

RE: LAND TO THE WEST OF OMEGA SOUTH

CLOSING SUBMISSION OF THE LPA

INTRODUCTION

Context

1. This is the fourth in a series of Inquiries concerning logistics and related development in St Helens. Four proposals (comprising 3 call-in applications and one recovered appeal) have been called-in for determination by the Secretary of State (SoS).
2. The first Inquiry addressed an outline application for the construction of up to 92,900 sqm of employment floor space within use class B8 (storage and distribution) with ancillary B1(a) offices and associated servicing and infrastructure on land at the site of the former Parkside Colliery. All matters other than means of access were reserved. The Application proposals were described in detail in the SoCG (CD 4.163 at 2.1¹). The proposal is to be the first phase of a comprehensive development of the former Parkside colliery site. It is therefore referred to as “*Parkside Phase 1*” (PP1).
3. The second Inquiry considered the application for the A49-A573 Link Road (“*the PLR application*”). The PLR application² sought full planning permission for a road of 3.3 km length that would link the A49 Winwick

¹ St Helens MBC have created a bespoke web-site for the previous 3 Inquiries

² Part of the PLR application site falls within Warrington Borough. An application was therefore submitted to both St Helens BC and Warrington BC (as determining LPA's). There were 2 applications for determination

Road to the A579 Winwick Lane and would enable access to Junction 22 of the M6 motorway. The purpose of the PLR is therefore to enable the development of Parkside Phase 2 (PP2) and a Strategic Rail Freight Interchange (SRFI) to the east of the M6 (Parkside Phase 3) by providing the link to J22 M6.³

4. St Helens MBC, as Local Planning Authority, strongly supports both the PP1 and PLR applications which are proposed to be allocated, for reasons which have been fully explored at both Inquiries and which are before the SoS.
5. The third Inquiry concerned an appeal against the LPA's non-determination of an outline application for up to 167,225 sq m of B2/B8 floorspace, comprising up to 20% B2 floorspace, at Haydock Point. All matters were reserved save for access. The parameters (for determination) would allow a single unit of 1m sq ft (92,903 sq m). The proposal was 20% larger than Florida Farm and 55% larger than PP1.⁴ The scheme was speculative and there was no named end-user. The proposal re-routed the A49 through the appeal site. The site was separated from the Haydock Industrial Estate (HIE) by the M6 and the A49, which formed a logical constraint on the extension of the HIE to the east. The LPA resolved that it would have refused planning permission.
6. It follows that the SoS has already heard a great deal of the evidence which is relevant to the issues for determination at this Appeal, in particular in relation to the need for road based logistics and the economic and regeneration benefits which the proposal could bring (subject to the imposition of conditions and the s.106). The LPA's evidence at this

³ See paragraphs 2 and 3 of the Executive Summary to the Planning Statement supporting the PLR application and the (draft) PLR SoCG paragraphs 2 and 44

⁴ Xanthe Quayle at 2.1.5

Inquiry is entirely consistent with evidence which has previously been presented.

7. It must, however, be emphasised that the balancing of the land use planning merits of PP1, the PLR and Haydock Point are materially different, as each turns on its own merits, in the application of the Green Belt policy test. The schemes fall to be determined on the basis of the impact of the individual proposals on their particular parcel of Green Belt. Accordingly, comparisons between proposals has not been a feature of previous Inquiries or this Inquiry because it is an exercise of limited value (EiC of AKN).

The Application

8. This Inquiry concern a hybrid planning application for (SoCG at 3.1):
 - (i) Full Planning Permission for the erection of a B8 logistics warehouse, with ancillary offices, associated car parking, infrastructure, and landscaping; and
 - (ii) Outline Planning Permission for Manufacturing (B2) and Logistics (B8) development with ancillary offices and associated access infrastructure works (detailed matters of appearance, landscaping, layout and scale are reserved for subsequent approval).
9. The nature of the proposed development is set out comprehensively in the LPA's Opening Statement and the SoCG. The full list of plans that informed the Council's decision is provided at Appendix 1 SoCG.

MAIN ISSUES

10. The Main Issues, on which the SoS wishes to be addressed, were set out in the CMC Note 1 (CD 36.3).

THE DEVELOPMENT PLAN

11. This Application falls to be determined in accordance with the Development Plan unless material considerations indicate otherwise (s.38(6) P&CPA 2004).
12. The application site adjoins the Omega employment area in Warrington Borough Council (WBC). The site lies in St Helens MBC. It is, therefore, the St Helens statutory development plan which applies and which is addressed in this Opening Submission. The WBC development plan is a material consideration of significant weight. Both St Helens MBC and WBC support the grant of consent, subject to conditions and s.106.
13. The most important policies for determining the application are not out of date. The development plan provides an appropriate framework for the determination, in the light of the NPPF. The tilted balance is not engaged (NPPF 11d).
14. The Core Strategy was adopted in October 2012. It therefore post-dates the NPPF and was found to be consistent with it by the examining Inspector (see IR 1 and IR 79 CD 2.10). The Core Strategy plans to 2027.

STRATEGIC OBJECTIVE 1.1 - REGENERATION

15. Regeneration lies at the heart of the Core Strategy's Vision to 2027 (CD 2.2 at 4.29). **The Vision** is implemented through 7 Strategic Objectives (SO). Regeneration is the first and primary Strategic Objective, which the remaining SO's seek to deliver:

***SO 1.1** To secure the regeneration of the Borough by: steady, sustainable population growth; reducing deprivation through directing development and investment where it is most needed; and by giving priority to development of derelict and vacant sites.*

16. This is not surprising given the **Context, Issues, Problems and Challenges** identified in the CS (2012):⁵

- **A legacy of derelict land and land affected by contamination, poor health, high unemployment rates and low educational attainment figures** (CS at 2.1);
- **Years of population decline between 1988 and 2001** (CS at 3.1), resulting in significant levels of commuting from more attractive suburban/rural locations and residual communities plagued by multiple deprivation;
- **Multiple deprivation amongst the highest in the country.** In 2010, St Helens was the 51st most deprived authority in the country (CS at 3.3);
- St Helens had **a legacy of poor health** linked with deprivation and its industrial past (CS at 3.4).

17. Consequently, SO 1.1 seeks to reduce deprivation by directing development and investment where it is most needed, specifically giving priority to the development of derelict and vacant sites, such as Parkside Phases 1 and 2. Indeed, Policy CAS 3.1 and CAS 3.2 (the Newton and Earlestown policies) comprise part of the primary delivery mechanism for SO 1.1.

18. Regrettably, the Core Strategy's regeneration imperative has only strengthened with the passage of time. **The Indices of Deprivation** (2019) St Helens Summary Report (CD 5.168) make for grim reading (see p.5):

- **St Helens is now ranked as the 26th most deprived LA;**

⁵ The Plan is premised on evidence from 2010

- **St Helens has been ranked 51st (2010), 36th (2015) and 26th (2019).** The indices of multiple deprivation are therefore worsening over time;
- **There are 29 LSOA's (neighbourhoods) in the 10% most deprived nationally;**
- There are 50 neighbourhoods in the 20% most deprived nationally;
- 6 LSOA's are within the 1% most deprived nationally;
- The domains of greatest concern are health deprivation, employment deprivation and income deprivation;
- **St Helens is the 8th most deprived (health), 9th most deprived (employment) and 34th most deprived (income);**
- **Nearly a quarter of the population of St Helens live in the most deprived neighbourhoods.** That is 42,877 people (an increase of 26% from 33,926 in 2010).
- **The Application site lies in LSOA St Helens 022A, which is ranked in the worst 20% of deprived areas.** The adjacent LSOA's of St Helens 022C and 022D comprise a neighbourhood at Four Acre Lane which is ranked in the top 10% of deprived areas (see AKN at 2.22 and evidence of Cllr McCauley).

19. It is therefore unanswerable that:

- (i) **Deprivation has worsened (and materially worsened) since the adoption of the Plan in 2012, relative to other areas; and**
- (ii) **The imperative for regeneration expressed in the Core Strategy has increased (and materially increased) since the adoption of the Plan.**

20. It is for these reasons that regeneration continues to lie at the heart of the emerging Local Plan (eLP), which is entirely consistent with the Government's Levelling Up Agenda (EiC of AKN).

21. It is in this context that the development plan expressly seeks to focus economic development to those sites that are within, in close proximity to, or have easy public transport to the most deprived areas of the Borough (see policies CE 1(4) and CSS 1(2)(ii) and (iii)).
22. The LPA does not accept that the site meets such criteria but it can be made accessible through the provision of new bus routes in Warrington and St Helens through the s.106 (EiC of AKN). The bus contribution is therefore “*necessary*” and meets the CIL Regs (2010) and NPPF tests (see the CIL compliance statement).
23. JC has asserted⁶ that to date the Omega development has not had a positive impact on regeneration in St Helens. Indeed, it has long been a concern of Members of St Helens’ Council that Omega is not accessible to St Helens’ residents. However, if the enhanced public transport provision is delivered as proposed, the jobs proposed at the application site *and* the existing ~10,000 jobs at Omega will become accessible to the areas of multiple deprivation in St Helens for the first time. This is a benefit of significant weight in meeting the regeneration imperative of the Core Strategy.
24. Further, conditions 48/49 and 62-64 provide for *inter alia* local employment schemes which, through the provision of training and liaison with the Council, St Helens Chamber of Commerce and Ways to Work, will seek to maximise the training and employment opportunities for those living in the areas of multiple deprivation.
25. The LPA therefore concludes that the appeal site can contribute to the regeneration of the Borough (consistent with SO 1.1) and draws very

⁶ at paragraph 51

significant support from it in the policy balance (EiC of AKN), subject to the imposition of conditions and s.106.

THE SPATIAL STRATEGY

26. **Policy CSS 1** contains the overall spatial strategy, which seeks to deliver the regeneration of St Helens to 2027.
27. The main focus for economic development is PDL within the M62 Link Road corridor and the Haydock Industrial Estate (HIE) (see CSS 1(v)). The re-use of PDL in sustainable locations was prioritised because of the availability of PDL sites in 2012, such as the former Parkside Colliery (see CSS 1(vi)). It is, however, agreed that there are no suitable, viable and available PDL sites to meet the need for employment land identified in the eLP (SoCG at 8.5).
28. This site falls to be considered under CSS 1(vii), where the spatial strategy seeks to maintain the Green Belt (GB), as shown on the proposals map, in the short to medium term. However, the Green Belt boundaries have not changed since 1983 (EiC of SB and AKN). Any strategic review of the GB will be dependent on a GB Review, dependent on work carried out at a sub-regional level (CSS 1 (vii)). **It follows from CSS 1 that the proposal will comply with the Spatial Strategy, provided it complies with the Green Belt tests (see CSS 1 (ix)).**
29. **Policies CAS 1 - 4** set out area specific policies. The Application site lies outside such policy areas. Accordingly, the site lies in the designated rural area, where **CAS 5(1)** applies. Applying CAS 5(1), development on the appeal site (outside existing rural settlement boundaries) must comply with Green Belt policy (EiC of AKN).

30. It follows that if this proposal complies with the Green Belt policy test, it complies with the Spatial Strategy (policy CSS 1(ix)), Policy CAS 5, Policies S1 and GB 1 and 2 of the UDP (CD 2.1) and, thereby, the statutory development plan as a whole.

STRATEGIC OBJECTIVE 5.1 – ECONOMIC GROWTH

The Core Strategy

31. SO 5.1 seeks to provide sufficient land to meet local employment needs. “*Local employment needs*” are those arising within the Borough of St Helens but the term is wide enough to include the need for the Omega site to expand into St Helens (EiC of AKN). However, there is no development plan support for St Helens to meet the need for employment land across the combined authorities of St Helens, Warrington and Wigan MBC and this is not the Applicant’s case.⁷ Indeed, neither Warrington, Wigan nor the LCR Authorities object to St Helens’ approach in the emerging Local Plan (eLP). St Helens have demonstrably complied with their duty to co-operate and no LPA argues the contrary.

The NPPF

32. The economic objective of national policy is to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity (NPPF 8(a)).
33. Planning decisions should create the conditions in which businesses can invest, expand and adapt (NPPF 80). That means (at least): (i) an adequate supply of employment land; and (b) an adequate range of employment sites (XX of JC). The approach taken should allow each area to build on

⁷ Cf the submissions of the Appellant at the Haydock Point Inquiry

its strengths, counter any weaknesses and address the challenges of the future (NPPF 80).

34. The strengths of this area are expressly articulated in the CS (at 2.3 and 2.4). The key economic strength of St Helens is no longer coal, glass and heavy engineering but its strategic location: (i) proximity to the Regional Poles of Liverpool and Manchester and very significant centres of population; (ii) the M6, M62 and A580; (iii) proximity to an expanding international port (Liverpool 2) and two international airports (LPL and MAN); (iv) proximity to the Chat Moss (Liverpool-Manchester) railway and the WCML (of particular relevance to the Parkside proposals). The strength of St Helens is as a base for logistics. Government policy is expressly to (i) build on such strengths, through the delivery of necessary infrastructure; and (ii) counter any weakness, such that the challenges of the future can be addressed. JC agreed that the weaknesses of St Helens include:

- (i) A relatively poorly skilled workforce;
- (ii) Areas characterised by multiple deprivation;
- (iii) The significant loss of traditional industries (glass, coal and heavy engineering);
- (iv) The relative lack of readily developable sites at the largest scale.

35. Decisions should recognise specific locational requirements of different sectors (NPPF 82). This expressly includes making provision for storage and distribution operations at a variety of scales and in suitably accessible locations (NPPF 82). In interpreting and applying NPPF 80 and 82 together, the parties agree that, where a proposal delivers a storage and distribution operation in an accessible location, addressing the specific locational requirements, building on the strengths of the local area, the NPPF expressly requires that **significant weight** should be placed on the

need to support such economic growth. Indeed, this was expressly accepted by JC in XX.

36. Further, the NPPG considers that logistics plays a “critical role” in enabling an efficient, sustainable and effective supply of goods to consumers and businesses, as well as contributing to local employment opportunities (ID 2a-031). Further, the NPPG expressly recognises that logistics development have specific locational requirements (set out by AM at 6.2), which require in St Helens a Green Belt location.
37. In XX, JC conceded that the NPPF and PPG specifically supports the clustering of certain industries. Indeed, given the specific locational requirements of logistics development it is inevitable that they will be co-located. JC therefore conceded that clustering is not objectionable. Rather, it is supported by the NPPF and PPG.

Location

38. It is common ground that the Application site is located in an attractive location for a logistics development (in market/commercial terms). Indeed, Omega Warrington is one of the prime logistics locations in the North West and commands prime rent levels and investment yields. The international brand names occupying Omega South reflects its pre-eminence in the market, meaning it is a very attractive location for leading large scale operators (AM at 2.17). Indeed, this is demonstrated by the rapid take up of land when it was made available from 2013 (see AM Table 1 p. 9). Over the last 10 years, 5.2m ft² of manufacturing and logistics floorspace has been delivered at Omega, together with permission for up to 1,400 residential units and a mixed used district centre (see SoCG at 4.2 and App 2). Omega is an undoubted success which has resulted in the creation of almost 10,000 jobs.

39. However, Omega South is now at capacity. It is bordered by built development to the South, East and North. The Application site (along the M62 to the West) is the only logical expansion space, especially given it has an existing access (Catalina Approach) directly to the M62 without passing through residential areas. Further, it has access to all necessary infrastructure, especially power infrastructure (referred to in the PPG *supra*), which means it can be developed in the short term (it is “oven ready”). It is therefore agreed that this proposal is deliverable and will be very attractive to the market. It can meet the identified need for employment land in the short term (whether in respect of the full application or the outline application). This is a matter which weighs significantly in favour of the proposal, especially as there is a need to grant consents *now* for there to be continuity in employment land supply in Warrington and St Helens beyond the 2027 Plan period (EiC of AKN).

Employment Land Requirement

40. Consistent with NPPF 81, NPPF 20 requires sufficient provision to be made for employment land and infrastructure for transport, looking over 15 years (NPPF 22). Policies should therefore assess and plan to meet the OAN for employment land in accordance with a clear economic vision and strategy which encourages sustainable economic growth (NPPF 81(a)).
41. In that context, it is agreed by all (including JC) that:
- (i) The evidence base on which Policy CE 1 is based is out of date; and
 - (ii) The policy requirement to deliver 37ha to 2027 is out of date.
42. **Policy CE 1(1)** should therefore be afforded no material weight (EiC of AKN). Rather, it is the evidence base to the eLP which contains the LPA’s up to date evidence on the need for employment land.

43. The emerging Local Plan was submitted for examination on 29th October 2020. The basis of the employment land requirement in the eLP is fully explained in the evidence of AM and the Employment Land Background Paper (CD 22.19). It is premised on evidence of a significant need for new logistics floorspace. The evidence base (summarised in the evidence of AM) comprises *inter alia*:
- The St Helens Employment Land Needs Study (ELNS) 2015;
 - ELNS Addendum 2017;
 - The Liverpool City Region SHELMA 2018;
 - LCR Assessment of the Supply of Large-Scale B8 sites (2018);
 - The St Helens ELNS Addendum 2019;
 - LCR Spatial Planning SoCG 2019;
 - LCR Local Industrial Strategy;
 - Employment Land Need and Supply Background Paper (2020).
44. Whilst limited weight can be attached to the emerging *policy*, significant weight must attach to the technical need *evidence* on which it is premised, which is derived from studies at the LCR and LPA level.
45. The LPA currently plan for a minimum of 219.2ha of land for employment development between 2018 and 2035 (see emerging policy LPA 04 and LPA 10 CD 3.18 and CD 3.21). This is explained in detail in the evidence of AM (see 3.32 – 3.53). This is not disputed by the Appellant and no alternative figure is provided by any other party to the Inquiry.
46. The LPA have identified sufficient land to deliver 265.3ha of employment land to 2035 (see AM Table 5). It is the LPA's case that:
- (i) There is a need for more employment land than is identified in the Core Strategy, which is out of date;

- (ii) There is a significant need for more employment land;
- (iii) Such a need cannot be met either on PDL sites and/or on sites inside the settlement boundaries;
- (iv) The need must be met on Green Belt sites;
- (v) The eLP therefore proposes significant Green Belt releases to meet the identified need for employment land.

47. Of the 265.3ha, 31.22ha is allocated on site 1EA Omega South Western Extension. This is to meet the needs of Warrington (agreed in CD 43.4). The precise area of 31.2ha is not based on an employment land supply calculation and/or a specific request from WBC through the DtC (as a result of a residual employment land supply calculation in Warrington). Rather, the 31.22ha reflects the land ownership of Homes England who responded to the Call for Sites exercise in March 2016 (see SoCG at 6.5). St Helens (as LPA) considered that this site was required to allow the expansion of Omega South and to meet the needs of Warrington (*supra*).

48. The Application site is 75ha (SoCG at 2.3). The allocated site is therefore ~42% of the application site. 51% of the proposed development (by net developable area) is within the allocation (SoCG at 6.6). Accordingly, the application site is larger than the draft allocation. However, the 35ha application site is proposed to be immediately occupied by Home Bargains. Accordingly, ~35ha of the proposed 71ha will never be made available to the market. It is the residual 36ha of the outline application area which will be made available to the open market in order to meet the on-going need for employment land to 2035 (EiC of AM and AKN). The outline application for 36ha is broadly consistent with the identified requirement of 31.22ha to meet the need for expansion space to Omega to 2035.

49. It follows that the LPA consider that there is: (i) a specific need for employment land to meet the specific requirements of Home Bargains, to which significant weight should attach; and (ii) a general need for employment land to meet the general/unspecified needs of the market to 2035, to which significant weight should attach.

Warrington Core Strategy (WCS)

50. The WCS (CD 2.7) is a material consideration of significant weight. It was adopted in July 2014 and therefore post-dates the NPPF. It runs to 2027.
51. The WCS specifically identifies the excellence of Warrington's strategic connectivity. It lies at the "*hub of the region's communications network*" (2.11). The Plan's Vision is for Warrington to be *inter alia*: (i) a key economic driver for the surrounding area to the benefit of residents and businesses, given its "*pivotal location*"; and (ii) a focus for employment for a wide area, "*re-inforced by the development of significant sites in and immediately surrounding the Borough*" (p.20). Consistent with the St Helen CS, Strategic Objective W1 is to secure regeneration and renewal, strengthening existing neighbourhoods, making the most efficient use of infrastructure and ensuring development brings benefits to their host communities (W1 p. 22).
52. Warrington Borough is not as disadvantaged as St Helens. However, there are significant pockets of deprivation. LSOA Warrington 010F is within Chapelford and Old Hall Ward, about 3.5km to the east of the application site. This ranks in the top 20% most deprived neighbourhoods in England. Immediately to the east of LSOA 010F is Bewsay and Whitecross and Orford Wards within which LSOAs Warrington 013A, 013C, 011C and 006A are ranked within the top 10% most deprived LSOAs in England (SoCG at 7.17).

53. SO W1 and Policy CS 2 seek to deliver 277 ha of employment land (2006-2027). This employment land supply is “*primarily reliant on the Omega Strategic Location*” (6.13). However, Omega is now at capacity (*supra*) and it is therefore vital that further land is made available *now* in order to maintain continuity of supply up to 2027 and beyond (EiC of AKN).
54. Policy CS 8 specifically concerns the *Strategic Proposal – Omega and Lingley Mere*, which are identified as the “*primary locations for ongoing economic development*” (6.28), which will contribute to the Borough’s future requirement for B1, B2 and B8 both *within* and *beyond* the Plan period (6.35). Fig 6.3 shows the Strategic Proposal, with a haul road leading to the Application site, suggesting that it would form the next logical phase of development in the next Plan period (EiC of AKN).
55. Policy CS 8 contains the same approach as Policy CSS 1 and CE 1(4) by requiring a link between economic development at Omega with public transport links to adjoining residential areas (especially in Inner Warrington) in order to maximise local employment opportunities. Consistent with Policy CS 8, Policy PV 1 primarily directs new employment development to Omega. This is a clear point of distinction with the Barleycastle Lane decision which: (i) did not have any development plan policy support in the WCS; and (ii) would not have had the significant benefits to adjacent deprived communities (see AKN at 6.5 – 6.7).
56. Work has commenced on the replacement Core Strategy (see AM 3.62 – 3.76). BE Group (AM’s consultancy) have been commissioned to provide two EDNA’s. The EDNA identified an OAN of 361.71ha (2017-2027) based on average land take-up of 13.88ha/pa (see AM at 3.62). The realistic supply (2019) was just 83.91 ha. However, 59.97ha was identified at Omega, which must now be revisited (see AM Table 8). Accordingly,

Policy DEV 4 of the submission version of the Plan seeks provision for a *minimum* of 362ha of employment land (2017-2037). Whilst the Plan has been paused, the LPA submit that (based on the evidence of AM), significant weight can be attached to the evidence which underpins the draft policies. Indeed, AM considers that the need for employment land has (if anything) increased.

57. In that context, WBC will need to release very significant amounts of Green Belt land to meet the minimum requirement for employment land in the next Plan period - at least 215.14 ha (see AM Table 10). Consistent with the extant WCS and emerging WCS, such releases should take place at Omega, given its success as strategic location and existing infrastructure. That proposition is (respectfully) a “no brainer”.
58. It follows that there is a need for land to be allocated in St Helens to meet the need for employment land in Warrington (generally) and Omega (specifically). Indeed, this is expressly agreed between St Helens and WBC (see CD 43.3).
59. Whether the SoS considers the position in St Helens or Warrington, the LPA consider that there is an acute need for more employment land in the short-term. This was the case presented to the PP1, PLR and Haydock Point Inquiries. There is, therefore **a significant need** for more employment land in St Helens. Such a need cannot be met either on PDL sites and/or on sites inside the settlement boundaries. Rather, the need must be met on Green Belt sites and on the best locations within the Green Belt (applying the PPG *supra*).

Economic Benefits

60. The NPPF (80-82) places significant weight on the need to support economic growth and productivity, taking into account local business

needs. This is not a policy which seeks to create jobs. It follows that job creation is an additional benefit of significant weight.

61. The LPA has reviewed the economic benefits assessment provided in the ES (Ch 15 CD 33.63). The key economic benefits are as follows (AM at 7.1):
- 845 gross on-site construction jobs p.a. over a 16m construction period, creating 1,267 net workers (including displacement and induced/indirect effects);
 - This equates to £101.9m GVA for the North West and £76.4m GVA in St Helens;
 - 980 gross FTE jobs on site in the operational phase of the full application;
 - 2,679 gross FTE jobs on site in the operational phase of the outline application;
 - Accounting for displacement and induced/indirect effects, the net employment is estimated to be 1,103 FTE (full application) and 3,014 FTE (outline application);
 - This equates to £188.7m GVA to the regional economy, of which £141.5m GVA is in St Helens.
62. Such an assessment uses: (i) evidence from Home Bargains in respect of the full application; and (ii) standard employment density assumptions from the HCA in respect of the outline application. AM considers that the assumptions and projections are reasonable (AM at 7.2). However, the LPA recognises (as it has done in previous Inquiries) that the final job numbers will depend on: (i) the nature of the final development; (ii) the total floorspace delivered; (iii) the final occupier etc. Local residents have questioned the reliability of such assumptions, given the actual job

creation at Florida Farm. This is addressed comprehensively in the Amion Note to PP1 Inquiry (CD 7.31A). It is not a robust basis for an objection.

63. The LPA considers that **significant weight** should attach to this level of job creation and economic benefit.
64. Further, it is a benefit that such jobs have the potential to benefit those most in need, through the training and local employment schemes. Further, there is a good match between the jobs created on site and the lower skills in the deprived communities. Moreover, there is a good range of jobs available on the application site, together with the range of jobs which will become accessible on the wider Omega site, which means that there is a good range of skilled employment provided, in an area which will become accessible to areas of deprivation.
65. It is, therefore, the LPA's position that the application complies with the objectives of the development plan to secure economic development and to address deprivation, by providing economic opportunities to areas in need.

SO6.2 PROTECTING LOCAL CHARACTER/DISTINCTIVENESS

Policy

66. SO 6.2 seeks to safeguard the quality of the environment, protecting and enhancing local character and distinctiveness. The primary policies to deliver SO 6.2 are CAS 5 and CQL 1-4.
67. **Policy CAS 5(2)(iii)** seeks to protect and enhance landscape character in the rural areas and **CAS 5(2)(iv)** seeks to retain land in agricultural use. **Policy CQL 4** seeks to protect, conserve, preserve and enhance the landscape character of St Helens by (i) protecting landscape character; and

(iii) ensuring all new development respects the significance and distinctive quality of the landscape.

68. **Policy CP 1(1)(i)** seeks to maintain the overall character and appearance of the local environment, in particular in relation to siting, layout, massing and scale. Further, consistent with policy CQL 4 and CAS 4, **policy CP 2 (iv)** seeks to safeguard landscape character.
69. The Core Strategy explains that rural St Helens coincides with the Green Belt, where GB policy will apply, and: “*any development will be informed by the Landscape Character Assessment*” (CS at 11.6 CD 2.2). However, the LCA (published in 2006) is significantly out of date in respect of this site (see AKN at 2.9 *et seq* and SoCG at 7.4). The entirety of Omega South has been developed since 2006 (see AM at Table 1 and SoCG at 4.2), with current development at Mountpark Phase 2 (see AM at 2.19). Accordingly, the LCA is of limited relevance to the determination of this application, as it pre-dates the development of one of the prime logistics locations in the North West, on which international brand names are now located in buildings of a substantial primary scale (see AM at 2.17). Rather, the site now forms the only natural and logical extension of the Omega development. To the extent it is relevant (see paragraph 7 above), this is a key point of distinction with the Haydock Point proposal
70. Nonetheless, it is agreed that there is conflict with policies CAS 5(2)(iii) and (iv), CQL 4(i) and (iii), CP 1(i) and CP 2(iv). The full application proposes a building at a substantial primary scale. The external dimensions are fixed by the internal dimensions of the specialist racking equipment. Notwithstanding that the application site lies adjacent to the M62 and Omega South, the LPA accept that the proposals will not preserve or enhance the character of the landscape. Significant weight should be

attached to the conflict with the development plan and this must be weighed in the Green Belt policy balance.

71. However, in weighing the balance, it must also be recognised that the need for logistics development cannot be met within existing settlement boundaries. Such proposals must *inevitably* take place on greenfield Green Belt sites. Given the footprints of large scale logistics development and the substantial scale of the buildings, there will inevitably be a significant impact on landscape character wherever they are placed in St Helens (albeit some locations will be more sensitive than others). The application site is the logical extension to an existing and successful primary location for employment development, on a site which is influenced by large scale logistics development on the adjacent site. Such factors must temper the weight to be attached to the conflict with the development plan in the planning balance (EiC of AKN).

BOLD FOREST PARK AREA ACTION PLAN (BFP AAP)

72. **Policy CAS 5(6)** makes the BFP a Green Infrastructure priority which will be the subject of an AAP. The BFP AAP was adopted in July 2017. It is founded on Neighbourhood Development Plan principles (see Foreword) and forms part of the statutory development plan (CD 43.1).
73. The BFP AAP is not seeking to provide a *different* or inconsistent policy approach. Rather, it stresses that the development plan should be applied as a whole (1.2.1 and 1.2.2). Further, the AAP expressly recognises that: (i) a new Local Plan is being prepared; (ii) the Local Plan will be informed by a Green Belt review; and (iii) allocations may be required in the BFP to meet the minimum need for employment land (see 2.3.2, 2.3.3, 6.2.1 and 6.2.2). The allocation of such land will be consistent with Green Belt policy (2.3.3 and 6.2.2). It follows that the AAP is not adding any

new/different policy test to that in CSS 1(ix) and CAS 5(1). The AAP applies the Green Belt policy approach (EiC of AKN).

74. The proposal conflicts with Policies BFP 1 and BFP SN1 because the proposal does not enhance landscape character (*supra*). However, the AAP expressly recognises that this is a managed and engineered landscape, in which the “*huge slag heaps which once scarred the area still dominate the landscape*” (3.2.4). Further, Policy BFP 1 promotes employment sites in the BFP and expressly recognises that after a Green Belt review that the BFP could have a role to play in meeting the OAN for employment needs (see justification to BFP 1). It follows that limited weight should attach to the conflict with the policies of the AAP, given the express requirement for more employment land in the BFP in order to allow for the expansion of Omega.
75. Finally, the LPA consider that the proposal has *minimised* the impact of the development on the BFP, consistent with the policies. Following the proposed mitigation and enhancement (secured by conditions and s.106), the residual impact is no more than the inevitable impact of meeting the need for more employment land as an extension to Omega, as envisaged in the BFP AAP.

GREEN BELT POLICY

76. It is in this context that Green Belt policy should be applied. It is common ground that:
- (ii) If the proposal complies with the GB test, it complies with the Development plan (for the purposes of s.38(6)) and should be granted consent without delay (NPPF 11c);
 - (iii) The NPPF does not comprise a material consideration justifying a different conclusion because the GB test in the UDP/Core Strategy

can be applied in a manner which is consistent with the NPPF (EiC of AKN).

Green Belt Review 2016 (CD 3.5)

77. The review was specifically undertaken in order to inform the emerging Local Plan, mindful of the need for employment land in the Green Belt identified in the ELNS 2015 (see AM at 3.32).
78. The Application site falls in parcel 076 and sub-areas B and C (AKN at 2.14 *et seq*). However, sub-area B is very large (see Plan at p.353 CD 3.5). Accordingly, it is not a useful area of assessment. Sub-area C is more relevant (EiC of SB and AKN).
79. In respect of parcel 076C, the GBR concludes that whilst there are open views across the area, it is bordered by large scale built development at Omega South and the M62, such that there is only a moderate countryside character. Its contribution to GB purposes is “medium” and therefore should be carried through to the Stage 2 assessment (p.356). Following the Stage 2 assessment, a 31.22ha site was proposed to be allocated (*supra*).
80. Significant weight should be attached to the findings of the Green Belt review (GBR) because it was undertaken by independent experts, applying a robust objective methodology and reaches conclusions which are uninfluenced by specific development proposals.

Harm to the Green Belt

81. It is agreed that the proposal is inappropriate development and that substantial weight should attach to the harm by reason of inappropriateness (SOCG at 9.1).

Harm to Openness

82. The approach to considering the impact to openness is agreed, with reference to the NPPG (EiC of AKN).
83. The NPPG reflects a number of familiar judgments. In *Turner v SoS CLG* [2016] EWCA Civ 466, Sales LJ held that openness is “*open-textured*” and a number of factors are capable of being relevant when it comes to applying it to the facts of a specific case. Prominent among these will be factors relevant to how built up the GB is now and how built up it will be if development occurs. In *Europa Oil and Gas Ltd v SoS CLG* [2013] EWHC 2643, Ouseley J held that one factor which affected the preservation of openness and conflict with GB purposes is the duration of the development and the reversibility of its effects (para 67). The relevant decisions were summarised by the Supreme Court in *Samuel Smiths Old Brewery v North Yorks CC* [2020] UKSC 3 (see AKN at 4.16). The Court held that matters relevant to openness are a matter of planning judgment not law (para 39). The Court upheld the decision of Hickinbottom J who considered the potential adverse visual impact to be a “*differential impact*” i.e. an impact over and above the adverse spatial impact (see para 33).
84. The Green Belt to the west of Omega is open and free from development. The mitigating factors such as the presence of the Motorway and the adjacent logistics development do not alter the open character of the site itself. The development of an 81,560 sqm building at a maximum height of 41.6 metres and an outline building of 123,930 sqm building of up to 19m height, along with the associated hard-standing, infrastructure and associated traffic movements, would have a significant adverse impact on the spatial and visual openness of the Green Belt. It would be permanent development and it would generate significant activity (AKN at 4.17).

85. However, it must also be recognised that any logistics development in the Green Belt would impact on its openness (spatially and visually).

Harm to the Purposes of the Green Belt

86. Both the Appellant and the LPA agree with the findings of the GBR in respect of the impact of parcel 076C on purposes (a) – (c) of the GB.

Purpose (a) – To check unrestricted sprawl of large built-up areas

87. The GBR assessed parcel 076C to have a “medium” role in checking the unrestricted sprawl of a large built-up area because of the presence of the M62, the large warehouse development at Omega South, areas of woodland (west and south) and the Mersey Valley Golf Club (south west). The sub-parcel as a whole is therefore well contained to the north, east and in part the south and west (GBR p.354).

88. The LPA consider that this proposal would lead to the expansion of the Warrington urban area into the Green Belt of St Helens. The site is bounded by the physical boundaries of the M62 (north) and Omega Industrial Estate (east). However, the Application is a logical and obvious extension to Omega. There is no physical constraint and (in respect of Phase 1) no barrier nor physical boundary that would be breached. The proposed “green wedge” mitigation (north) together with the existing Booths Wood and the diverted Whittle Brook would (to a degree) contain the extent of the development preventing urban sprawl. The extent of the site would nonetheless compromise substantially the Green Belt purpose of checking unrestricted urban sprawl (AKN at 4.19 and 4.20).

Purpose (b) – To Prevent Neighbouring Towns from Merging

89. Both parcels 076 B and C are considered to have a “medium” role in preventing towns from merging. The sub-areas fall partially within a strategic gap between the towns of (a) Warrington and St. Helens and (b)

Halton and St Helens. The gap would be reduced but there would remain clear separation (GBR at p.355). Indeed, St Helens is off-set from Warrington across the M62. Further, the Committee Report concluded that the application would not cause towns to merge into one another, such that there was no conflict with this purpose (CD 35.1 at para 7.145).

90. AKN does not accept there would be “no conflict” (AKN at 4.21). AKN considers that the proposal would compromise the degree of separation between the western part of the Warrington built-up area and the southern part of St Helens to a small extent. There would, therefore, be slight harm to this purpose (AKN at 4.21).

Purpose (c) – Safeguarding the Countryside from Encroachment

91. The GBR considered that sub-area 076C had a “medium” role in safeguarding the countryside from encroachment because of the presence of large-scale built development at Omega South and the M62, which results in a moderate countryside character (GBR at p.356).
92. Sub-area 076B had a “high” role in safeguarding the countryside from encroachment because it retained a relatively strong sense of countryside character and openness as you move further east and south (*ibid*).
93. In this regard, there is a distinction to be drawn between the application site and sub-parcel 076B and C. The application site borders the M62 which invariably impacts on the countryside character of the land. Nevertheless, the assessment in the Committee Report concluded that the proposal would result in a significant encroachment into the countryside, the scale of which is significant (CD 35.1 para 7.146).

Purpose (d) – Preserving the Setting/Special character of historic towns

94. This purpose is not relevant to the application.

Purpose (e) - To assist in urban regeneration

95. The Committee Report concluded that the proposal did not assist in urban regeneration by encouraging the recycling of derelict and other urban land. Notwithstanding that there are no sites within the urban area that can accommodate this development, it concluded there was conflict with this purpose (CD 35.1 para 7.148). In contrast, AKN takes a different view (consistent with his evidence at PP1 and Haydock Point). In the absence of any suitable sites within the urban area, AKN concludes that the application site cannot serve the Green Belt purpose of assisting urban regeneration.

Summary of Impacts on the Green Belt

96. It is common ground that substantial weight should be attached to the harm to the Green Belt by reason of inappropriate development, harm to openness and harm to 3 of the 5 purposes of the Green Belt, in accordance with UDP Policy S1, GB1 and GB 2 and NPPF 144 (SoCG at 9.1). However, it must be recognised that such harm is the inevitable impact of the requirement of national policy and guidance to meet the critical need for employment land for logistics, which (in St Helens) must take place on previously undeveloped land outside settlement boundaries in the Green Belt.

Other Harm

97. It is agreed that there are aspects of other harm. The LPA acknowledges that there are differences in judgment about the level of the impact and the weight to be attached to such impacts. However, there is no disagreement about the conclusion on the planning merits. Accordingly, the LPA's

submissions to the SoS stand as a sensitivity test to the Applicant's assessment. On either analysis, consent should be granted (see SoCG at 1.6). Accordingly, the narrow differences in judgment are not addressed further. The LPA's case is set out in the Topic Papers and the evidence of AKN (at 5.43). The other harm can be summarised as follows:

- Significant harm would be caused to landscape character and visual amenity. The Application would not accord with CS Policy CAS 5(iii), CQL 4(i) and (iii), CP 1(i) and CP 2(iv) and the Bold Forest Park Area Action Plan;
- The application would cause a significant loss of natural habitat. On-site mitigation is proposed and secured by condition/s.106 agreement. However, this will take time to mature to a point where it provides equivalent habitats to those currently on site. The loss of habitat would be harmful to a moderate degree, particularly in the shorter term. The LPA does not identify any consequential conflict with policy;
- There would be harm caused to the setting of two listed buildings and the Old Moat. The harm would be "less than substantial" and NPPF paragraph 196 requires that such harm should be weighed against the public benefits of the proposal. Whilst the harm caused to the setting of the listed buildings is towards the lower end of the spectrum of harm, it should nevertheless be given significant weight against the proposed development;
- Subject to the recommend conditions, the noise effects of the proposed development would not have a significant effect on the amenity of the residents at the nearest residential properties and other sensitive noise receptors. However, some modest harm would be caused by additional noise;

- There would be no material harm to climate change (addressed fully below);
- There would be no exceedances of Air Quality standards in set DEFRA guidance. There would be no significant effect overall. Nonetheless, whilst the development would be policy compliant, there would be some harm that should be given very limited weight against the proposed development;
- The Application would result in a loss of 17.5 ha of BMV agricultural land. It is not considered that the proposed development would cause significant harm to high quality soils. The loss of agricultural land is an adverse impact to weigh in the balance;
- There is no harm to residential amenity by virtue of overshadowing, undue dominance, privacy, or the effects of light pollution; and
- The Application would add additional traffic onto local roads. Limited harm is likely to arise to be weighed against the Application. However, this needs to be considered in the light of the site's ability to access the M6 without any new road infrastructure and without having to pass through residential areas. This is a locational advantage of the Application site.

“Other Considerations”

98. The LPA firmly submit that there are “other considerations” which very clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal, such that very special circumstances exist (applying NPPF 144).
99. Such very special circumstances are considered to be “formidable” (AKN at 7.20) and comprise *inter alia* the following (set out more fully above):

- There is a significant need to address indices of multiple deprivation in some of the most deprived wards in the country;
- There is a need to address the specific employment land requirements of Home Bargains for a northern logistics hub;
- There is a need to address the objectively assessed need for more employment land, especially for logistics floorspace, especially on a very suitable site to meet the locational requirements of the market sector, adjacent to the highly successful Omega South which is at capacity, consistent with local and national policy and guidance;
- There is a lack of supply to meet the identified need on land inside the urban area, on previously developed land, on land outside the Green Belt and/or on Green Belt which will have a lesser impact on the GB or environmental impact;
- There is no alternative to development in the Green Belt, whether in St Helens MBC or WBC. The Green Belt boundaries have not been reviewed since 1983;
- The site is highly accessible to markets but also can be made to be accessible to a workforce by means of transport other than the private car (subject to s.106 contributions);
- There are no infrastructure constraints to the development of the site, which can be delivered in the short term;
- There are material direct, indirect and catalytic economic benefits of the proposal. In particular, the provision of jobs which match the skills base of those living in the areas of deprivation;
- There are social benefits to the proposal;
- There are modest environmental benefits to the proposal.

100. In these circumstances, the potential harm to the Green Belt by reason of inappropriateness and other harm which has been identified, is clearly

outweighed by the benefits arising from the Proposed Development (see AKN section 6). [SEP]

101. Further, the identified heritage harm is outweighed by the public benefits of the proposal (see AKN at 6.15 *et seq.*).
102. The LPA therefore conclude that the proposal complies with Green belt policy. The proposal therefore complies with UDP Policies S1, GB 1 and GB 2 and CS Policies CAS 5(i) and CSS (1)(ix). The proposal complies with the statutory development as a whole. Further, the proposal complies with the NPPF (Chapters 13 and 16).

CLIMATE CHANGE

103. This LPA (in common with the Government and adjacent LPA's) has declared a Climate Emergency. The SoS has, therefore, raised the issue of climate change.
104. Concerns about GHG emissions and climate change would apply equally to any road based logistics development (or any new development which would generate road based travel).
105. The Climate Change Act (CCA) 2008 came into force on 26th November 2008. The CCA imposed a duty on the SoS to ensure that the net UK carbon account for the year 2050 is at least 80% lower than the 1990 baseline⁸ (s.1(1)). The SoS has a discretionary power by Order (“*may*”) to amend this percentage or to provide a different baseline year (s.2(1)).
106. Before making such an order, the SoS must obtain and take into account the advice of the CCC (s.3(1)(a)). The CCC must publish its advice

⁸ As defined in s.1(2)

(s.3(3)). The SoS has amended the target through the CCA 2008 (2050 Target Amendment) Order 2019, which substitutes 100% for 80%. Accordingly, from 27th June 2019, there has been a duty on the SoS to ensure that the net carbon account for the UK is 100% lower than the 1990 baseline.

107. The CCA establishes the Committee on Climate Change (CCC) (s.32). Its membership is prescribed (sched 1). The CCC is under a statutory duty to advise the SoS on (a) whether the 80% target for 2050 should be amended; (b) if so: what the amended percentage should be (s.33(1)). The CCC must also give advice to the SoS on (s.34(1)):

- (a) The level of the carbon budget for the period (in the context of a duty on the SoS to set 5 yearly carbon budgets);
- (b) The extent to which the carbon budget should be met (i) by reducing the amount of net UK emissions of targeted GHG or (ii) by the use of carbon units;
- (c) The respective contributions towards meeting the carbon budget for the period that should be made by different sectors of the economy;
- (d) The sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget through reductions in emissions.

108. The CCC must also report on (a) the progress towards meeting the carbon budgets that have been set under Part 1 (the target for 2050); (b) the further progress which is needed; and (c) whether those budgets and those targets are likely to be met. The SoS must lay before Parliament a response to the points raised by each report of the CCC (s.36).

109. The Paris Agreement was signed in 2015 (and ratified in 2016). The Paris Agreement (PA) seeks to enhance and implement the UN Framework

Convention on Climate Change, adopted in 1992 (art 2(1)). It aims to strengthen the global response to climate change by *inter alia* holding the increase in the global average temperature to well below 2°C above pre-industrial levels and “*pursuing efforts*” to limit the temperature increase to 1.5°C above pre-industrial levels, recognising that this would significantly reduce the risks and impacts of climate change (art. 2(1)(a)).

110. Each Party must prepare and maintain successive nationally determined contributions which it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions (art 4(2)).
111. The Paris Agreement does not impose a legally binding target on each specific contracting party to achieve any specified temperature level by 2050 (per Supperstone J in *Plan B (and others) v SoS BEIS and CCC* [2018] EWHC 1892 (Admin) at para 30). Rather, it contains an ambition: to “*pursue efforts*” to limit temperature increases to 1.5°C above pre-industrial levels.
112. In the light of that statutory background, the LPA submit:
 - (i) The CCC have not suggested a moratorium on road based logistics development;
 - (ii) The SoS has not suggested (in any response to the CCC Reports) that there is a moratorium on road based logistics;
 - (iii) Reading NPPF 80 and 82 (Feb 2019), the Government continues to give significant weight to road based logistics development;
 - (iv) The NPPG (22nd July 2019) considers the delivery of road based logistics to be “critical”;
 - (v) *Decarbonising Transport* (March 2020) post-dates the amendment to the CCA 2008 target. It has been published in response to the climate

emergency. It does not set out a moratorium on road based logistics.

Rather, it commences a pathway to meeting that target;

- (vi) It is the *Transport Decarbonisation Plan* which will set out the policies and plans to tackle transport emissions from the logistics sector. It is due to be published in Spring 2021 (delayed from Nov 2020);
- (vii) It specifically addresses emissions from HGV's (at p.39). It does not suggest anywhere that road based logistics should be refused. Rather, it considers the solution to be the decarbonisation of vehicles to the answer, with associated benefits for AQ (see 3.3-3.10);
- (viii) The DfT recognise the benefits of international trade through shipping (95% of UK trade is via shipping), which is considered to be one of the most carbon efficient modes of transport (3.32). The DfT do not favour reducing international trade to address carbon emissions. Rather, they favour an international approach which aims for zero emission ships by 2050 (3.35);
- (ix) That emphatically does not suggest there is no legal duty to address climate change (cf PAG Closing at 11.2). Rather, meeting the mechanism for addressing climate is not inconsistent with the principle of development.

113. The answer to the challenges of climate change is not the refusal of road based logistics which are “critical” to the economy and which will result in more efficient movements of freight.

114. The LPA therefore submit that there is no “in principle” objection to this development on climate change grounds. Indeed, this was the conclusion of the SoS very recently in the Eddie Stobart Appeal (see CD 3.16 – SoS DL 40 and 44, MR 401/402 and AR 160-162). Precisely the same point was raised at this Inquiry and it was firmly rejected by the IR (AR 161)

and SoS (DL 40 and 44). There is no evidential basis on which to reach a different conclusion.

115. Further, there is no issue that the proposal is (or will be through the RMA) resilient to climate change and embeds suitable mitigation.

CONCLUSION

116. It follows that the proposal complies with the Development Plan (UDP policies GB 1, GB 2 and S2). The relevant policy test is the same in national policy (NPPF 143 and 144). It follows that the NPPF supports the grant of this proposal, which can be considered to be “sustainable development” and which should be granted “without delay” (NPPF 11).
117. It therefore follows that the LPA consider that this proposal should be approved, subject to conditions and the s.106 planning obligations.

GILES CANNOCK QC

Kings Chambers

6th May 2021