural land assessment undertaken for the project by Savills in January 2016 characterised the appeal site as grade 2, best and most versatile and that is the best land available in the Borough. (**Document CD73**) Permanently removing prime agricultural land out of Green Belt is not sustainable.
80. The second report written in October 2018 by Tim O'Hare Associates, contradicts the findings of the earlier report but contains a number of inconsistencies and errors including within the Legal disclaimer. Whilst a further document responding to the JRP criticisms was submitted to the inquiry, the errors made call into question the validity of the entire report and whether any reliance should be placed on it. It is hard to understand how such fundamental errors could go unnoticed and be presented as written evidence. For these reasons the initial 2016 assessment report is to be preferred. (**Documents APP9 appendix 16 & INQ11**)

### **Traffic Congestion**

81. The initial traffic counts submitted and used as evidence by the Appellant are 3 years out of date. They do not reflect the current traffic volumes, congestion or queuing experienced by drivers using the A635 or the A1(M) slip roads at the Marr roundabout or indeed the standing traffic this creates on the A1(M) itself at this junction. Further traffic counts to assess whether projected traffic volumes correlate with actual current traffic volumes have not been undertaken.
82. Air quality in Marr is a major concern (already designated an Air Quality Management Area (AQMA) with NOx levels along the A635 twice the legal limit) owing to traffic volume and congestion and tailbacks along the A635 from the junction roundabout towards Marr. The traffic queues observed now of over 30

vehicles in peak times (4.30pm to 5.30pm) do not appear to correlate with the modelled current maximum queue length of two.

83. The explanation given is that the stated maximum queue lengths are not actually maxima as described, but “mean maxima”. The Appellant accepted that actual queues of over 30 vehicles, as currently observed, are entirely possible. This brings into question what a mean maxima of 6 as predicted in 2027 if the development went ahead would look like; and what the A1(M) south arm with its 15 “mean maxima” would look like in 2027, particularly since the roundabout is predicted to be operating at full capacity by then. (**Document CD67 paras.6.62-6.69**)
84. No account has been taken of the added contribution to congestion from Barnsley Council’s ongoing large scale employment and housing development along a continuous 5 mile stretch of the A635, west of Hickleton. This would take the Marr roundabout above capacity with severe implications for the A635 and for the SRN.
85. The proposed HS2 project which anticipates a substantial increase in vehicle movements each day during construction will further increase traffic congestion on the A1(M) and A635 and negatively impact air quality. (**Document INQ6 appendix Q**)
86. Current high levels of congestion are supported by photographic evidence and by well-documented statements from Doncaster and Barnsley Councils as well as from the Sheffield City Region and Transport for the North. Their consistent and aligned view is that the A635 is heavily congested with road safety concerns in Marr and Hickleton (**Document INQ6 appendices A, B, I & J**). This has led to an identified need for a bypass for Hickleton and Marr.
87. The Appellant’s Transport Assessment evidence is 3 years out of date and takes no account of Barnsley’s large scale continuing development along the A635. This brings into question the Appellant’s projections of congestion and tailbacks at Marr roundabout. It cannot be relied upon to determine future traffic impacts associated with an MSA at this location.

## Air Quality

88. The pollution levels from traffic using the A635 have increased to such an extent that both Marr and Hickleton are now in a designated Air Quality Management Area (AQMA). Both Doncaster and Barnsley Councils acknowledge that the heavy increase in traffic levels as well as increased HGV numbers along the A635 are the cause of the increased NOx pollutants. (**Document INQ6 appendices F, H, J, K, L**)
89. The effect that air pollution and particulates have on health has been well documented. In this appeal, no account has been taken of increased traffic volumes and congestion and the impact that this would have on the health and well-being of local residents due to increased air pollution in a designated AQMA.

## Potential Speed Limit Reductions along the A635 approaches to the Marr Roundabout

90. The crossing of the A635 by people using the proposed new bus stops would not be safe. It is an extremely busy road in both directions. The drawing at document CD43 suggests a speed limit reduction along the A635 approaches and circulating carriageway of the roundabout. This might improve road safety for pedestrians but would, as a consequence, reduce the efficiency of the A635. It

would be likely to increase queue lengths and make congestion matters worse at this junction.

### **The need for an MSA and Safety**

91. It is predicted that personal accident injuries at the A1(M)/A635 junction roundabout would increase by 50% from 2 to 3 per year, following the proposed development. There is no evidence put forward to show that the small number of personal injury accidents at the four signed service areas would reduce (on average one accident at each, per year, over the last 5 years) by the provision of an MSA as an alternative stopping facility. The Appellant has shown in its projections that an MSA at this location would increase accident numbers overall.

(**Document APP2 paras 3.4.11-3.4.17 & 6.1.3-6.1.7**)

92. In considering the need for the MSA the existing 10 mile stretch of trunk road and its four signed services (and a number of other easily accessible non-signed services) cannot be ignored when assessing the gap. In terms of supporting the safety and welfare of drivers, these APTR facilities play a major role, as they do on any other trunk road on the SRN, whether or not they connect two motorways. The four signed services have recently been re-furbished at some significant expense.

93. Further south on the A1 there are long stretches of non-motorway trunk road which have similar traffic flows to their connected sections of the A1(M) but, these rely solely on the APTR services (for example the stretch from Blyth MSA to Peterborough MSA).

94. The need for an MSA is very weak with the two identified gaps only slightly above the recommended maximum (one via a longer alternative route), and both served by the trunk road signed services.

95. If there is a case for more lorry parking in the area, C2/2013 makes clear that truck stops can be built up to two miles distant from the SRN. This could avoid the need to use Green Belt or prime agricultural land and potentially make use of brown field sites. The existing signed service at Barnsdale Bar South might be expanded and developed into a larger formal truck stop, making full use of the current unused derelict land and buildings. The Appellant does not appear to have explored this or other possibilities for truck stops.

### **Report to Planning Committee 12<sup>th</sup> December 2017 (**Document CD83**)**

96. The written report to the Planning Committee recommending that permission be granted did not make clear that the identified gaps exceeding 28 miles between MSAs included a 10 mile stretch of non-motorway trunk road.

### **Green Belt**

97. A new MSA supporting the SRN, regulated by HE, cannot be described as local transport infrastructure and it is, therefore, inappropriate development in the Green Belt. The expansion of the MSA at Cobham is not comparable as the need seems to have arisen from an increased need for HGV parking in the local area and the Inspector was not considering a brand new MSA. The case of the Rugby MSA was again quite a different proposal as it was a brownfield site and not in the Green Belt. (**Documents APP12 appendix 3 & 5**)

98. As inappropriate development in the Green Belt, the proposal is, by definition, harmful. In addition there are other harms, the key ones being: adverse impact on openness, visual impact, damage to the landscape, loss of prime agricultural land, environmental impacts on health and well-being of local residents, driver safety on the Marr roundabout and increased congestion at the roundabout, on the A1(M) slip roads, the SRN and the A635.
99. The Appellant has failed to demonstrate very special circumstances in terms of 'need' in the interest of driver safety and welfare.

### **Other matters**

100. It is not understood why Historic England was not consulted given that the appeal site is visible from the grounds of the Grade 1 Brodsworth Hall. In addition, the setting of Marr, a conservation area, would be adversely affected. These findings were made in the Golders Landscape Character and Capacity Study when considering the potential for development. (**Document CD89 pages 28-30**) Visitors to the Hall, in particular those in coaches would have a view of the site when arriving and leaving.
101. As a facility intended to be open 24 hours a day, there would be intrusion at unsocial hours from lighting, including on signage, and from constant activity.

## **OTHER ORAL AND WRITTEN REPRESENTATIONS**

### **Oral representation**

102. Mrs Mitcheson addressed the inquiry as a resident of Green Lane and owner of Long Plantation (protected by a blanket TPO). (**Document INQ9**) She is concerned about disturbance from noise, light pollution and litter. In addition, reliance should not be placed on Long Plantation to screen the development, nor should it be seen as an integral part of the scheme since it is not owned by the Appellant. The monetary, educational and ecological value of the woodland would be compromised should the development go ahead.
103. Long Plantation is a privately owned piece of land some 56-65m in width, rather than 70-90m as claimed, and since it is wholly deciduous the canopy is not closed for 6 months of the year.

### **Written responses to the notification of the appeal** (red folder in appeal file)

104. Nine representations were received including from a Ward Councillor, the Clerk to Brodsworth Parish Council, from the Chair of the JRP and from the Chair of Scawsby Green Lane, Town View and Pickburn Neighbourhood Watch.
105. Two individuals have written **in support** of the development commenting that it would provide local employment and provide a needed facility to serve the motorway.
106. The remaining representations **oppose** the scheme primarily on grounds of:
  - Green Belt harm
  - Lack of need
  - Air pollution
  - Loss of agricultural land
  - Traffic congestion

## **Written representations received in response to the planning application**

107. Representations received in response to the planning application are summarised in the officer's report to the Planning Committee at sections 4, 5 and 6 of document CD83. They included 53 letters of objection and six letters of support and representations from Councillors, Parish Councils and the Campaign to Protect Rural England.

## **THE CASE FOR MOTO HOSPITALITY LIMITED**

*The case for the Appellant is summarised in its opening and closing submissions  
(Documents INQ3 and INQ16)*

*The main points are:*

108. The appeal proposal would meet a need for MSA provision in this area and is therefore entirely consistent with the principles of sustainable development. The proposal is appropriate development within the Green Belt, but even if that is not accepted very special circumstances have been demonstrated, and the benefits would clearly outweigh any harm to the Green Belt and any other harm.

### **The need for an MSA**

#### ***The policy approach***

109. Circular 02/2013 says MSAs perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey. Road safety is at the heart of the Government's advice on the spacing of MSAs and other roadside facilities. The safety benefits to motorists of being able to stop and break their journey is set out in numerous documents from the Government and bodies such as the Automobile Association  
(Document APP10 para.9.2.1-9.2.8).

110. The maximum distance between MSAs should be no more than 28 miles. The distance can be shorter, but to protect the safety and operation of the network, access and egress must comply with the requirements of the DMRB. The distances referred to in the guidance are regardless of route choice and the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons need not be considered.  
(Document CD98 para.B8)

111. The existence of a gap of more than 28 miles should be given very substantial weight. Whilst within that gap there is a section of trunk road, the A1, linking two sections of motorway, the facilities on that road do not fill the gap between MSAs. Many thousands of vehicles each day have to use this stretch of trunk road to pass from one part of the A1(M) to the other, as part of their motorway journey. The safety and rest needs of the drivers of those vehicles do not reduce or change when they are travelling along the relatively short length of trunk road. The policy refers to a gap between MSAs of no more than 28 miles and that cannot be satisfied by roadside facilities which fall short of the requirements for MSAs.

### **The need in this case**

112. Between Woodall and Ferrybridge services, the gap is 31 miles and between Ferrybridge and Doncaster North (taking the longer route) the distance is 29 miles. The Council's argument that the latter only "marginally exceeds" the 28 mile gap ignores the fact that 28 miles is a maximum – not a minimum or average. If 28 miles is exceeded, then further MSA provision is required.
113. The distance between Ferrybridge and Blyth, the nearest services on the A1(M) to the south, is 24 miles which is still substantial having regard to the Circular's aim to secure the safety of motorway users. The safety and welfare benefits of MSA provision are present even where the gap between facilities is less than 28 miles, although there is a particular need once the gap is greater than 28 miles, as here.
114. It is also relevant to consider the distances from Wetherby, even though Ferrybridge lies further south. That is because for those travelling on the A1(M) a diversion is required in order to access Ferrybridge. The distances between Wetherby and Blyth, Woodall and Doncaster North (by whichever route) are substantially greater than 28 miles (43 and 50 miles respectively).
115. In addition to the need for an MSA, there is a specific need in this area for facilities for HGVs. The 2017 National Survey of Lorry Parking shows that the total number of HGVs parked in the Yorkshire and Humberside region exceeds the lorry park capacity, with utilisation over-capacity at Ferrybridge and Woodall services. This lack of capacity at services to the north and south of the site helps explain the prevalence of off-site lorry parking in this area and supports the need for the proposal. ([Documents APP12 appendix 16 & APP10 para.9.2.12](#))
116. There is a clear need for an MSA in the area.
- ### **Do the facilities on the A1 meet the need?**
117. The services on the A1 do not detract from the need that has been identified and cannot substitute for a new MSA. The facilities available at the services are agreed in the Statement of Common Ground ([Document CD92](#)). The A1 services do not provide the mandatory facilities that are required for an MSA which have been identified by the Government as what is required in order to cater for the safety and welfare of drivers.
118. The parking at these services does not even meet the C2/2013 requirements for trunks roads; informal parking areas cannot be relied on. None offers 24 hour hot food and drink for consumption on the premises. None has shower facilities for HGV drivers except Barnsdale Bar South, and those facilities are available only during the opening hours of the diner. None has a cash operated telephone. None of the services has access and egress compliant with DMRB requirements and accident records suggest correlation with deficient access and egress provision ([Document APP2 section 3.4](#)). Use of these facilities to meet the identified need should not be encouraged and they cannot be regarded as a substitute for proper MSA provision in accordance with the Circular.
119. It is right to assess the access and egress to the A1 facilities by reference to the tapers recommended for petrol filling stations in Table 2/2 of DMRB TD 41/95. No other tapers are recommended for petrol filling stations and each of the A1 facilities provides other services beyond petrol, so turning traffic

movements greater than for a filling station only would be expected. The motorway traffic using the A1 stretch is well over 30,000 vehicles per day. It cannot seriously be suggested that facilities whose access and egress are inappropriate for turning traffic of more than 450 vehicles per day are sufficiently safe to be an acceptable alternative for the appeal proposal. (**Documents APP2 paras.**

**3.4.7 – 3.4.17 & INQ7 pages 2/6, 2/7, 2/14, 2/15).**

120. The final reason why the A1 facilities cannot be relied on to meet the identified need is that they are all likely to cease to exist when the A1 is upgraded to motorway status as intended by the Government. An MSA could not be provided on the newly upgraded motorway because all of it would be too close to Ferrybridge. Operators require a 10 mile minimum distance between MSAs.

(**Document APP10 paras. 9.1.23, 9.1.25, 9.1.28**)

121. Any scope for improving the A1 facilities is limited since they are all in the Green Belt. All fall within grade 2 agricultural land on the Council's plan save Carcroft which is shown as being in a grade 3 area. However, the plan does not differentiate between grade 3a and grade 3b, so the area surrounding Carcroft could be best and most versatile land (**Document LPA2 Fig.5.1**).

122. Non-signed facilities off the A1 and M18 suggested by the JRP do not offer an attractive alternative. None provide the mandatory MSA facilities and it is undesirable to have motorists leaving the motorway and using the local road network to access facilities. Furthermore, the JRP identified junctions along the A1 as dangerous.

### **Are there alternative sites for an MSA?**

123. It is agreed with the Council that if an MSA is required, there is no better site than the appeal site.

### **Is the development inappropriate in the Green Belt?**

124. The development is not inappropriate as it comprises local transport infrastructure which can demonstrate a requirement for a Green Belt location; it preserves openness and does not conflict with the purposes of including land in the Green Belt. It is thus one of the exceptions provided for by paragraph 146 of the NPPF.

125. The Council's contention that paragraph 146 does not apply to the construction of new buildings in the Green Belt is wrong for the following reasons:

- The observation of Richards LJ in *Timmins* (**para.31**) that paragraph 89 of the 2012 NPPF (now paragraph 145) "sets out the only exceptions" to the general rule that the construction of new buildings is inappropriate development is obiter. The Court of Appeal in that case had to decide whether material change use of land to use as a cemetery fell within paragraph 89 or paragraph 90 (now paragraph 146). The Court did not have to decide whether paragraph 90 could apply to development falling within one of the exceptions listed in that paragraph where built development was involved. *Timmins* is not, therefore, binding upon the Secretary of State in determining this appeal.
- The proper approach to paragraphs 145 and 146 is that paragraph 145 exempts only the construction of new buildings in the Green Belt as listed in

that paragraph, and not material changes of use or other built development. Paragraph 146, conversely, exempts "Certain other forms of development" but plainly those other forms of development may include the construction of new buildings.

126. To interpret paragraph 146 as excluding "other forms of development" that include (as part of the development) the construction of one or more new buildings would be to denude paragraph 146 of much of its effect. Mineral extraction, for example, will often require the construction of new buildings;<sup>6</sup> so will the provision of local transport infrastructure. Most obviously, the Government's Planning Practice Guidance (PPG) makes clear that Neighbourhood Development Orders and Community Right to Build Orders can be used to approve the building of (*inter alia*) homes, shops, businesses and affordable housing for rent or sale.<sup>7</sup> Indeed, the relevant legislation expressly contemplates that housing will be developed using a Community Right to Build Order (and then retained as housing that is affordable in perpetuity). It would be contradictory to permit the forms of development listed in paragraph 146 as "not inappropriate" only then to require very special circumstances to be shown in respect of the construction of any new building included within the development proposal.

127. In summary, paragraph 146 can in principle apply where a development within one of the categories set out in the paragraph includes buildings.

### ***Local transport infrastructure?***

128. There is no definition of this phrase in the NPPF but the proposed MSA is local transport infrastructure. The 2018 Cobham appeal decision supports this. The inspector decided additional HGV parking in an existing MSA would be local transport infrastructure. The basis of this conclusion was that the HGV parking was needed "in the local area". She was not deterred from this conclusion by the fact that the journeys made by the HGVs using the facility would be long trips and not local ones. (**Document APP12 appendix 3**)

129. The same reasoning applies to the present case. This is transport infrastructure and there is a need for it in this local area, even though clearly many or most of those using it would be on journeys that might reasonably be considered greater than local in length. There will be other infrastructure projects, for example projects of national significance, which do not require to be located in a specific area. This project does have specific locational requirements; it is truly local transport infrastructure.

### ***Green Belt location required?***

130. It has been demonstrated that this is a proposal which requires a Green Belt location; there is nowhere else that is suitable. It is common ground that if there is a requirement for an MSA in the vicinity, it is likely that it would have to be located in the Green Belt because the majority of the strategic highway runs through the Green Belt.

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<sup>6</sup> that is particularly the case if regard is had to the very wide definition of "building" in s. 336 of the Town and Country Planning Act 1990

<sup>7</sup> See Planning Practice Guidance Paragraph: 010 Reference ID: 41-012-20140306

## **Openness**

131. Any correct analysis in relation to openness has to start from the premise that some development falling within the categories set out within paragraph 146 of the NPPF can be appropriate, otherwise the proviso about openness would make paragraph 146 pointless; see *Samuel Smith* paragraph 16.
132. The question of preservation of openness, therefore, has to be considered in the context of the fact that paragraph 146 plainly contemplates development which has a significant physical impact. For example, quarrying and mineral working could have such an impact. Then again, there is development under a Community Right to Build Order or a Neighbourhood Development Order (which in the latter case can include development which it is decided would have significant environmental effects and therefore requires environmental impact assessment). Similar considerations apply with respect to local transport infrastructure. As an example, the additional HGV parking proposed in the 2018 Cobham decision involved hardstanding and HGV parking on an area that was previously a grass slope.
133. The question is whether, having regard to that context, there would be any material effect on the openness of the Green Belt as a result of the development. It is common ground that spatial and visual matters are to be examined.
134. In relation to the spatial aspect, there would be physical development, but in the context of paragraph 146 it would not be material. Buildings would occupy only 4% of the site, hardstanding (parking, roads, pedestrian provision) 40% and 56% of the site would be landscaping. (**Document APP8 Figure.3**)
135. In relation to the visual aspect, the Council's concern is with the effect on openness arising from the planting proposals. However, the existence of substantial planting is a characteristic of the area around the appeal site, for example Long Plantation, Duckers Holt and the Stane Hill Plantation. That characteristic of the surrounding area is also recognised in the landscape analyses prepared for the Council by Ecus and Golder Associates. (**Documents 88 pages 55-65 & 89 pages 28-30**)
136. The main view reduction across the site would be from the A1(M). Those views are inevitably fleeting and of relatively low importance in any planning judgement. Moreover, the findings of the LVIA submitted with the application are agreed. That assessment concludes that there would be no more than minor adverse visual and landscape effects once the scheme matures and that the motorway corridor is of low sensitivity in both landscape and visual terms. (**Document CD76 paras.534, 543 & pages 168-171**)
137. Openness from Green Lane would not be reduced by the appeal proposal. The site is on lower ground and at some distance from the viewpoint and there would be no breach of the skyline. Therefore, whilst the open land that was currently visible would be replaced in the view by trees and landscaping, there would not be any reduction in openness.
138. Overall, given that paragraph 146 contemplates significant development and that the landscape and visual impact of the proposal would not be significant once planting has matured, it is concluded this proposal would preserve the openness of the Green Belt.

### ***Purposes of including land in the Green Belt***

#### **Purpose (c) – safeguarding the countryside from encroachment**

139. The only Green Belt purpose with which the proposal could be said to conflict is encroachment on the countryside. However, the test of lack of conflict with the purposes of including land in the Green Belt within paragraph 146 has to be read in the light of the fact that the paragraph clearly contemplates development of substance, the semi-urban nature of area ALS5 as assessed in the Council's Green Belt Review, and the presence of the A1 (M) to the west of the site. In that context, there would be not be any material encroachment on the countryside. (Document APP12, appendix 4 page 19)

#### **Purpose (e) – assist urban regeneration, by encouraging recycling of derelict and other urban land**

140. There is no conflict with this purpose because there are no brownfield alternative sites for the proposal, and no evidence that the development would prejudice development of any brownfield or other urban sites.

141. The Council's concern that provision of a lodge would affect the viability of hotels in the urban area and affect other facilities by discouraging people from visiting the urban area is rejected. The provision of lodges at MSAs is common, accepted and not contrary to policy. C2/2013 contemplates that they may be permitted and they continue to be permitted. Ninety six of the 116 MSAs in England have lodges and all Green Belt MSAs with sufficient space on their sites have a lodge. (Documents APP10 para.9.3.21 APP12 appendices 3, 5 & 8)

142. That MSA lodges provide overnight rest accommodation for long distance road users is confirmed by a recent survey at nearby MSAs. (Document APP12 appendix 12) The range of facilities provided at MSAs, including hotel and retail facilities, are designed to be attractive to motorway drivers rather than becoming a destination in their own right. It has been accepted that they are unlikely to have any significant adverse impact on the vitality or viability of any nearby centre.

143. Whilst acknowledging that the emerging Local Plan is at an early stage and thus has limited weight, it nonetheless shows the Council's current thinking. Emerging policy 13(d) supports "secure lorry parking facilities and roadside service areas along the SRN (including overnight stay accommodation and toilet facilities, where possible)." Whether that is addressing HGVs needs only, as argued by the Council, or is addressing overnight accommodation in general, it can be seen that the Council is clearly recognising that such accommodation is appropriate and that it is not concerned about the impact of roadside accommodation either on town centres or on investment in the urban area.

(Document CD86 page 24)

144. Overall, it cannot be said that the appeal proposal is in conflict with the purpose of assisting in urban regeneration.

### ***Conclusion on appropriateness***

145. For the reasons given, the proposal is not inappropriate development in the Green Belt

## If inappropriate – effect on openness and Green Belt purposes

146. If, however, it is concluded the proposal is inappropriate, paragraph 146 of the Framework does not set a context for judgements about effect on openness and the Green Belt purposes. Nonetheless, for the reasons already set out, any effect of the proposal on openness and Green Belt purposes is limited, even if material. Further, if an MSA is needed, every reasonable effort has been made to keep those effects to a minimum.

## If inappropriate – what other harm

### **Landscape, loss of countryside and visual harm**

147. The findings of the LVIA have been accepted and it is common ground that once the development and landscaping has matured, there would be no impacts that would be more than minor in landscape and visual terms.

148. Even after one year of operation, the impacts would be modest, and even more modest than suggested by the matrix. The visual effects of the proposal have only been considered in terms of the extent to which the on-site planting would develop. The Community Woodland to the north is itself maturing and it is extremely likely that the site would not be visible from the agreed viewpoint or any other viewpoints along the Community Woodland paths within the next 5 to 6 years; with no visual effect at all by year 15. (**Document APP6 para.7.3.3**)

149. Whilst the site is within Landscape Character Area (LCA) C2 judged to be of high landscape value, as assessed in the Ecus Borough-wide Landscape Character and Capacity Study; there is wide variety within it. The Study distinguishes between the area to the west of the A1, which retains its distinctive rural character and the “more diverse modern influences to the east”. It also refers to the “lower landscape quality” east of the A1. Furthermore, even in relation to LCA C2 overall, the Study states that although the area is given an assessment of “high landscape value” in the light of the ASLV and the country parks in the area (the appeal site falls within none of these), the character area “as a whole” is judged to be of “moderate landscape quality”. (**Documents CD88 pages 55, 56, APP6 section 8.3**)

150. Although the MSA would be visible from the ASLV, such visibility is not a breach of the ASLV policy in the UDP (ENV 17), because ENV 17 does not deal with views from the ASLV, but only development within it. (**Document 85**)

### **Loss of agricultural land**

151. The survey by Savills that was initially submitted suggested that there would be a significant loss of grade 2 land. However, a further more detailed agricultural land assessment has now been undertaken by Mr Askew of Tim O’Hare Associates which shows that only 36% of the site is best and most versatile land falling within grade 2 or 3a (with only 3.6 ha or 23% falling within grade 2). The majority of the land to be developed is grade 3b, and therefore not best and most versatile. Further, the loss of the site to agriculture would not adversely impact on the agricultural unit of which it now forms part. (**Documents CD73, APP10 paras.8.4.1-8.4.5, APP9 appendices 16 A & B, APP12 appendix 7**)

152. The differences between the reports is set out in document APP9, appendix 16B. In terms of the results, Savills determined one soil type, whereas Mr Askew

determined three types. Also, Savills determined soil wetness as the only limitation but Mr Askew also determined soil droughtiness as a limitation at some profiles. Savills decided the top soil was calcareous, but Mr Askew disagreed and gave his reasons, based on the Soil Survey Field Handbook. Finally, Savills said there was only one type of wetness, but Mr Askew identified a range of wetness on the site.

153. Given Mr Askew's high qualifications, great experience, more meticulous methodology and rigorous assessment, it is not surprising that his results are more precise than those of Savills. His assessment is clearly to be preferred. It accords with the evidence on behalf of the owners that the land is of poorer quality near the roundabout; that is where Mr Askew identifies grade 3b land.

154. The points raised at the inquiry by the JRP in their written submission in respect of the agricultural land classification of the site have been comprehensively addressed in Mr Askew's written response. (**Document INQ11**)

155. The relevant requirement in CS policy CS18 is that proposals "protect high quality agricultural land (grades 1, 2 and 3a) insofar as this is consistent with the Growth and Regeneration Strategy (as set out in Policy CS2)". Any conflict with policy CS18 is avoided in this case because the appeal proposal falls within policy CS2(C), which provides that "a range of transport schemes will be developed and managed to support the settlement hierarchy and improve access to jobs and opportunities across the borough". (**Document CD84**)

156. In summary, although there is best and most versatile land at the site, the amount is limited and less than previously thought. Further, that limited loss would not adversely affect the viability of the agricultural unit. Quite apart from the fact that there are no suitable alternative sites, loss of best and most versatile agricultural land is not a sound reason to dismiss the appeal.

### **If inappropriate, are there very special circumstances**

157. There are very special circumstances which clearly outweigh the harm to the Green Belt and any other harm. Reliance is placed on what has already been said about the importance for safety reasons of proper MSA provision as emphasised by Government in C2/2013, on the need for an MSA in this area, and on the lack of alternatives.

#### ***Scale of the proposal*** (**Documents APP10 paras. 9.3.10-9.3.29, APP12 appendix 5 & 9**)

158. The scale of the proposal is entirely justified and is in line with the type and scale of facilities that experience elsewhere has shown motorway users value and require. The principle of lodge provision is dealt with above under Green Belt purposes and the size of it accords with those provided in other MSAs, including those in the Green Belt and recently permitted. The same can be said of the amenity building and retail provision. There is nothing unusual in the size of the amenity building or lodge proposed here.

159. The drive thru' coffee unit is an appropriate facility at an MSA, because it is a way of providing motorists with a break from their drive. The only difference from other more traditional facilities is that they do not have to leave their car.

160. The proposal is particularly economical in its land-take as compared with expectations for MSAs contained in C2/2013, because although the Circular

requires separate parking for lodges where they are provided as part of MSAs, it has been agreed with Highways England in this case that no separate parking provision is required.

161. MSAs are there to serve people travelling on the motorway network, and they need to be sufficiently attractive to provide motorists with facilities they expect and want. There is good reason for what is proposed. There is no evidence that either the lodge or retail facilities would have any detrimental impact on town centres, or investment in urban areas or derelict land. Highways England supports the proposal, so it is clearly satisfied that the facilities provided would not be a destination in their own right leading to an overall increase in trips.
162. Even if the lodge were not provided and the retail facilities reduced in scale, the effect on the Green Belt would not be materially less. The buildings would cover only 4% of the site. The parking provision would not reduce, because that is based on traffic flow and not the scale of retail facilities and in this case there would be no separate parking provision for the lodge.

### ***Improving the transport network***

163. The proposed MSA is supported by the general objective of policy CS9 to make an overall contribution to the improvement of the transport network. It does so by fulfilling a need for an MSA at this location which would in turn improve the safety and welfare of road users. Support is also to be found in CS9(D) specifically which states ([Document 84 page 53](#))
- "Proposals will be supported which improve the efficiency of freight transport, and provide alternatives to roadside transport where possible, including...*
- 2. facilities for lorry parking and roadside service areas, where appropriate..."*

164. As with emerging policy 13(D) the Appellant does not concur with the Council that this is addressing freight transport only but rather that "roadside service areas" is a general term, and providing for them ensures the Council is complying with the Government guidance in NPPF. ([para.104\(e\) and fn42](#))

### ***Economy and employment***

165. The employment benefits of the appeal proposal would be significant. Some 215 jobs are likely to be created for local people. There would be a range of jobs available and a comprehensive training programme provided. This would benefit the local economy. ([Document CD70 page 19](#))

### ***Policy overview***

166. In relation to national guidance, the appeal proposal is not inappropriate development in the Green Belt. Further, it comprises sustainable development in that it would deliver economic, social and environmental objectives, while providing an MSA where one is much needed, in fulfilment of the NPPF's policy on roadside services. For the reasons set out above, even if the proposal is inappropriate development in the Green Belt, very special circumstances in this case clearly outweigh any harm to the Green Belt and any other harm. ([Document APP10 para.11.2.2 and NPPF para.104 & fn 42](#))

167. There is no conflict with the Development Plan read as a whole. The Council's assertions of policy conflict, in particular with policies in relation to countryside (CS3), agriculture (CS18) and the growth and regeneration strategy (CS2) have

to be considered in that context. The Core Strategy contains policy CS9, which supports the proposal insofar as it would improve the transport network, and which also contains specific provision for roadside service areas. But even if conflict were to be found, the need for the MSA provides the strongest material consideration indicating that planning permission should be granted. (**Document 84**)

## **Other matters**

168. A number of issues raised by third parties, including effect on above-ground built heritage, air quality, impact on local water course, aquifer and flooding, noise, light, the degree of public consultation, health, impact on wildlife and crime are dealt with in the written evidence. None justifies refusal of planning permission. All were considered fully by the Council and relevant consultees, and no objection raised. (**Documents APP10 paras.8.5.4 & section 10, & CD83**)
169. In response to specific points made by the JRP not dealt with above:
- a) The ES concluded that there would be no direct or indirect impact on heritage assets that would affect their significance. Historic England (responsible for Grade 1 listed Brodsworth Hall) was not consulted about the application but nonetheless has subsequently been made aware of the proposal. There would be no views of the site from the Hall and its setting would not be affected.
  - b) Views of the site afforded to coach travellers visiting the Hall would not normally be assessed in an LVIA. In this case, for those looking out and towards the site, any effect would be influenced by intervening trees and hedgerows and primarily by the motorway in the foreground (including the elevated section at junction 37) which would, in part, screen the site. Once landscaping matured, the site would not be visible.
  - c) The Environmental Statement had scoped the Marr Conservation Area out of the area in respect of which an assessment of potential effects on archaeological and cultural heritage was required. (**Document CD76 chapter 8**)
  - d) Reliance placed on the findings of the Golder Landscape Character and Capacity Study that development of the appeal site should be resisted is misplaced. The site assessed was much larger in size and the development to be accommodated not comparable. Moreover, if development was to take place the report stated it should be to the east of the A1(M). (**Document CD89 pages 28-30**)
  - e) The occurrence of observed traffic queues at the roundabout are not disputed but December is not a representative month and the Appellant's figures are mean maximum and so would not reflect the daily variation that would occur. The Appellant's traffic survey data and methodology, using standard industry practice, has been agreed with HE who also commissioned its own independent survey to corroborate the assessment work. Both HE and the Council are satisfied that there would be no severe effect on the road network which would remain within capacity. (**Documents CD93 & CD94**)
  - f) The issue of air quality was fully assessed within the ES and the conclusion reached that all impacts during construction and operation would have a negligible impact on air quality. There is no evidence to the contrary. (**Document CD76 section 6**)
  - g) The reference to HS2 in the JRP written submission is misplaced as it is not committed development.

h) The design has incorporated a lighting scheme aimed at ensuring levels would not increase above existing levels having regard to existing levels at junction 37.

(Documents CD76 section 11 & APP6 pages 16 & 17)

## Conclusion

170. The appeal should be allowed:

- An MSA is needed in this area and the scale of facilities proposed is justified;
- There are no suitable alternatives;
- The appeal proposal comprises appropriate development in the Green Belt;
- If it is inappropriate, the need for the development and its benefits comprise very special circumstances which clearly outweigh harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal; and
- There is no conflict with the Development Plan overall, and even if there is, the need for the MSA in this location comprises a material consideration which points strongly to the grant of permission.

## PLANNING CONDITIONS AND PLANNING OBLIGATION

171. A list of conditions that might be necessary should planning permission be granted was discussed and refined during the course of the inquiry. The finalised set as agreed by all parties and the reasons for them are set out at Appendix 3 to this report. For those conditions which comprise pre-commencement conditions, and in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Appellant has confirmed in writing that their inclusion and their wording is necessary and appropriate to enable the grant of planning permission. (Document INQ13)

172. **Conditions 1 and 2** are standard conditions relating to the commencement of the development and listing the approved drawings. Not all drawings have been included as, for example, some are illustrative and others demonstrate vehicle tracking. Appendix 1 to this report includes a brief comment as to their inclusion or exclusion.

173. **Conditions 3, 4 and 5** are concerned with limiting hours of construction, providing of a Construction Environmental Management Plan and limiting noise levels during construction. These are required to protect neighbouring amenity and to safeguard the environment. For the same reasons **condition 6** is intended to limit noise levels from the subsequent operation of the development. In the interests of appearance and protecting the environment, **condition 7** requiring details of external materials, **condition 12** addressing protection of retained trees, **condition 13** concerning planting and **condition 17** requiring details of lighting are promoted.

174. **Condition 8** addressing a BREEAM assessment and **condition 9** addressing CO2 emissions from the development are aimed at promoting sustainable development and minimising the effects of climate change. **Conditions 10, 11 and 16** requiring electric vehicle charging points, bus stops along the A635, and the submission of a Travel Plan are aimed at encouraging sustainable modes of travel.

175. To protect the ecological and archaeological interests of the site a Biodiversity Enhancement Master Plan is required by **condition 14** and a Written Scheme of Archaeological Investigation by **condition 15**. Finally a Construction Traffic Management Plan is required by **condition 18** to minimise any effect on neighbouring highways during construction of the development.
176. A fully executed **planning obligation made under s106 of the Act** is to be found at document CD97 wherein the development shall not be occupied until such time as the Travel Plan Transport Bond has been paid to the Council. The Bond shall only be used by the Council in the event that agreed targets in the Travel Plan are not met and then only towards the travel and transport needs which directly arise from the development. In the event that any part of the Bond is not expended within five years, the Council shall repay the money with any interest accrued. In the event that the appeal is dismissed, the deed would cease to have effect.
177. The obligation is necessary to ensure delivery of the Travel Plan targets. It is thus necessary to make the development acceptable, is directly related to the development, and is fairly and reasonably related in scale and kind. A CIL Compliance Statement from the Council which draws support from its published Supplementary Planning Document *Development Guidance and Requirements* is included at document INQ1.

## **INSPECTOR'S CONCLUSIONS**

[Numbers in square brackets [n] denote source paragraphs]

178. The main consideration in this case is whether the proposal amounts to inappropriate development in the Green Belt having regard to Development Plan policies and the provisions of the NPPF and if so whether the potential harm by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

### **Inappropriate development?**

#### ***Planning policy - application***

179. Saved Doncaster Unitary Development Plan (UDP) policy ENV3 addresses proposals in the Green Belt and states that development will not be permitted except in very special circumstances other than for a number of purposes which are listed. None of those exceptions embrace the construction of a Motorway Service Area (MSA) so the proposal would comprise inappropriate development when assessed against that policy. However, the UDP was first adopted in 1998 and the accompanying text indicates that the policy was aimed at reflecting Government guidance then in force in the *Planning Policy Guidance 2 Green Belts*. That document has since been replaced by more up to date Green Belt guidance in the National Planning Policy Framework (NPPF). In these circumstances, inconsistency with NPPF Green Belt guidance is a material consideration. [26]

180. The Council's Core Strategy (CS) is a more recent document having been adopted in May 2012 after the publication of the first NPPF. Policy CS3 states that one of the key considerations for land in the Green Belt is to apply national policy, including a presumption against inappropriate development other than in

very special circumstances. The policy is, therefore, consistent in its phraseology with national policy in the current NPPF. Criterion (C) 4 of the policy goes on to say that proposals outside development locations will only be supported where they would "preserve the openness of the Green Belt (and ...) and not conflict with the purposes of including land within them". [20]

181. Against this background, in assessing whether the proposal constitutes inappropriate development, it is therefore apt to apply current national policy. Paragraphs 145 and 146 of the NPPF provide guidance as to what development might be found to be not inappropriate.

***Paragraph 145 or 146 of the NPPF?***

182. Starting then with paragraph 145, this states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Notwithstanding the small percentage of the overall site which the Appellant says would be occupied by building; the amenity building, lodge, drive through and fuel filling station are all significant and substantial elements of the proposal. There is in addition, the canopy over the fuel pumps, and ancillary structures to the rear of the amenity building such as the biomass and energy centres and fenced compounds. The construction of these buildings does not fall within any of the exceptions listed in paragraph 145 and assessed against that paragraph, therefore, the proposal comprises inappropriate development. [28, 31, 50, 134]

183. Since the follow on paragraph, paragraph 146, of the NPPF, begins by stating "Certain other forms of development are also not inappropriate ..." that must mean forms other than the construction of buildings. That would give that sentence its ordinary meaning and would indicate that the categories listed (a) to (f) in paragraph 146 were forms of development other than the construction of buildings. If that is right, paragraph 145 is a closed list addressing all circumstances where the construction of buildings is not inappropriate and, since the appeal proposal involves the construction of significant buildings, paragraph 146 would not apply. [50, 51]

184. The Appellant says the fact that buildings are included in the proposal does not disqualify it from being considered under paragraph 146. In support, attention is drawn to categories 146(a) mineral extraction and 146(f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order. These, the Appellant says, would be likely to involve the construction of buildings particularly given the definition of "building" within section 336 of the Act which includes any structure or erection and any part of a building as so defined but excludes plant or machinery comprised in a building. However, to accept that argument would be to interpret the opening sentences of paragraphs 145 and 146 in a manner other than to give them their ordinary meaning. Moreover, as was pointed out by the Council, other types of development could be brought forward under those categories in paragraph 146 without involving the construction of buildings. Examples might be an extension of a mineral extraction area, the provision of a car park or use of land as a playground. [52, 124-127]

185. I conclude from the above that the proposal does fall to be considered under paragraph 145 of the NPPF and that it comprises inappropriate development in the Green Belt.

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***Local transport infrastructure which requires a Green Belt location?***

186. However, in the event that the Secretary of State does not agree and finds that the proposal should be considered under "Certain other forms of development" addressed under paragraph 146, I go on to consider whether the proposal would come within category (c) – local transport infrastructure which can demonstrate a requirement for a Green Belt location.
187. There is no dispute between the parties that the proposal comprises transport infrastructure and I find no reason to disagree. The disagreement is whether it can properly be described as "local". There is no definition of the term "local transport infrastructure" to assist.
188. The Department for Transport's Circular 02/2013 (C2/2013) says MSAs and other roadside facilities perform an important road safety function. The network of service areas on the Strategic Road Network (SRN) has been developed on the premise that opportunities to stop are provided at intervals of approximately half an hour. That dictates the recommended distance between MSAs. The Circular is clearly aimed at providing services for the benefit of drivers on the SRN (and providing MSAs for the benefit of drivers on the motorways in particular) and not aimed at catering for the needs of drivers on the local highway network. Indeed, caution is expressed in paragraph B11 in relation to trip mileage where there is potential for the facilities to become a destination in their own right. [30, 53, 129]
189. Whilst one element of the overall scheme would assist in addressing a shortage of HGV parking in the area, there is no other identified local need which would call for an operation of the size proposed to be built. There is no local need for a new MSA to be located on the appeal site; the need arises from the distance between existing MSAs on the motorway network which happens to suggest there may be a need in the area. That, in itself, is not sufficient to conclude that the proposal is local transport infrastructure. [115]
190. I find that the proposal does not comprise local transport infrastructure and thus does not fall within paragraph 146 of the NPPF. In reaching that view I have had regard to the appeal decision relating to the Cobham MSA on the M25 drawn to my attention by the Appellant. However, that proposal was for additional HGV parking within an existing MSA. Whilst the inspector in the circumstances of that case found the proposal to constitute a local transport infrastructure facility, it was not a proposal for a new MSA, the need for which is dictated by the distance between services on the motorway network, that was being considered. I do not find it directly comparable such that it leads me to a different conclusion. [97, 128]
191. If, contrary to my view, the Secretary of State was to find the proposal did constitute local transport infrastructure, a requirement for a Green Belt location would be necessary to satisfy paragraph 146(c). It is common ground between the parties that should a need for a new MSA be accepted on the basis of the requirement to fill a gap between existing motorway services, then there is no other suitable site to be preferred to the appeal site. The Appellant's Alternative Sites Assessment and subsequent supplementary evidence has not been challenged and I find no reason to doubt the findings. Thus, a requirement for a Green Belt location could be demonstrated. [41-43, 123, 130]

***Preserves openness and does not conflict with the purposes?***

192. Paragraph 146 of the NPPF makes clear that even if the proposal falls within 146(c) there are also the provisos of preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.

**Effect on the openness of the Green Belt**

193. Paragraph 133 of the NPPF sets out the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open and identifies the essential characteristics as openness and permanence.

194. The appeal site forms part of a long swathe of open agricultural fields stretching between the A635 to the south and Green Lane to the north and between the A1(M) to the west and Long Plantation to the east. The only interruption of substance are the two woodland areas, Stane Hill and Stane Hole Plantations. The open expanse of farmland is devoid of development save for the overhead cables and the telecommunications mast at the southern extremity and is physically and visually separated from suburban development to the east and north-east by Long Plantation. In context, the main detractor from the openness of the area within which the site sits and is seen is the existing motorway and the activity along it, but this is contained within well-defined linear boundaries as it passes through the countryside. [7-11, 15]

195. Whilst the Appellant says some 56% of the site would be taken up with landscaping, that still results in almost half of the 15.1 hectare site covered by built development – that is the buildings and the hardsurfaces for parking and vehicular and pedestrian circulation. Given that the facility would be open 24 hours a day, 365 days a year, there is unlikely to be any time when there would be no activity on the site or any time when the extensive areas of parking would be empty, albeit that it would be likely to be quieter late at night and in the early hours of the morning. [31, 58, 101, 134]

196. At present, the appeal site seamlessly forms part of a much larger open area of agricultural land. In spatial terms the built development on the site would result in a substantial loss of openness on the site itself and on the open tract of arable land of which it forms part and this would be exacerbated by the presence of parked vehicles including large lorries, coaches and caravans on the extensive parking areas. Furthermore, notwithstanding that openness is already impacted by the presence of the adjoining motorway, the proposal would result in significant additional harm by the introduction of substantial development beyond the contained line of the road, where currently there is nothing of note.

197. In visual terms, I note the findings of the LVIA that after 15 years there would be no more than minor adverse visual and landscape impacts. From my consideration of the evidence and from my site visit I find no reason to conclude differently. It is clear that the landscape design has been carefully developed to assimilate the MSA into its surroundings. A significant part of that is tree planting, in particular around the site boundaries to screen the development from public viewpoints outside the site. Nonetheless, would still be some minor adverse effect at year 15, the accepted industry standard period for LVIA. Moreover, even in visual terms there would be loss of openness in that the continuous open sweep of arable farmland between the A635 and Green Lane

would be eroded by the enclosure of the appeal site even though, in time, that would have a wooded appearance. [35, 46, 59, 135-137]

198. The impact on openness resulting from the development in spatial terms would be considerable and this would not be lessened by screening the development from view albeit that the wooded effect which would in time be achieved would help to integrate the site in its setting. That substantial built development, as is proposed here, does not have any impact on openness because in time it would barely be seen from any public viewpoint is not a good argument. It could be used to justify all manner of built development in the Green Belt, which would not achieve the aim of keeping land permanently open or preserving openness.

199. I have noted the Appellant's argument that paragraph 146 of the NPPF contemplates development which has a significant physical impact. In this respect the categories of development listed under paragraph 146 plainly anticipate some change and I acknowledge that whether the openness of the Green Belt is preserved, or conversely harmed, is not simply a question of whether something, which by definition has a spatial impact, is to be built. It could be, for example, that an extension proposed to an existing development would have no greater impact overall on the openness of the area. It is a matter of planning judgment. [131-133]

200. For the reasons given above, in my judgement, the appeal proposal would not preserve the openness of the Green Belt.

#### **Conflict with the purposes of including land in the Green Belt?**

201. Dispute between the main parties exists only in relation to purposes (c) – safeguarding the countryside from encroachment and (e) – assisting in urban regeneration by encouraging the recycling of derelict and other urban land, as set out in paragraph 134 of the NPPF. [39]

202. Looking at purpose (c) first, the physical and visual separation of the appeal site from existing development to the east and north east, provided by Long Plantation, places the site firmly within the countryside when assessing it both in terms of its character and appearance. Whilst area Adwick Le Street 5 (ALS5) within which it sits in the Council's Green Belt Review is described as reflecting a semi-urban character, that area is far more extensive than the appeal site, accommodates a degree of built development, and in places adjoins built up areas. [60, 139]

203. The presence of the motorway on the western side of the site is an intrusion but motorways, by their very nature, cut through the countryside. The extent of the intrusion is contained by their linear form. In contrast the proposed MSA would result in a substantial spread of built development beyond the well-defined line of the motorway and over an area almost devoid of development. It would result in a significant material encroachment into the countryside and thus be in conflict with purpose (c).

204. With regard to purpose (e), should a need for an MSA be established, then it would be entirely appropriate for it to offer the range of facilities normally to be expected at such an establishment. There is nothing about the scale or range of facilities proposed that would set it apart from other MSAs or that would suggest that it would become attractive as a destination in its own right. The lodge, for example, would offer nothing but basic bedroom accommodation – there would

be no communal lounge, bars or restaurants and no conference room facilities. It is clearly aim at catering for motorway drivers on long journeys in need of a break for the night rather than attempting to attract visitors to the area who would be likely to look for hotels situated in a more inviting environment and offering a better range of facilities. [61, 158-162]

205. There would, of course, be nothing to prevent local people or visitors to the area using the facilities, but their provision on this site would be dictated by the need for an MSA. There is nothing of substance from which to conclude that the MSA would in any way materially affect urban regeneration in the area and thus there is no conflict with purpose (e).

### ***Conclusion on whether the proposal amounts to inappropriate development***

206. Since the proposal involves the construction of new buildings, it falls to be assessed under paragraph 145 of the NPPF. The list in paragraph 145 is a closed list which identifies the only exceptions where the construction of new buildings in the Green Belt are not inappropriate. The proposed MSA does not come within any of the exceptions listed and thus comprises inappropriate development.

207. If the Secretary of State disagrees and considers the proposal comes within the description of "Certain other forms of development", then it would fall to be assessed under paragraph 146. However, even if that were to be the case, in my view, the development would still be inappropriate since, for the reasons given, it would not comprise "local transport infrastructure", it would not preserve the openness of the Green Belt and it would be in conflict with one of the purposes of including land within the Green Belt, namely assisting in safeguarding the countryside from encroachment.

208. The development is in clear conflict with policy CS3 of the Core Strategy which is consistent with national Green Belt policy in the NPPF.

### **Other harm**

#### ***Landscape, loss of countryside and visual amenity***

209. Consideration of these matters overlaps, to a degree, with the assessment already made in terms of loss of openness in visual terms and encroachment into the countryside. In this respect it is common ground between the main parties that there would be some minor adverse impacts in landscape and visual amenity terms at year 15. With those agreed findings, and notwithstanding that planting on the site would continue to mature thereafter, it cannot be argued that no harm would ensue or that there would be no conflict with the requirement of policy CS3 to protect and enhance the countryside. However, having looked from the young Community Woodland to the north, I do agree that views towards the site from that direction are likely to be obscured in the next few years as the planting in that area matures. [20, 46, 62, 147-150],

210. In addition to the landscape and visual effects, the physical loss of this undeveloped site to built development represents an unwelcome intrusion of an urban nature into the countryside. The presence of the adjoining motorway provides no justification for additional development – indeed it might be argued that there is a need for more protection given that land around the motorway junction might be attractive for development.

### ***Loss of agricultural land***

211. Policy CS18 supports proposals which protect high quality agricultural land (grades 1, 2 and 3a) insofar as it is consistent with the Growth and Regeneration Strategy as set out in policy CS2. The accompanying text indicates that where the loss of agricultural land to built development is required to deliver the Growth and Regeneration Strategy, poorer quality land should be used in preference to higher quality land to the extent that this is practicable. [24]
212. The Appellant's recent and detailed Agricultural Land Classification assessment concludes that only some 36% of the appeal site comprises best and most versatile land, the remainder being of only moderate quality. That finding is not disputed by the Council. The Joint Rural Parishes (JRP), however, argue that the initial Agricultural Land Assessment, submitted with the application, which found the whole appeal site to be grade 2 should be preferred given the errors and inconsistencies in the later document. [63, 79, 80,]
213. No technical evidence has been presented to challenge the findings of the most recent assessment and the author of that document has gone to some lengths to explain the reasons why a different conclusion has been reached when compared to the initial assessment. Whilst the errors in the document suggest a lack of care in presentation, I find this insufficient reason, in itself, to discount the findings of a what is clearly a much more detailed assessment of the quality of the agricultural land on the appeal site. [151-154]
214. Nevertheless, the proposal would result in the loss of a sizable amount of best and most versatile land (over one third of the site), albeit less than was originally envisaged and, in that respect, there is conflict with policy CS18. The Appellant's suggestion that such conflict is avoided because the proposal falls within policy CS2(C) is not accepted as the MSA is not aimed at supporting the settlement hierarchy or improving access to jobs and opportunities across the Borough. It is intended to provide for the safety and welfare of motorway users. [155]

### ***Other potential harm raised by the JRP and interested persons***

215. I can understand the concern of local people about congestion at the junction as it is clear that they have personal experience of queues at certain times of the day. However, the Transport Assessment undertaken for the Appellant has been prepared in accordance with industry standards and the findings scrutinised and agreed by the local highway authority and Highways England (HE), both of whom concur that the residual cumulative impacts of the development would not be severe and that the appeal should not be dismissed on highway grounds. Indeed, HE also commissioned its own independent survey to corroborate the assessment work. In the absence of any contradictory evidence of substance from which to reach a different conclusion I find the development would result in no material harm to existing highway conditions. [2, 44, 45, 81-87, 90, 169(e)]
216. Similarly, it is unsurprising that local people are concerned about air quality given that the Hickleton Air Quality Management Area has recently been extended to embrace Marr. Traffic levels along the A635 through these villages is high. However, that is an existing problem and the effects of the development on air quality was assessed in the Environmental Statement (ES) submitted with the application where it was concluded that there would be a negligible impact. There is no evidence from which to conclude differently. [88, 89, 106, 169(f)]

217. The heritage assets, Brodsworth Hall and the Marr Conservation Area, are both a considerable distance from the appeal site and on the opposite side of the motorway. The distances and the physical separation arising from the line of the motorway are such that there would be no impact on the setting of either. The ES found no direct or indirect impact on heritage assets that would affect their significance. I see no reason why visitors going to the Hall by coach might suffer any material harm by being able to see the MSA beyond the motorway. [100, 169(a), (b) (c)]

218. With regard to concerns raised about noise and light pollution, the MSA would be situated in an area which already suffers from motorway noise throughout the day and night and the lighting scheme design is aimed at ensuring light levels would not increase above existing levels at the junction. In addition, conditions to be attached to any permission granted are suggested to control these matters. Both matters were assessed in the ES. Increase in litter is another concern raised but, in my experience, MSAs are well provided with litter bins. Given that patrons would primarily be travellers on the motorway there is no reason to conclude that an increase in litter in the local area would result. [101, 102, 169(h), 173]

219. Having regard to all other matters raised by the JRP and other interested persons, I find no other material harm to weigh in the balance.

## **Other considerations**

### ***The need for an MSA***

220. There is agreement that the distance between Woodall Services on the M1 to the south of the site and Ferrybridge to the north is 31 miles which exceeds the recommended maximum distance between MSAs of 28 miles. In addition, whilst the distance between Ferrybridge and Doncaster North Services is only 19 miles using the shortest route, it is 29 miles using the longer route and paragraph B7 of C2/2013 indicates that the distances set out are considered appropriate regardless of route choice. [40, 112]

221. Although the Appellant describes the distance between the Blythe and Ferrybridge Services of 24 miles as substantial, it does not exceed the recommended maximum and cannot lend support to need, notwithstanding that a lesser gap might be desirable. Furthermore, it would not be appropriate to discount the MSA at Ferrybridge. Although situated on a junction of the M62, it is well signed from the A1(M) with direct access to it and the detour would not add significantly to journey time whether travelling in a north or southbound direction along the A1(M). Ferrybridge is well used and there is nothing from which to conclude that its facilities are not used by travellers on the A1(M). [113, 114]

222. Thus in terms of need, when assessed against C2/2013, there are only two gaps with excessive distances and then only 3 miles and 1 mile greater than the maximum; and the maximum in the Circular is only "recommended". Whilst 28 miles is based on providing an opportunity to stop every half an hour, paragraph B5 of the Circular states that the network of service areas on the SRN has been developed on the premise that opportunities to stop are provided at intervals of "approximately" half an hour. The application of the policy relating to spacing and stopping intervals is thus not mandatory nor is it an exact science.

In terms of time spent travelling along a motorway, an additional 1 to 3 miles would be unlikely to add significantly to the drive time. [30, 69]

223. In addition, in the current instance, each of the two identified excessive distances includes the stretch of some 10 miles of trunk road with two signed services along both the north and south bound carriageways. At each of my visits, at different times of the day, it seemed to me that these services were well used. In my view they make a positive contribution to the safety and well-being of the travelling public by providing opportunities to stop and access relevant facilities. Those signed services do not provide all the mandatory facilities required for an MSA but they could not be expected to do so since they are not MSAs. [67, 68]
224. It would not, therefore, be appropriate to apply the mandatory requirements for an MSA as set out in Table B1 of C2/2013. The nature of the facilities that are available at each of the signed services has been agreed by the parties and is set out in the table attached to the Statement of Common Ground (SoCG) at document CD92. When compared with the minimum requirements for signed service areas for All Purpose Trunk Roads (APTR) in Table B1 it can be seen that not all mandatory requirements are met in full – especially in relation to parking and access to a cash operated telephone. [111]
225. Notwithstanding the shortcomings identified, each of the signed services offers a selection of facilities intended to support the welfare and safety of drivers travelling along this stretch of A1 trunk road. Their positive, if in some aspects limited, contribution to these objectives should not be completely discounted. Indeed, the shortcomings have not disqualified them from continuing to qualify as signed services, the subject of sealed agreements, and I understand that each one has recently been refurbished. [71-73, 92, 117, 118]
226. With regard to safe ingress and egress at each of the signed services, the personal injury accident records over a 5 year period indicate an average of between 1 and 1.8 accidents a year on the A1 in the vicinity of three of the services and none near the fourth. Without further information, including the number of drivers using the services, it is difficult to draw a conclusion, but the figures do not appear high given that the use of any access poses a risk and the A1 carries high volumes of traffic. The accesses fall short of the standards for entry and exits from a petrol filling station set out in Design Manual for Roads and Bridges (DMRB) TD 41/95 *Vehicular Access to All-Purpose Trunk Roads* but again there is no information regarding level of use to indicate that they should apply. Even assuming that they should, it is not unusual for existing accesses to fall short of modern standards. In this case it is relevant that HE appears to have taken no action under the provisions of highways or roads legislation in connection with the standard of the accesses, nor is there any indication that, because of the standard of the accesses, they will not continue to qualify as signed services. [70, 119]
227. Finally, it would not be appropriate to disregard the contribution made by the signed services merely because there is an intention to upgrade this stretch of trunk road to motorway when there is nothing to indicate when and if such a proposal would proceed. [73, 120]
228. Given that the two gaps identified between MSAs only exceed the recommended distances by 1 and 3 miles and given some contribution is made to

the welfare and safety of the travelling public by the existing A1 signed services, I conclude that there is no pressing need to provide an additional MSA on the appeal site. A specific need for additional lorry parking in the area has been recognised, and such provision is supported by CS9 (D)1. Providing for that specific need would be a benefit of the scheme but that need does not, of itself, justify the provision of a new, full scale, MSA. [22, 115]

### ***Economy and employment***

229. It is acknowledged that the MSA would provide some 215 jobs and that this would benefit the local economy. [165]

### **The balance of considerations**

230. Inappropriate development is, by definition, harmful to the Green Belt. Added to that, in my assessment of the proposal in terms of its effect on openness and on the purpose of including land in the Green Belt to safeguard the countryside from encroachment, I have found significant harm would result in relation to both. Paragraph 144 of the NPPF says substantial weight is to be given to any harm to the Green Belt. Also to be weighed in the balance are the other harms identified.

231. With regard to landscape, loss of countryside and visual amenity, the harm is not insignificant given that minor adverse impacts in landscape and visual amenity terms would remain at year 15. In addition, no matter how well it is designed, landscaped and screened, the provision of an MSA on the appeal site would result in the permanent loss of a large expanse of open land in the countryside given over to an urbanising form of development. Overall, significant weight should be attributed to these matters.

232. The amount of best and most versatile land to be taken out of agricultural use by the proposal has been found to be substantially less than was initially envisaged. Nonetheless a little over a third of the site comprises such land and that would be permanently taken out of production by the construction of the MSA. The loss of this land in conflict with policy carries moderate weight in the overall assessment.

233. Turning to the matters weighing in favour of the proposal the primary consideration is whether there is a need for an additional MSA in this location. A thorough assessment of alternative sites has been undertaken and, should such a need be established, the appeal site does represent the most suitable location. In my judgement, however, the gaps between MSAs, identified as being of concern, are not great and, with the contribution from the A1 signed services factored in, there is no pressing need for an additional MSA at the appeal site. Overall the availability of facilities is not so deficient so as to materially threaten the safety or welfare of the travelling public and the benefit of addressing the specific need for additional lorry parking does not warrant a full scale MSA. Thus, in reviewing the particular circumstances appertaining to this case and with the objectives of the safety and welfare of the travelling public in mind, I have concluded that there is no pressing need for the provision of an additional MSA. I therefore afford this matter limited weight.

234. The provision of employment is a corollary of the proposal and is acknowledged as a benefit arising that would support the local economy.

However, broad locations for employment are set out in policy CS2 and do not include Green Belt land. In the circumstances, therefore, the benefit has very limited weight.

235. Taking into account all the considerations weighing in favour of the proposal, I find nothing that, either individually or cumulatively, clearly outweighs the harm identified so as to amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.

236. In contrast to the Appellant, I find conflict with the Development Plan read as a whole. Policy CS9 does support proposals which would improve the transport network but that cannot be interpreted as support for any proposal in any location without having regard for the other policies of the plan and in particular those which seek to protect the Green Belt, countryside and best and most versatile agricultural land. Indeed, the specific support for lorry parking and roadside services areas in policy CS9(D) includes the caveat "where appropriate". I find no considerations sufficient to outweigh the conflict with the provisions of the Development Plan identified or to indicate that the proposals should be determined otherwise than in accordance with it. Development resulting in the harm identified, and in particular to the Green Belt, without overriding justification cannot be found to be sustainable.

## **INSPECTOR'S RECOMMENDATION**

237. I recommend that the appeal be dismissed.

238. If the Secretary of State disagrees, the conditions set out at Appendix 3 should be attached to any planning permission granted.

*B M Campbell*

Inspector

## **APPENDIX 1 – APPEARANCES**

### **For Moto Hospitality Limited:**

Mr T Corner Queen's Counsel and  
Ms H Sargent of Counsel, instructed by Collins & Coward Ltd

*They called:*

Mr T Russell Associate, Croft Transport Solutions

Mr A Collins Director, Collins and Coward, planning and development consultants

**For Doncaster Metropolitan Borough Council**

Mr K Garvey of Counsel, instructed by Mr S Fawcett, Assistant Director, Legal and Democratic Services

*He called:*

Mrs A Leeder Principal Planning Consultant, AECOM

## **Interested Persons**

Mrs R Job Chair of the Joint Rural Parishes and Marr Parish Councillor

Dr N Balliger Member of the Joint Rural Parishes and Chair of  
Hampole and Skelbrooke Parish Council

Mrs A Mitcheson Local resident

## APPENDIX 2 – DOCUMENTS AND PLANS

CORE DOCUMENTS	DESCRIPTION	REFERENCE	PLAN NO.	COMMENT RE INCLUSION IN CONDITION 2
CD1	Site Location Plan	BP01	PL-001A	Added to condition 2
CD2	Existing Site Plan	BP02	PL-002A	Added to condition 2
CD3	Proposed Signage	BP03	PL-015A	Not included, as needs separate advert consent
CD4	Amenity Building – Ground Floor Plan	BP04	PL-020A	Already in condition 2
CD5	Amenity Building – First Floor Plan	BP05	PL-021A	Already in condition 2
CD6	Amenity Building – Roof Plan	BP06	PL-022A	Added to condition 2
CD7	Amenity Building – Sections Sheet 1	BP07	PL-025A	Added to condition 2
CD8	Amenity Building – Sections Sheet 2	BP08	PL-026A	Added to condition 2
CD9	Amenity Building - Elevations	BP09	PL-030A	Already in condition 2
CD10	Lodge -Ground Floor Plan	BP10	PL-040A	Already in condition 2
CD11	Lodge – First Floor and Roof Plan	BP11	PL-041A	Already in condition 2
CD12	Lodge – Sections	BP12	PL-045A	Added to condition 2
CD13	Lodge- Elevations	BP13	PL-046A	Already in condition 2
CD14	Costa – Ground Floor, Roof Plan and Sections	BP14	PL-050A	Already in condition 2
CD15	Costa - Elevations	BP15	PL-055A	Already in condition 2
CD16	Fuel Filling Station – Ground Floor Plan	BP16	PL-060A	Already in condition 2
CD17	Fuel Filling Station – Roof Plan	BP17	PL-061A	Added to condition 2
CD18	Fuel Filling Station - Sections	BP18	PL-065A	Added to condition 2
CD19	Fuel Filling Station - Elevations	BP19	PL-066A	Already in condition 2
CD20	Biomass and Energy Centre	BP20	PL-070A	Already in condition 2
CD21	Chiller, Water Tank and Substation	BP21	PL-071A	Already in condition 2
CD22	Amenity and Lodge LPG Compounds	BP22	PL-072A	Already in condition 2
CD23	Proposed Aerial Views	BP23	PL-080C	Not included - aerial view to give an impression.
CD24	Proposed Aerial Views	BP24	PL-081C	Not included - aerial view to give an impression.
CD25	Proposed Amenity Building Views	BP25	PL-082B	Not included – computer image to give impression.
CD26	Proposed Amenity Building Views	BP26	PL-083B	Not included – computer image to give impression.
CD27	Proposed Amenity Building Views	BP27	PL-084C	Not included – computer image to give impression.
CD28	Proposed Lodge View	BP28	PL-085C	Not included – computer image to give impression.

CD29	Proposed Costa Drive thru Views	BP29	PL-086B	Not included – computer image to give impression.
CD30	Proposed Fuel Filling Station Views	BP30	PL-087B	Not included – computer image to give impression.
CD31	Regional Site Location plan	BP31	PL-090A	Not included – just showing site in wider context.
CD32	Extent of Retail Area	BP32	PL-099B	Added to condition 2
CD33	Proposed Site Plan	BP33	21603/001F	Already in condition 2
CD34	Landscape Masterplan	BP34	21603/003H	Already in condition 2
CD35	Entrance Plaza	BP35	21603/004B	Already in condition 2
CD36	Parking Numbers	BP36	21603/005F	Already in condition 2
CD37	Boundary Treatment Plan	BP37	21603/008C	Already in condition 2
CD38	SuDS Schematic	BP38	21603/009D	Already in condition 2
CD39	Planting Strategy	BP39	21603/010C	Already in condition 13 and added to condition 2
CD40	Flood Route Plan	BP40	21603/011D	Already in condition 2
CD41	Sections - Sheet 1 of 2	BP41	21603/012A	Added to condition 2
CD42	Sections - Sheet 2 of 2	BP42	21603/013A	Added to condition 2
CD43	Proposed Access to MSA	BP43	1186-F09F	Already in condition 2
CD44	Potential Bus Stop Arrangement with Pedestrian Facilities	BP44	1186-F03	Added to condition 2
CD45	Storm Drainage	BP45	4576-SK004P2	Already in condition 2
CD46	Foul Drainage	BP46	4576-SK005P2	Already in condition 2
CD47	Vehicle Tracking – Cars	BP47	4576-SK007P3	Not included – purpose is to show that layout plan works for cars.
CD48	Vehicle Tracking – Caravans	BP48	4576-SK008P3	Not included – purpose is to show that layout plan works for caravans.
CD49	Vehicle Tracking – Coaches	BP49	4576-SK009P3	Not included – purpose is to show that layout plan works for coaches.
CD50	Vehicle Tracking – HGV	BP50	4576-SK010P3	Not included – purpose is to show that layout plan works for HGVs.
CD51	Vehicle Tracking – Abnormal Load	BP51	4576-SK011P3	Not included – purpose is to show that layout plan works for Abnormal loads.
CD52	Vehicle Tracking – Fire Engine	BP52	4576-SK012P2	Not included – purpose is to show that layout plan works for fire engines.

CD53	Proposed External Lighting layout	BP53	8231-PE-Z0-XX-DR-E-0102-P04	Not included – details of lighting to be secured by condition 17.
CD54	Existing External Services Plan	BP54	8231-PE-Z0-XX-DR-ME-0800-P03	Not included – not relevant to the proposal.
CD55	Proposed Incoming Services Plan	BP55	8231-PE-Z0-XX-DR-ME-0801-P03	Not included – not relevant to the proposal.
CD56	Topographical Survey Overview Plan 1	BP56	22755_T-1Rev2	Added to condition 2
CD57	Topographical Survey Overview Plan 2	BP57	22755_T-2Rev2	Added to condition 2
CD58	Topographical Survey Overview Plan 3	BP58	22755_T-3Rev2	Added to condition 2
CD59	Topographical Survey Overview Plan 4	BP59	22755_T-4Rev2	Added to condition 2
CD60	Underground Utility Survey Detail Plan 1	BP60	22755_UG-1Rev2	Not included – not relevant to the proposal.
CD61	Underground Utility Survey Detail Plan 2	BP61	22755_UG-2Rev2	Not included – not relevant to the proposal.
CD62	Underground Utility Survey Detail Plan 3	BP62	22755_UG-3Rev2	Not included – not relevant to the proposal.
CD63	Underground Utility Survey Detail Plan 4	BP63	22755_UG-4Rev2	Not included – not relevant to the proposal.
CD64	Planning Application Form	BD01		
CD65	Planning Statement	BD02		
CD66	Alternative Sites Assessment	BD03		
CD67	Transport Assessment	BD04		
CD68	Travel plan	BD05		
CD69	Sustainability Statement	BD06		
CD70	Statement of Community Engagement	BD07		
CD71	Socio-Economic Statement	DB08		
CD72	Landscaping & Public Realm Strategy	BD09		
CD73	Agricultural Land Assessment	BD10		
CD74	Design & Access Statement	BD11		
CD75	Construction Environmental Management Plan	BD12		
CD76	Environmental Impact Assessment	BD13		
CD77	EIA Non-Technical Summary	BD14		
CD78	Business Case & Vision	BD15		
CD79	Lighting Assessment	BD16		
CD80	Employment Strategy	BD17		
CD81	Response to Representations	BD18		
CD82	Decision Notice			
CD83	Committee Report			
CD84	Core Strategy 2011-2028			
CD85	Unitary Development Plan			
CD86	Emerging Local Plan			

CD87	Green Belt Review 2016			
CD88	Landscape Character and Capacity Study (ECUS) Report 2007			
CD89	Landscape Character and Capacity Study (Golders) Report 2010			
CD90	National Planning Policy Framework 2018 ("NPPF2")			
CD91	Planning Practice Guidance ("PPG")	Not used		
CD92	Statement of Common Ground ("SOCG")			
CD93	2 Statements of Common Ground – Highways England			
CD94	Statement of Common Ground – Doncaster Highways			
CD95	Appellant's Statement of Case			
CD96	Council's Statement of Case			
CD97	Appellant's Section 106 agreement			
CD98	Department for Transport Circular 02/2013			
CD99	Council Development Guidance and Requirements SPD (2015)			
CD100	Tree Pit Details		21603/14	Added to condition 2.

**APPELLANT DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY**

- APP1 Correspondence with Doncaster Metropolitan Borough Council  
 APP2 Proof of evidence – Mr T Russell  
 APP3 Summary proof – Mr T Russell  
 APP4 Plans 1-4 to Mr Russell's evidence  
 APP5 Appendices 1-6 to Mr Russell's evidence  
 APP6 Proof of evidence – Ms S Illman  
 APP7 Summary proof – Ms S Illman  
 APP8 Appendix 1 to Ms Illman's evidence  
 APP9 Appendices 2-16 to Ms Illman's evidence  
 APP10 Proof of evidence – Mr A Collins  
 APP11 Summary proof – Mr A Collins  
 APP12 Appendices 1-16 to Mr Collin's evidence

**COUNCIL DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY**

- LPA1 Appeal Questionnaire and attachments  
 LPA2 Proof of evidence of Mrs Leeder with appendices A & B

**DOCUMENTS SUBMITTED DURING THE INQUIRY**

- INQ1 Planning Obligation CIL compliance statement, Inquiry notice, letter of notification of the inquiry and list of those notified  
 INQ2 Booklet of application drawings at A3 size  
 INQ3 Appellant opening submissions  
 INQ4 Council opening submissions  
 INQ5 Suggested conditions (1<sup>st</sup> draft)  
 INQ6 Submission for the Joint Rural Parishes (versions 1 & 2) with appendices A-Q  
 INQ7 Highways Agency TD41/95

- INQ8 Appellant acceptance of pre-commencement conditions (1<sup>st</sup> version)
- INQ9 Representation from Mrs Mitcheson
- INQ10 Aerial photograph
- INQ11 Appellant response on agricultural land classification
- INQ12 Suggested conditions (2<sup>nd</sup> draft)
- INQ13 Appellant acceptance of pre-commencement conditions (final)
- INQ14 Council closing submissions
- INQ15 Joint Rural Parishes closing submissions
- INQ16 Appellant closing submissions

## APPENDIX 3 – CONDITIONS

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.

### REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

#### Overall site

Drawing number PL001 Rev A (Location plan)  
Drawing number PL002 Rev A (Existing site plan)  
Drawing number 21603-01 Revision F (Site plan)  
Drawing number 21603/03 Revision H (Landscape masterplan)  
Drawing number 21603/10 Revision C (Planting strategy)  
Drawing number 21603/04 Revision B (Entrance Plaza)  
Drawing number 21603/005 Revision F (Parking numbers)  
Drawing number PL099 Rev B (Extent of retail area)  
Drawing number 21603/08 Revision C (Boundary treatment plan)  
Drawing number 21603/09 Revision D (Suds schematic)  
Drawing number 21603/11 Revision D (Proposed flood route alignment)  
Drawing number 1186-F09 Revision F (Site access arrangements)  
Drawing number 1186-F03 Revision F (Bus stop and pedestrian arrangement)  
Drawing number 4576-SK-004 Revision P2 (Storm drainage)  
Drawing number 4576-SK-005 Revision P2 (Foul drainage)  
Drawing number 21603/12 Rev A (Sections)  
Drawing number 21603/13 Rev A (Sections)  
Drawing number BP56 22755\_T-1 Rev 2 (Topographical Plan 1)  
Drawing number BP57 22755\_T-2 Rev 2 (Topographical Plan 2)  
Drawing number BP58 22755\_T-3 Rev 2 (Topographical Plan 3)  
Drawing number BP59 22755\_T-4 Rev 2 (Topographical Plan 4)  
Drawing number 21603/14 (Tree Pit Details)

#### Amenity building

Drawing number 8231/PL020 Rev A (Ground Floor Plan)  
Drawing number 8231/PL021 Rev A (First Floor Plan)  
Drawing number 8231/PL022 Rev A (Roof plan)  
Drawing number 8231/PL025 Rev A (Sections sheet 1)  
Drawing number 8231/PL026 Rev A (Sections sheet 2)  
Drawing number 8231/PL030 Rev A (Elevations)

#### The Lodge

Drawing number 8231/PL040 Rev A (Ground floor plan)  
Drawing number 8231/PL041 Rev A (First Floor and roof plan)  
Drawing number 8231/PL045 Rev A (Sections)  
Drawing number 8231/PL046 Rev A (Elevations)

#### Costa Drive Thru

Drawing number 8231/PL055 Rev A (Elevations)  
Drawing number 8231/PL050 Rev A (Ground Floor, Roof Plan and Sections)

#### Fuel filling station

Drawing number 8231/PL060 Rev A (Ground floor plan)

Drawing number 8231/PL061 Rev A (Roof plan)  
Drawing number 8231/PL065 Rev A (Sections)  
Drawing number 8231/PL066 Rev A (Elevations)

Ancillary buildings

Drawing number 8231/PL070 Rev A (Biomass and Energy Centre)  
Drawing number 8231/PL071 Rev A (Aircooled chiller, Water tank and Substation)  
Drawing number 8231/PL072 Rev A (LPG Compound)

REASON

To ensure that the development is carried out in accordance with the application as approved.

3. During the construction phase, operations shall be restricted to the hours of 07:00 to 18:00hrs Monday to Friday and 08:00 to 16:00hrs on Saturday. There shall be no operation on Sundays or Bank Holidays (other than special works subject to prior agreement in writing with the local planning authority).

REASON

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

4. No development shall take place until a Construction Environmental Management Plan (based on the draft document BD12 by Arup dated January 2017) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan.

REASON

The document is only in draft form and is required prior to the commencement of development to safeguard the environment and living conditions of neighbouring residents in accordance with guidance set out in the NPPF.

5. Noise levels arising from construction of the development shall not exceed the following noise limits at the specified locations. The exact position within those locations identified below shall be agreed in writing with the local planning authority prior to the commencement of the development :

<b>Noise sensitive receptor</b>	<b>Description</b>	<b>Daytime limit (dB<sub>L<sub>Aeq,T</sub></sub>)</b>
1	North of site; Green Lane	65
2	North-east of site; Town View Avenue	65
3	South-east of site; Sheep Walk Lane	70
4	South-west of site; Marr Grange Lane	65
5	South-west of site; Barnsley Road	75

REASON

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

6. Noise levels arising from operation of the development shall not exceed the following noise limits at the specified locations. The exact position within those locations identified below shall be agreed in writing with the local planning authority prior to the occupation of the development:

<b>Noise sensitive receptor</b>	<b>Description</b>	<b>Noise limit values in decibels (dB), L<sub>Ar,Tr</sub></b>	
		<b>Day (07:00 – 19:00)</b>	<b>Night (23:00 – 07:00)</b>
1	North of site; Green Lane	27	26
2	North-east of site; Town View Avenue	25	23
3	South-east of site; Sheep Walk Lane	33	28
4	South-west of site; Marr Grange Lane	43	40
5	South-west of site; Barnsley Road	42	38

**REASON**

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

7. Prior to the commencement of the relevant works, details of the proposed external materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

**REASON**

To ensure that the materials are appropriate to the area, in accordance with policy CS14 of the Doncaster Core Strategy.

8. Before the development commences, a BREEAM pre-assessment, or equivalent assessment, shall be submitted for approval demonstrating how BREEAM 'Very Good' will be met. The development shall be carried out in accordance with the approved assessment.

**REASON**

In the interests of sustainability and to minimise the impact of the development on the effects of climate change in accordance with policy CS14 of the Core Strategy.

9. No development shall take place in implementation of this permission until a report has been submitted to the local planning authority explaining how CO<sub>2</sub> emissions from the development will be reduced by providing at least 10 per cent of the development's energy through on-site renewable energy equipment or improvements to the fabric efficiency of the building. The carbon savings, which result from proposed measures, will be above and beyond what is required to comply with Part L of Building Regulations. The development shall then proceed in accordance with the approved report.

**REASON**

In the interests of sustainability and to minimize the impact of the development on the effects of climate change in accordance with policy CS14 of the Core Strategy. This condition is required to be discharged prior to commencement as the approved detail may have an impact on the design and fabric of the building during construction or the appearance of the development.

10. Prior to the occupation of the development, 6 electric vehicle charging points shall be installed and be operational in accordance with a scheme previously approved in writing by the local planning authority.  
**REASON**  
To contribute towards a reduction in emissions in accordance with air quality objectives and providing sustainable travel choice in accordance with policies CS9 and CS18 of the Doncaster Council Core Strategy.
11. Prior to the occupation of the development, bus stops shall be provided on Barnsley Road in accordance with a scheme previously approved in writing by the local planning authority.  
**REASON**  
To encourage sustainable modes of travel to the site in accordance with policy CS9 of the Core Strategy.
12. The erection of impact resistant barriers for the protection of any retained tree shall be undertaken in accordance with the approved Arboricultural Impact Assessment (reference 9277\_AIA.001 dated January 2017) and the local planning authority notified of implementation. No works other than the installation of the barriers shall be carried out until the local planning authority has confirmed in writing that they have been properly installed. Thereafter, and throughout the period of construction, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials associated with the construction have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.  
**REASON**  
To ensure that all trees are protected from damage during construction in accordance with core strategy policy CS16: Valuing our natural environment.
13. The planting proposals hereby approved shall be carried out no later than during the first planting season following the date when the development hereby permitted is ready for occupation and shall be in accordance with the scheme of landscaping shown on the Planting Strategy plan (ref: 21603/10 Revision C dated Jan 2017) and the Tree Pit Details plan (ref: 21603/14 dated March 2017). All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.  
**REASON**  
In the interests of environmental quality and core strategy policy CS16: Valuing our Natural Environment.
14. No development shall take place until a Biodiversity Enhancement Master Plan has been submitted to and approved in writing by the local planning authority. The content of the Plan shall include:
  - i) Baseline specifications for biodiversity creation and enhancement works and other ecological features specific to mitigation proposals for habitats, faunal groups and species.
  - ii) Provision of roosting and nesting opportunities within the site.The development shall be carried out in accordance with the approved plan.  
**REASON**  
To ensure the ecological interests of the site are maintained in accordance with Core Strategy Policy 16.
15. Part A (pre-commencement)  
No development, including any demolition or groundworks, shall take place until the applicant, or their agent, or successor in title, has submitted a Written Scheme of

Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

- i) The programme and method of site investigation and recording.
- ii) The requirement to seek preservation in situ of identified features of importance.
- iii) The programme for post-investigation assessment.
- iv) The provision to be made for analysis and reporting.
- v) The provision to be made for publication and dissemination of the results.
- vi) The provision to be made for deposition of the archive created.
- vii) Nomination of a competent person/persons or organisation to undertake the works.
- viii) The timetable for completion of all site investigation and post-investigation works.

**Part B (pre-occupation/use)**

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

**REASON**

To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated in accordance with policy CS15 of the Core Strategy.

16. A Travel Plan shall be submitted to the local planning authority within 3 months of occupation of the site. The development shall thereafter be operated in accordance with the approved Travel Plan.

**REASON**

To encourage sustainable modes of travel to the site in accordance with policy CS9 of the Core Strategy.

17. No lighting shall be installed on site until the details have first been approved in writing by the local planning authority. The lighting shall thereafter be installed and retained in accordance with the approved scheme.

**REASON**

To minimise light pollution in this countryside location in accordance with guidance set out in the NPPF.

18. The development hereby permitted shall not be commenced until a Construction Traffic Management Plan (CTMP) for the development is submitted to and subsequently approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):

- i) the proposed construction traffic route to the site to be identified on a plan
- ii) the daily movement of the construction traffic shall be profiled identifying the peak level of vehicle movements for each day
- iii) HGVs shall be prohibited from accessing the site during the SRN peak operating hours
- iv) details of and agreement to traffic management proposals at Junction 37
- v) contractors method for controlling construction traffic and adherence to routes
- vi) temporary signage
- vii) measures to be taken within the curtilage of the site to prevent the deposition of mud and debris on the public highway including a wheel wash station.

**REASON**

This information has not been provided and is required prior to the commencement of development to ensure highway safety in accordance with the guidance set out in the NPPF.



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

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