The Planning Inspectorate

Appeal Decisions

Inquiry held over 13 days between 12 October – 5 November 2021
Site visit made on 4 November 2021

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2022

APPEAL A
Appeal Ref: APP/Q4625/W/21/3273047
Land adjacent M42 Junction 4, Box Tree Farm, Hockley Heath, Solihull

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Applegreen Limited against the decision of Solihull Metropolitan Borough Council.
- The application Ref PL/2016/02754/MAJFOT, dated 23 September 2016, was refused by notice dated 25 February 2021.
- The development proposed is a motorway service area, associated highway improvement works and other associated infrastructure.

APPEAL B
Appeal Ref: APP/Q4625/W/21/3275290
Land adjacent Solihull Road, Catherine-de-Barnes, Solihull

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Extra MSA Group against the decision of Solihull Metropolitan Borough Council.
- The application Ref PL/2015/51409/PPOL, dated 30 June 2015, was refused by notice dated 12 March 2021.
- The development proposed is a motorway service area, associated infrastructure and landscaping, means of access including building and engineering operations and associated works to facilitate access to and egress from the motorway service area to the M42 (north and southbound) and an underpass beneath Solihull Road.

Decisions

1. Appeal A is dismissed.

2. Appeal B is allowed and planning permission is granted for a motorway service area, associated infrastructure and landscaping, means of access including building and engineering operations and associated works to facilitate access to and egress from the motorway service area to the M42 (north and southbound) and an underpass beneath Solihull Road at Land adjacent Solihull Road, Catherine-de-Barnes, Solihull in accordance with the terms of the application, Ref PL/2015/51409/PPOL, dated 30 June 2015, subject to the conditions contained in the attached Schedule.

Preliminary Matters

3. As set out above, two separate motorway service area (MSA) proposals on different sites were before the Inquiry. I have considered each on its own merits but to avoid duplication, have dealt with the two schemes together in my decision.

4. Both applications were submitted in outline form with all matters reserved for subsequent consideration except access. This remains the basis on which I have considered Appeal A. However, for Appeal B, full access details have not been provided due to recent changes to the M42 in the vicinity of the site. This arises from works to implement a separate development consent order (DCO) that will create a new Junction 5a. Detailed plans have been provided for some of the works to the motorway junction needed to facilitate the appeal proposal but some detail as to how the MSA would be accessed remains for subsequent consideration and so access remains a reserved matter[1].

5. The description of development used above for Appeal B reflects the change in circumstances since the planning application was made, removing the original reference to a new motorway junction. The proposal now involves utilisation of the motorway junction under construction as part of the DCO scheme, albeit with some alteration required.

6. The applications were both accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011[2] (EIA Regulations), including technical appendices and a non-technical summary. They cover a range of relevant topics, informed by a Scoping Opinion from the Council. Both were updated during the course of the lengthy planning application determination periods, the Appeal A ES with three addenda, and Appeal B some six addenda and 'Additional Environmental Information' (September 2021). I am satisfied that the totality of the information provided is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in reaching a decision.

7. National Highways were granted Rule 6 status in both appeals and took part in the Inquiry, producing a witness to explain and support its position on matters affecting the strategic road network (SRN), namely the M42, for which it is responsible. However, it did not oppose either scheme and was satisfied that the effects of either could be safely accommodated on the SRN, subject to appropriate conditions.

8. In addition, both appellants were granted Rule 6 status in each other's appeals and had the opportunity to test the opposing evidence.

9. On 9 November 2021, after the Inquiry had closed, the Environment Act 2021 was enacted into law. The parties were given the opportunity to comment on any implications for the current appeal proposals and their written responses were taken into account in reaching these decisions.

10. On 14 January 2022, new Standing Advice was issued by Natural England and the Forestry Commission dealing with ancient woodland, ancient trees and

[1] See Drawing 223839-ARP-ZZ-ZZ-DR-CH-01908 Rev P06
[2] Applicable under the transitional arrangements contained in The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

veteran trees. The parties were invited to comment on the revised advice in the context of the appeals and the responses have been taken into account.

11. The House of Commons Transport Committee published its Third Report of Session 2021–22, *Rollout and safety of smart motorways on 2 November 2021*. This document was considered by the parties and comments were submitted during the Inquiry. Subsequently, after the Inquiry had closed, the *Government Response to the Committee's Third Report* was published (12 February 2022). The main parties were invited to make submissions as to the implications of this document for the appeals and the responses received have been taken into account.

Main Issues

12. The main issues are:
    (a) the extent to which the development would harm the Green Belt and its purposes;
    (b) the effect on the character and appearance of the area, including landscape and visual effects;
    (c) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt harm

13. Both appeal sites are located wholly within the Green Belt between the Solihull/Birmingham conurbation and Coventry, known as the Meriden Gap. There is no dispute between the parties that the appeal proposals constitute inappropriate development in the Green Belt and that such development would be, by definition, harmful to it. Such proposals should not be approved except in very special circumstances.

Appeal A

14. Appeal A involves a site on the east side of the M42 which slopes steeply upwards away from the motorway, from which its open undeveloped grazing land is readily visible amongst other fields, woodland, trees and hedgerows. Whilst heavily influenced by the motorway and other highway infrastructure, there is a marked contrast between the countryside scene incorporating the appeal site and the large buildings and infrastructure associated with the Fore Business Park, along with the Blythe Valley Business Park and Monkspath, marking the urban edge of Solihull to the West. The motorway provides a clear boundary to the urban area from the open countryside beyond to the east, albeit that a narrow strip of undeveloped land stands between.

15. The gap between Solihull and the nearest settlement of Dorridge, along with Bentley Heath and Knowle is relatively small and consequently particularly sensitive to development which might reduce the open undeveloped nature of the land between these settlements. The appeal proposal would do just that, by breaching the existing boundary of the urban area of Solihull and introducing development into the undeveloped gap to the east of the motorway. The scale and nature of the proposals with their sizeable building, extensive earth works, bunding and infrastructure such as roads, signage and

lighting would have a very significant detrimental effect on the openness of this sensitive part of the Green Belt.

16. In response to concerns raised in the previous appeal decisions for a MSA at Junction 4, the proposed development would now be located very close to the motorway corridor, on excavated land to the west of a natural ridge, which previous proposals would have breached. However, this does little to address the concerns I have raised about the effect of the development, both spatially and perceptually. The extensive development would be seen as an intrusion to the countryside scene visible from the motorway, the country lane between settlements (Gate Lane), the opposing country park and from the public footpaths in the vicinity, not least the one that currently passes through the site. The proposed earth bunds would provide some screening but would themselves be alien in scale and nature, harming openness and appearing obtrusive even in the context of the motorway verges and banking. The proposal would be in stark conflict with the essential characteristics of the Green Belt, those being openness and permanence.

17. Additionally, the proposal would conflict with three of the five Green Belt purposes. It would not check the unrestricted sprawl of large built-up areas because it would extend the urban area of Solihull beyond the strong boundary formed by the motorway. The small strip of open land currently between the motorway and the urban edge would not alter this, being insufficient in width to meaningfully or perceptibly separate the urban area from the motorway and the proposed development.

18. It would not prevent neighbouring towns merging into one another because it would significantly reduce the sense of separation between the urban edge of Solihull and the combined settlements of Dorridge, Bentley Heath and Knowle. Whilst these settlements are not towns, reduction of their separation from Solihull would begin to give the impression that they are part of the urban area of Solihull, rather than smaller settlements surrounded by countryside and inset from the Green Belt. In turn, this would create a perception that the urban area of Solihull was moving closer to Coventry, diminishing the key strategic gap between the two large urban areas.

19. Finally, the scheme would not assist in safeguarding the countryside from encroachment. There can be no question that a development of the nature proposed would harmfully encroach into the countryside beyond the motorway and, indeed, this is accepted by the appellant.

20. The Council suggested that the development would be detrimental to local people wishing to access the countryside, on the basis that the footpath currently crossing the site would need to be diverted around the MSA. However, only a short stretch of the footpath would be affected, and the scheme would deliver additional footpath links, as well as the necessary diversion. This would include linkages that would facilitate circular walks and offer additional options for walkers. These additional links would more than mitigate the impact of the short diversion and in any case, access to the countryside beyond the MSA, where it is generally less affected by the motorway, would be maintained via the proposed diversion.

21. Overall, for all of the reasons I have set out, I consider that the harm to the Green Belt from Appeal A would be very considerable and I attach substantial weight to this harm.

Appeal B

22. Appeal B involves a site in the countryside between the small settlements of Catherine-de-Barnes and Hampton-in-Arden, both of which are inset from the Green Belt and surrounded by countryside. They are rural settlements that are spatially and perceptually separate from the main urban area of Solihull and Birmingham. The appeal site is currently in agricultural use and visible amongst other fields, woodland, trees and hedgerows from some locations, including the motorway and Solihull Road overbridge.

23. At the time of my visit, construction work to implement the Junction 5a DCO scheme was well underway, and the works will clearly be extensive, providing a new motorway junction with dumbbell roundabouts and a link road to the west. The appeal proposal would be accessed from this new junction, sit adjacent to it, and would be seen in the context of these extensive works.

24. The introduction of a substantial MSA, which would be somewhat larger than the Appeal A proposal, into undeveloped agricultural land would unquestionably harm the openness of the Green Belt. The scheme would introduce large buildings including a hotel, along with parking areas, earth works and associated infrastructure such as roads, signage and lighting. The scale and nature of the development would detract from this currently open part of the Green Belt.

25. However, the proposal would be located close to the motorway corridor and the new junction created by the DCO scheme and all that it entails. Whilst the DCO scheme is itself harmful to the Green Belt, the proposed MSA would be well related to it, and both spatially and perceptually separate from nearby settlements. It would be seen as part of the motorway infrastructure passing through the Green Belt rather than an extension of the urban area into the Green Belt. This is notwithstanding potential site allocations for development on the edge of Catherine-de-Barnes that might come forward as part of emerging Local Plan proposals.

26. The development would unavoidably conflict with the Green Belt purpose of safeguarding the countryside from encroachment, by proposing a large development in the countryside. However, for the reasons I have set out above, the remaining Green Belt purposes would not be conflicted.

27. The development would be at odds with the essential characteristics of Green Belt and cause significant harm to it by virtue of inappropriateness, loss of openness and conflict with a GB purpose. I attach substantial weight to this harm.

Green Belt harm conclusions

28. Much time was spent during the Inquiry discussing the Solihull Strategic Green Belt Assessment (July 2016) (GBA), a document commissioned by the Council as part of the evidence base supporting its emerging Local Plan. Having been published some time after the previous appeal decisions on both sites, it is a new material consideration.

29. The document seeks to assess the extent to which the land currently designated as Green Belt fulfils the essential characteristics and purposes of Green Belt. It is to provide a basis for more detailed assessment of Green Belt land within the Borough and the document is absolutely clear that it does not

seek to assess the development potential of land designated as Green Belt. It is a high-level assessment that considers Broad Areas and Refined Parcels within the Green Belt. Broad Areas relate to wider rural areas of land not located on the edge of or adjacent to large built-up areas. Refined Parcels relate to land adjoining or adjacent to built-up areas including inset villages.

30. For the purposes of individual planning applications, it would not be appropriate to rely on the assessment or any comparisons between the scores allocated to Broad Areas and much smaller Refined Parcels. They are very different in scale, the former potentially including some areas that are far more sensitive than others. The assessment itself is clear that the *Parcels and Areas have not been ranked and the inclusion of total and highest scores is for illustrative purposes only rather than to provide a comparator…*. In addition, the emerging Local Plan, its policies and supporting evidence base are yet to be fully examined or tested.

31. The potential pitfalls of applying the illustrative scoring to an assessment of these specific appeal proposals are aptly demonstrated by the contrast between my site-specific assessment above and the relative sensitivity ascribed by the assessment to the areas/parcels within which the appeal sites are located. For all of these reasons, I have found the GBA to be of little assistance in my assessment of the specific Green Belt impacts of the proposed schemes. Whilst I have had regard to it, I attach it little weight.

32. Overall, I conclude that both sites would harm the Green Belt. However, the Green Belt harm that would arise from Appeal B would be markedly less than for Appeal A. I will come on to assess whether the Green Belt harm in either case, along with any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development in due course.

Character and appearance

33. Both the appeal schemes have been subject to Landscape and Visual Impact Assessment (LVIA) using methodologies that are broadly in accordance with guidance contained within Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3). Both LVIAs consider the landscape and visual effects that would occur during the construction and operational phases of the respective schemes. With respect to operational effects, both LVIAs consider initial effects prior to the establishment of mitigation, and longer-term residual effects that would occur following the establishment of mitigation. The Council accepts the LVIAs accuracy, methodology and reporting and generally accepts the analysis and weighting of the findings.

34. The LVIAs undertake a general analysis of the landscape within which the appeal sites are located, making reference to the relevant National Character Area 97: Arden, and more local landscape character assessments and guidance contained within The Warwickshire Landscape Guidelines and Solihull's Countryside Strategy. They go on to assess the potential impacts of the appeal proposals on landscape and visual receptors.

35. Both schemes would involve a large development on currently agricultural land, requiring extensive excavation and earthworks that would change the natural topography of the sites and involve the removal of some trees and hedgerows. There would be significant change to the landscape as a result of the proposed

works, but extensive mitigation is also proposed in both cases. Remaining hedgerows would be enhanced, and new tree and hedgerow planting would take place, including areas of woodland planting, a key characteristic of the Arden landscape. There is general accord between the parties that the landscape effects of the development would not be significant when taking into account the proposed mitigation.

36. The same can be said for visual effects, and whilst individual professional judgements vary between witnesses, there is broad agreement that the sites are relatively well contained in the wider landscape. The only views of the appeal sites are likely to be from their immediate vicinity, with longer distance views prevented by topography, along with existing and proposed woodland and tree planting. In short, the effects would be extremely localised.

37. Views of the proposed developments would be possible in both cases from the M42, but drivers passing by would not be sensitive to the introduction of such motorway related facilities and are unlikely to be making their journey with the intention of enjoying the landscape views. In any case, they would pass the MSA sites very quickly and so a negligible effect on their experience of the landscape would result.

38. For Appeal A, there would clearly be a significant change for recreational users of the existing public footpath, which would be diverted around the periphery of the MSA, in contrast to the current route across an undeveloped field. That said, the experience of the footpath within the appeal site is not a particularly pleasant one at present, dominated by the sight and sound of the motorway. The proposed excavation of the site up to a natural ridge in the land would mean that the remainder of the footpath, far less affected by the motorway, would remain relatively untarnished. Users of the footpath would only be affected for a very short section and the experience of discovering the MSA would be in the context of the wider motorway infrastructure.

39. The most prominent views of the Appeal B scheme are likely to be from the new Solihull Road overbridge, which is being moved as part of the DCO scheme, and a further section would need to be raised to accommodate access to the proposed MSA. From the elevated level of the bridge, views across the MSA would be possible, particularly soon after completion of the works. However, extensive tree planting is anticipated and in 10-15 years' time this would have established to significantly reduce the views. Until that time, the scheme would be an obtrusive urban feature but it would be seen in the context of the motorway infrastructure, including the extensive DCO works.

40. Anyone making the journey between Catherine-de-Barnes and Hampton-in-Arden would not be expecting unspoilt countryside views, given the existing baseline and this part of the route is unlikely to be a notable point on a recreational journey, with or without the proposed development. The vast majority of receptors on the bridge are likely to be car drivers in the course of a journey, even if a footway is ultimately implemented.

41. The impacts of lighting within the appeal sites would also be evident during darkness and this would be readily apparent to people passing by the sites. Again however, the proposed landscaping, topography surrounding the excavated sites, and a suitable lighting specification would minimise these impacts so that they remain very local in effect. Furthermore, the sites sit

adjacent to the motorway with its associated lighting providing some context for that associated with the MSAs.

42. Given the scale of the proposals, there would be unavoidable landscape and visual impacts. However, the sites are both remarkably well contained, and the developments would be further screened and ameliorated in the environment over time, as landscape mitigation establishes. The proposed tree planting would provide an important screening function whilst reinforcing the landscape character of the area and providing a beneficial effect in terms of the landscape resource. It has been demonstrated that a suitable landscaping scheme is achievable for both sites, though the detail remains a matter open to consideration at the reserved matters stage.

43. Whilst the longevity of tree planting cannot be guaranteed, given the potential for disease for example, no firm evidence of any particular vulnerabilities in this area were identified and there is no reason to believe that the proposed and existing tree planting would not be effective. Conditions could also be imposed to support the provision and retention of planting.

44. Notwithstanding intentions within the Appeal B Design and Access Statement to make the MSA prominent from the motorway, both schemes would result in limited adverse impact in landscape and visual terms. The proposed excavation of the sites, landscaping mitigation and design of the buildings with their green roofs, would serve to limit the harmful effects of the developments. Much of the landscape and visual harm arising would occur for a short period of time and, after mitigation has established, would be much reduced. As such, overall, I attach limited weight to the harm arising in both cases, but as the schemes have regard to local landscape character and seek to mitigate their impacts and restore landscape features as far as possible, there would be no conflict with Policies P10 or P15 of the Solihull Local Plan (2013) (SLP). For Appeal A, there would be no conflict with Policy VC1 of the Knowle, Dorridge and Bentley Heath Neighbourhood Plan (NP), so far as it seeks to protect landscape character. For Appeal B, there would be no conflict with Policy ENV1 of the Hampton-in-Arden Neighbourhood Plan (NP).

Other considerations

Need

45. Department for Transport Circular 02/2013: *The Strategic Road Network and the Delivery of Sustainable Development*, sets out policy for the provision of roadside facilities on the SRN. It notes that MSAs and other roadside facilities 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. It goes on to recommend that the maximum distance between MSA's should be no more than 28 miles.

46. Based on this measure, there are currently 14 gaps in provision affecting this part of the SRN, some in excess of 60 miles. It is agreed by all parties that there is a clear and demonstrable need for an MSA on the stretch of the M42 between junctions 3a and 7. This stretch is located within the Green Belt and so, if the need is to be met, it is inevitable that Green Belt harm will result.

47. Both appeal schemes would fill the majority of the identified gaps in provision and meet identified needs. This matter weighs heavily in favour of the

proposals. Whilst both schemes would provide a significant benefit, the location of the Appeal B site is preferable in that it would fill more of the gaps in provision and provide a marginally greater level of safety and welfare benefits to the travelling public as a result.

Hotel

48. Appeal B includes a hotel, the need for which was questioned by Applegreen. This is relevant because the provision of a hotel requires a larger amount of development in the Green Belt than would otherwise be the case.

49. The need for a hotel in this location is not a strong one given the abundance of provision close by. However, I accept that there would also be very real highway safety and welfare benefits for the public in being able to stop and rest on long journeys without having to depart from the SRN in search of overnight accommodation. Benefits would arise for those who planned an overnight stop in advance of their journey and for those taking the opportunity of an overnight rest on entering the MSA. As such, the hotel is justified as an integral offering within the proposed MSA development.

50. The location of the hotel and the parking restrictions in place for its users would be sufficient to ensure that its primary purpose remains for the provision of safety and welfare benefits for road users, rather than a destination in its own right.

51. The additional Green Belt harm that results from the hotel weighs against the proposal but has been taken into account in considering the overall Green Belt harm arising above.

Highway safety and capacity

52. There is no objection from the Council, the Local Highway Authority or National Highways on highway safety or capacity grounds. The main impacts of the proposed MSA developments would be on the SRN, for which National Highways is responsible. Its witness confirmed that either scheme could be accommodated subject to suitable conditions. Despite this, attempts were made by the parties to compare the relative benefits and disbenefits of the two schemes.

53. Both appeal proposals require several departures from standard[3], which is not particularly unexpected or unusual when making alterations to a busy part of an established motorway. The need can only be met on a relatively short stretch of motorway and this is unlikely to be constraint free in the vicinity of existing junctions and infrastructure. National Highways has considered the required departures and granted approval in principle in all cases, meaning that they are acceptable subject to further detail to be considered at the design stage. Such approval would not have been forthcoming if an unacceptable highway safety risk would result.

54. There is no recognised methodology for comparing different highway schemes or their individual safety benefits/disbenefits. The bottom line is that National Highways, the experts in this field, have found either scheme acceptable in highway safety and capacity terms, so far as the SRN is concerned.

[3] Assessed against The Design Manual for Roads and Bridges (DMRB), DfT

55. I have had regard to the lengthy evidence addressing the various types of departure from standard and the mechanism used by National Highways to assess them. I have given particular attention to the deficient weaving length for Appeal B, which would be around half the 2km standard sought by DMRB but this is one of the departures considered by National Highways. I am also particularly mindful of the uncertainty around All Lane Running (ALR) smart motorways following the national pause in roll out.

56. Neither the planned conversion to ALR on this stretch of the M42 expected to be delivered by National Highways, or any conversion for the purposes of facilitating the Appeal B proposal can currently proceed. That said, the Government is clear that current data consistently supports the evidence that in most ways smart motorways are as safe as, or safer than, conventional motorways and so, subject to the outcome of the expected review, there is no reason to expect that smart motorways will not proceed in due course.

57. The paused roll out of ALR smart motorways until five years' worth of safety data is available for schemes introduced before 2020 will prevent the Appeal B scheme from being implemented until at least 2025 because that scheme is reliant on its access being provided from an ALR smart motorway. However, the current appeal is in outline and a significant amount of further work would be needed before implementation in any case, including the preparation of reserved matters applications and the discharge of conditions. Although the appellant had expected delivery of the appeal proposal by 2025, the Council accepts that a five-year timescale for the submission of reserved matters is appropriate having regard to the need to integrate with the DCO works currently under construction. A further two years would be available for implementation after the date of the last reserved matters approval.

58. As such, the outcome of any review following the pause in roll out is likely to be known well within the time frame of any planning permission granted. The delay to implementation and realisation of consequent safety and welfare benefits weighs against Appeal B to some extent but does not diminish the ultimate benefit or necessarily make the scheme undeliverable. There remains a good prospect that the scheme can be delivered and suitable conditions would ensure that it could only come forward in conjunction with a future ALR smart motorway scheme.

59. National Highways consider the two schemes to be comparable in SRN capacity terms in that both schemes could satisfactorily mitigate their impacts. In safety terms, National Highways consider that Appeal B is marginally preferable, in that it would close more gaps in services to under 28 miles. These conclusions appear entirely logical and I agree with them.

60. Concerns were raised about potential additional trips on the local highway network resulting from Appeal A, given its close proximity and relationship with local roads off the SRN. This is a matter considered by the detailed Transport Assessment and addenda, the scope of which was agreed with the Local Highway Authority (LHA) and the conclusions of which are accepted by it.

61. Whilst a different highways professional might take a different view about the appropriate study area, likely amounts of traffic and its significance, this does not render the work supporting the application unsound. It is a matter of professional judgement, in this case, verified independently by the LHA. There is, in my view, little likelihood that an MSA specifically built to serve the SRN

and signposted from it would attract significant amounts of local traffic, or encourage traffic from the SRN to divert to local roads such that the conclusions of the transport assessment would be materially altered.

62. No positive case of any particular issue on the local highway network or any quantified effect likely to result from the appeal scheme was put to the Inquiry that would call in to question the conclusions of the assessment work or the position of the LHA. It certainly cannot be argued that a highway safety issue would result or the residual cumulative impacts on the road network would be severe in the terms of the Framework.

63. Overall, I am satisfied that no material harm would result to highway safety or capacity on either the SRN or the local highway network. I find no conflict with Policies P7 and P8 of the SLP. So far as Appeal A is concerned, there would be no conflict with Policies T3 and T5 of the Knowle, Dorridge and Bentley Heath NP.

Future link roads

64. It was argued that the proposed northern slip roads forming part of the Appeal B proposals would compromise the potential for link roads between junctions 5a and 6 in the future. This can be dealt with briefly as there is no evidence of any firm plan for such link roads. The possibility was mentioned in the J5a DCO decision and in a, now superseded version, of the UKC Hub Growth and Infrastructure Plan (2018) but this has not been translated into any current policy or plan before the Inquiry. Even if the need for such link roads arose in the future, there is no evidence that the appeal scheme would compromise their deliverability, albeit that additional highway reconfiguration might be necessary as a result.

DCO impact

65. If allowed, Appeal B would require alterations to the DCO scheme shortly after its completion. This would cause additional disruption to road users but would be for a limited period of time, ultimately improving safety and welfare for road users. As such, I attach this matter very little weight, even bearing in mind the very substantial public cost involved in delivering the DCO scheme.

66. Similarly, the need to wait for substantial completion of the DCO scheme before implementing any MSA permission resulting from the appeal may cause the MSA to be delivered later than would be the case for Appeal A, meaning that it would take slightly longer for the safety and welfare benefits to be realised. However, the difference would not be so significant as to materially weigh against Appeal B.

Agricultural land

67. Both sites would result in the permanent loss of agricultural land as a result of the proposed built development. For Appeal A, the loss would solely comprise subgrade 3b land. For Appeal B, 4.7ha of best and most versatile (BMV) land (subgrade 3a) would be lost, in addition to some subgrade 3b land. The loss of agricultural land weighs against both schemes, and somewhat more against Appeal B given the loss of BMV land and its attendant economic and other benefits.

68. Policy P17 of the SLP seeks to safeguard best and most versatile agricultural land and only permit proposals where there is an overriding need for the development and insufficient lower grade land available. In this case, there is such a need for the proposed MSA and the appeal sites are the only sites before the Inquiry that could meet this need. As such, Appeal A does not conflict with the policy and Appeal B would only conflict were I to find the Appeal A site acceptable.

Ancient woodland

69. Both sites are located close to areas of ancient woodland. There would be no physical encroachment by either scheme on the ancient woodlands, though drainage would need to be installed for Appeal B and lighting columns, requiring ground works, would be very close to the woodland boundary for Appeal A. Neither scheme is able to provide the full buffer zone recommended by Natural England and the Forestry Commission as a means of avoiding adverse impacts, but for Appeal A, Gate Lane already provides a physical barrier from the substantive works and for Appeal B, works would not go beyond those already in progress as part of the DCO scheme. As such, the benefit of any such buffer being provided is significantly reduced. The potential effects have been considered and will be avoided as far as possible, for example using directional drilling for drainage installations and a sensitive lighting scheme.

70. Indirect effects on ancient woodland would result in both cases, including through harm to air quality within the woodland from additional vehicles and from additional lighting. These effects cannot be entirely avoided or mitigated given the nature of the proposals and the need for an MSA on this stretch of motorway at one of these appeal sites. However, the public safety and welfare benefits arising would be sufficient in either case to represent wholly exceptional reasons to grant permission, subject to a suitable compensation strategy.

71. The effects are likely to be limited in both cases and suitable compensation strategies are proposed, including management and enhancement of the existing ancient woodland. The necessary compensation could be secured by condition. For Appeal A, the appellant cannot directly improve or manage Monkspath Wood due to ownership constraints but only a small proportion of this ancient woodland is expected to be affected. In contrast, the whole of Little Monkspath Wood would be managed and enhanced following the development and this would adequately compensate the limited impacts on both areas of ancient woodland adjacent the site.

Veteran trees

72. There are two veteran trees on the Appeal A site which have been identified by the appellant and would be retained. Dispute exists as to whether two further trees, referred to as T1 (Oak) and T9 (Ash) are also veteran trees that might need to be protected with a suitable buffer zone, beyond the protection already envisaged. For Appeal B, veteran trees identified by the appellant would again be retained and dispute exists regarding one further tree (T6093), a second subsequently having been agreed to be dead or dying. This dispute again comes down to a matter of professional judgement, which has been exercised by experts for both appellants.

73. In relation to Appeal A, my own site visit observations support suggestions that the trees in question have suffered as a result of agricultural practices and waterlogged ground conditions. Neither tree was remarkable in terms of size (whether as a result of senescence or otherwise) or features, albeit that some were present, such as dead wood and missing bark. To my mind, such features are relatively commonplace and there was nothing to indicate that these trees are of exceptional biodiversity, cultural of heritage value.

74. Similarly, for Appeal B, whilst T6093 is an impressive and notable Oak tree of some size, the existence of some deadwood and storm damage does not persuade me that it is exceptional, being relatively commonplace features. Whilst not a veteran tree, it would nonetheless be protected during construction as a notable tree and this is sufficient, particularly in the context of the significant tree planting proposed as part of the development.

75. My findings are supported by the lack of any objection from the Council's arboricultural officer, Natural England or the Forestry Commission.

Ecology

76. Both proposals include measures to provide a biodiversity net gain in line with the requirements of the Framework and this could be secured by condition. A nominal target figure of 10% net gain was discussed, anticipating requirements in the Environment Act 2021 (which had not received Royal Assent at the time of the Inquiry), though attempts were made to demonstrate a net gain significantly beyond this figure.

77. It was argued that additional positive weight should be attached to the scheme providing the greatest net gain. That is not an approach I support, even if gains significantly above the minimum necessary are provided, which was the case in particular for Appeal B and accepted by its witnesses. Whilst a greater net gain is undoubtedly a good thing, it is not necessary to make the development acceptable in planning terms and so it cannot attract additional weight in the planning balance, or indeed be secured by condition or obligation.

78. The proposed condition to secure a biodiversity net gain suggested by both parties does not require a specific amount of net gain, given the lack of a specified policy requirement, but the evidence available demonstrates that a suitable biodiversity net gain is achievable in both cases[4]. Both schemes can meet the policy requirement of providing a net gain and this weighs in their favour. Appropriate conditions could ensure that all other ecological effects, including those on the River Blythe SSSI, are suitably mitigated.

79. The proposals accord with the requirements of Policy P10 of the SLP. For Appeal B, the proposals would not conflict with Policy ENV1 of the Hampton-in-Arden NP.

Heritage

80. There is one Grade II listed building in the vicinity of Appeal A, known as Four Ashes. It is a much-altered residential property located in the countryside, well removed from the appeal site and beyond a modern golf driving range with which it is now associated. Whilst the building undoubtedly benefits from its countryside location, its significance does not rely on extensive unaltered

[4] The provisions of the Environment Act 2021, requiring a 10% biodiversity net gain, are not yet enacted.

countryside views. If the proposed development were to proceed, glimpsed views, particularly of any lighting at night, might be possible from some angles. However, it would by no means become a prominent or intrusive feature, nor would it detract from the setting or significance of the building, which is largely comprised in its fabric and evolution. No heritage harm would result from Appeal A.

81. For Appeal B, the site is located very close to Walford Hall Farm, a Grade II* listed farmhouse and associated buildings. The heritage asset is currently surrounded by agricultural land and this is an important component of its setting as an agricultural complex, as well as a contributor to its significance. Whilst the M42 and its associated infrastructure have also become part of the buildings setting, the proposed development would introduce a large development in much closer proximity, significantly detracting from the rural agricultural landscape which currently surrounds the asset. There is no question that such an intervention would detract from the setting and significance of Walford Hall Farm and cause less than substantial harm, notwithstanding proposals for intervening tree planting, which would not be uncharacteristic in this landscape.

82. In considering whether to grant planning permission for development affecting a listed building or its setting, special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses must be had. Great weight should be given to the asset's conservation.

83. In this case, the buildings have been empty and unused for some time and appear to be in a very sorry state. In fact, their condition has deteriorated to such an extent that significant remedial works, including bracing of the building in several places, has been necessary. Historic England has raised concerns about the buildings over a prolonged period and supported recent planning and listed building consent applications for their redevelopment to offices. These applications were granted by the Council and remain extant, though the works have not been commenced and I was told that they were unlikely to be implemented in the absence of the proposed MSA development. I have no reason to doubt this given the long period over many years which the buildings have been deteriorating and bearing in mind the substantial cost that would be involved in undertaking the redevelopment works.

84. This is relevant to the current appeal because the proposed planning obligations would secure the redevelopment of Walford Hall Farm as a measure of mitigation against the harm identified to its setting. This would be a significant benefit of the scheme that would justify the harm to setting in itself. The Council accepts that a considerable heritage benefit would result to Walford Hall Farm overall.

85. I have given careful consideration to the view of Historic England that less than substantial harm would remain after mitigation. However, having regard to the heritage harm identified and having attached considerable importance and great weight to it, it is clear to me that the mitigation works proposed, which would prevent further deterioration or loss of the buildings, would provide sufficient public benefit to outweigh the less than substantial harm identified and provide a net heritage benefit for Appeal B that weighs in its favour. Even

if a degree of harm remained, this would be very limited and the public safety and welfare benefits arising from the MSA would easily outweigh it.

86. Hampton-in-Arden Conservation Area is located a short distance away from the Appeal B site but very limited views would be possible either from within it or towards it, particularly from public view points. Whilst the distant lighting and infrastructure might be glimpsed from some parts of the conservation area, this would be seen amongst the significant DCO works which have already altered the baseline conditions somewhat. Similarly, any views towards the conservation area would be from this baseline, looking towards the settlement, which stands separately in the countryside. It seems to me that the conservation area is best experienced from within or in close proximity to it. Views in the vicinity of the appeal site and the already existing motorway and DCO works are of little merit or significance. As such, I do not consider that the appeal site adds to the significance of the conservation area or that the proposal would detract from it.

87. Finally, in relation to Appeal B, the proposal would be located within the setting of a further agricultural complex known as Hampton Lane Farmhouse, identified as a non-designated heritage asset. Again, as an agricultural complex in the countryside, the surrounding agricultural land contributes to the setting of the buildings. Loss of some of this land to an MSA in close proximity would, therefore, detract from setting and significance. This harm weighs against the proposal and will be considered in the overall balance.

88. The proposals are in accordance with Policy P16 of the SLP. Furthermore, in relation to Appeal B, there would be no conflict with Policy ENV4 of the Hampton-in-Arden NP.

Other matters

89. Various other matters were raised by interested parties, including flooding and drainage, air quality, noise and vibration, impact on neighbours living conditions, littering, lighting and contaminated land. These matters have been sufficiently addressed by the appellants in their respective ES and evidence supporting the appeal. No significant adverse impacts have been identified that would materially alter the overall planning balance and impacts can be sufficiently mitigated, where necessary, by way of conditions. Whilst either development would become a noticeable addition to the local area, they would be sufficiently removed from residential properties such that no harmful impact would result to living conditions, particularly given the context of the site, close to existing motorway infrastructure.

Conditions

90. Both appellants agreed conditions with the Council to be attached to any planning permission granted. These were discussed during the Inquiry and amended so as to better meet the relevant tests for conditions contained within the Framework. I have imposed the conditions contained in the attached Schedule and have altered the agreed wording only to a limited extent, in order to further improve their precision and otherwise ensure accordance with the tests. The reason for each condition is also contained in the Schedule.

91. I have not included the extensive informative notes suggested by the Council and others in this decision as these would have no legal effect.

Planning Obligations

92. Planning obligations were submitted by both appellants and a CIL Compliance Statement was provided by the Council to explain how the obligations are said to meet the relevant tests of the Community Infrastructure Levy Regulations 2010.

93. For Appeal A, obligations would secure off-site environmental mitigation/compensation works such as tree planting, fencing, ecological enhancements and ongoing management, as well as the creation of footpaths. All of these obligations would be necessary for the reasons discussed in the main issues section above and have been taken into account.

94. For Appeal B, the obligations are contained in a deed dated 12 October 2018 and a supplemental deed of 3 November 2021. They include woodland and landscape management provisions, ecological enhancements and ongoing maintenance, including funding towards the Council's ongoing monitoring; the redevelopment of Walford Hall Farm in accordance with the extant planning permission and listed building consent; and off-site drainage works. These obligations are clearly relevant to the issues considered above. They are all necessary to make the development acceptable in planning terms and otherwise meet the requirements of CIL Regulation 122. As such, I have taken them into account in reaching my decision.

95. In addition to the above, obligations making provision for local employment, training, skills and business engagement, as well as a community liaison scheme are included for Appeal B. However, the Council accepts that these obligations are not necessary to make the development acceptable in planning terms. I agree, and as such, they do not accord with CIL Regulation 122 and I have attached no weight to these provisions in reaching my decision.

Planning Balance

96. The appellants in these cases raise detailed issues about a number of topics relevant to the opposing scheme, seeking to demonstrate the comparative benefits of their own proposal over that of their competitor. This was perhaps understandable given that no party argues that both schemes should be granted planning permission, one being sufficient to meet the need for an MSA on this stretch of the M42.

97. However, it is the main issues that are determinative in these cases. Whilst there would be limited harm to the character and appearance of the area in both cases, Appeal B would result in significantly less harm to the Green Belt and its purposes. The planning witness for Appeal A accepted that, if I were to find in favour of Appeal B on the main issues, the remaining matters would not support a decision contrary to that outcome. In short, the other matters raised are not determinative. I have found that Appeal B is to be favoured on the basis of the main issues, and considerably so. Nevertheless, I have gone on to undertake the Green Belt balancing exercise below.

Appeal A

98. For Appeal A, I have concluded that very considerable harm would result to the Green Belt and this attracts substantial weight. The effect on the character and appearance of the area, loss of agricultural land and harm to ancient woodland also weigh against the proposal. Matters in favour of the proposal

include meeting the identified need for MSA facilities with the resulting safety and welfare benefits for road users; economic benefits in terms of local investment and job creation; highway benefits in the form of improvements to the southbound diverge slip from J4 of the M42 and replacement of the existing motorway overbridge which is known to have structural defects; landscape resource benefits through additional tree and woodland cover; additional footpath links; and a biodiversity net gain. Whilst cumulatively these benefits are significant, they are not sufficient to clearly outweigh the harm to the Green Belt alone, and certainly not when considered along with the other identified harms. As such, very special circumstances have not been demonstrated and Appeal A fails.

99. I recognise that Appeal A could be delivered sooner than Appeal B and that its delivery would be more certain, given that it is not reliant on the M42 being converted to an ALR smart motorway. However, that does not make the scheme any more acceptable and does not materially alter the planning balance. Even if Appeal B does not ultimately deliver, Appeal A remains unacceptable on its own merits.

100. The proposal would be in conflict with the Framework and the development plan taken as a whole, particularly Policy P17 of the SLP. It would also fail to accord with Policy VC1 of The Knowle, Dorridge and Bentley Heath NP, so far as it defers to national policy and the SLP on Green Belt matters.

Appeal B

101. For Appeal B, I have concluded that significant harm would result to the Green Belt. Whilst the level of harm is somewhat less than for Appeal A, it is nonetheless an important consideration and attracts substantial negative weight. The effect on the character and appearance of the area; loss of agricultural land (including BMV land); harm to ancient woodland; and the effect on the setting of Hampton Lane Farmhouse also weighs against the proposal, as does the impact of the scheme on the DCO works to a limited extent. In favour of the proposals, would be the meeting of an identified need for MSA facilities and resulting safety and welfare benefits for road users; economic benefits in terms of local investment and job creation; landscape resource benefits through additional tree and woodland cover; a biodiversity net gain; and heritage benefits from the redevelopment of Walford Hall Farm. Cumulatively, these benefits are sufficient to clearly outweigh the harm to the Green Belt and all other harms, so as to constitute the very special circumstances necessary to justify the grant of planning permission.

102. The recently announced pause to the roll out of ALR smart motorways will likely delay delivery of the Appeal B scheme and could, if the outcome of the Government's review is unfavourable, make the planning permission unimplementable. However, it is the only MSA scheme that is acceptable in planning terms and that can meet the need on this stretch of motorway. As I have set out above, there remains a good prospect that the scheme will be able to proceed, and this is sufficient to grant planning permission subject to conditions which allow implementation only at a time when access can be achieved from an ALR smart motorway. This was the basis of the conditions discussed during the Inquiry and those agreed remain suitable.

103. The appeal proposal was under consideration by the Council for many years before it decided to refuse planning permission. Having established that the

proposal is acceptable, granting planning permission now, on the basis I have described, will ensure that the scheme can progress and deliver the expected public benefits as quickly as possible if and when the ALR smart motorway roll out recommences.

104. There would be no conflict with the Framework or Policy P17 of the SLP. Whilst safeguarding the Green Belt is an objective of the Hampton-in-Arden NP, it does not contain a specific policy restricting development in the Green Belt, instead deferring to national policy and the SLP. In light of my considerations above, impacts on the Green Belt are justified in this case.

105. The proposal is in accordance with the development plan taken as a whole and there are no material considerations that indicate a decision other than in accordance with the development plan. Consequently, Appeal B succeeds.

Conclusion

106. In light of the above, Appeal A is dismissed and Appeal B is allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Steel QC

He called:

Nicholas Wright BA(Hons) PGDip	Landscape Architect
Duncan Cartwright MEng (Hons) MCIHT	Managing Consultant, Atkins
Martin Saunders MSc PGDip MRTPI	Senior Development Officer
Lawrence Osborne PGDip MRTPI	Team Leader, Major Projects

FOR APPLEGREEN LTD (APPEAL A APPELLANT):

Christopher Katkowski QC
Assisted by Sarah Reid, Counsel

He called:

Nick Roberts BA (Hons) Dip LA CMLI	Director, AXIS
Jon Mason BSc (Hons) Dip LA CMLI	Technical Director, AXIS
Nick Anderson BSc (Hons) CEng MICE FCIHT	Regional Director, AECOM
Chris Allder MSc BTEC HN Dip CF	Associate Director, Barrell Tree Consultancy
David West MENV SCI (Hons) CENV MCIEEM	Associate Ecologist, Tetra Tech
Ignus Froneman B.Arch Stud ACIfA IHBC	Director, Cogent Heritage

FOR EXTRA MSA GROUP (APPEAL B APPELLANT):

Satnam Choongh of Counsel
Assisted by Christian Hawley, Counsel

He called:

Antony Bateman BA (Hons) TP MRICS MRTPI MCMI MIoD FRSA	Consultant, Pegasus Group
James Atkin BSc (Hons) DIP LM CMLI	Director (Landscape), Pegasus Group
Nigel Hailey BSc CEng MICE FCIHT	Director, Ove Arup & Partners
Johnny Ojeil MSc (Eng) FCIHT MCILT	Director – Ove Arup & Partners
Julian Forbes-Laird BA (Hons) Dip.GR.Stud MICFOR MRICS MEWI M.ArborA. Dip.Arb(RFS)	Co-Principal – Sylvan
Alistair Baxter BA (Hons) MA (Oxon) MSc CEcol CEnv MCIEEM	Co-Principal – Aspect Ecology
Robert Sutton BSc (Hons) MCIfA	Director, Cotswold Archaeology

FOR NATIONAL HIGHWAYS (RULE 6 PARTY):

Ruth Stockley of Counsel

She called:

Ben Simm MPLAN MRTPI MTPS	Spatial Planner

INTERESTED PERSONS APPEARING AT THE INQUIRY[5]:

David Cuthbert	Catherine-de-Barnes Residents Association and Hampton-in-Arden Parish Council
Councillor Ryan	Member of the Council

[5] CPRE registered to speak but later opted not to attend and instead rely on its written submissions

DOCUMENTS SUBMITTED DURING THE INQUIRY

INQ1	SMBC Opening Statement
INQ2	Extra Opening Statement
INQ3	National Highways Opening Statement
INQ4	Applegreen Opening Submissions
INQ5	Extra - 2009 Illustrative Layout Plan
INQ6	Historic England Email to SMBC 13th March 2020
INQ7	National Highways Email to Nick Anderson 15.05.19
INQ8	Inspection For Assessment Report
INQ9	Rep 4-010 Applicants Response to Examiniing Authorities 2nd Round of Questions
INQ010	Extra's Response to DCO Panel Group
INQ011	UK Central Hub - Growth and Infrastructure Plan
INQ012	UKC Web Extracts
INQ013	Forestry Commission & Natural England - Veteran Tress and Ancient Woodland
INQ014	Natural England Standing Advice
INQ015	Applegreen - Extract from Rackham Ancient Woodland
INQ016	Extra - Solihull Road - Engineering Cross Section
INQ017	SMBC - Bishops Stortford Civic Federation vs East Hertfordshire DC
INQ018	Extra - Lonsdale Extract
INQ019	SMBC - Local Plan Matters, Issues and Questions
INQ020	SMBC - UDP Green Belt Extracts 1997
INQ021	SMBC - UDP Green Belt Extracts 2006
INQ022A	Site Visit Itinerary 03.11.21 - Extra
INQ022B	Site Visit Itinerary 03.11.21 - Applegreen
INQ023A	Extra Draft Conditions
INQ023B	Extra Draft Conditions - Accompanying Plans and Drawings
INQ024	Applegreen - Final Draft S106 Agreement
INQ025	Applegreen - Final Engrossed Section 106
INQ026	Applegreen - Certificate of Title (superseded by INQ029)
INQ027	Extra - Note on Conditions
INQ028	Smart Motorway Report - Transport Select Committee
INQ028A	Applegreen Note on TSC's Smart Motorway Report
INQ028B	National Highways Note on TSC's Smart Motorway Report
INQ028C	Extra Note on TSC's Smart Motorway Report
INQ029	Applegreen Certificate of Title - Updated 02.11.21
INQ030	Extra - Draft Supplemental 106 Agreement (Supersedes EX0433)
INQ031	Extra - Ecology Note re Hedgerow Length
INQ032	Applegreen Draft Conditions
INQ033	Extra Draft Conditions - 03.11.21
INQ034	Extra - Final Supplemental 106 Agreement Signed 03.11.21
INQ035	Extra - Final Conditions
INQ036	Applegreen - Final Conditions
INQ037	Developable Areas Note
INQ038	Applegreen Appeal Decision - Shadwell Estates vs Breckland DC
INQ039	National Highways - Closing Submissions
INQ040	SMBC - Closing Submissions
INQ041	Extra - Closing Submissions
INQ042	Applegreen - Closing Submissions

DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED

INQ043	Applegreen - Signed S106 Agreement
INQ044	Applegreen's response on the Environment Act 2021
INQ045	Extra's response on the Environment Act 2021
INQ046	Applegreen's initial submissions on Government response on Smart Motorways to the Transport Select Committee
INQ047	National Highways comments on Government response on Smart Motorways to the Transport Select Committee
INQ048	Applegreen's second submission on Government response on Smart Motorways to the Transport Select Committee
INQ049	Council's submissions on Government response on Smart Motorways to the Transport Select Committee
INQ050	Extra's submissions on Government response on Smart Motorways to the Transport Select Committee
INQ051	Applegreen's submissions on updated Standing Advice from Natural England and the Forestry Commission
INQ052	Extra's submissions on updated Standing Advice from Natural England and the Forestry Commission
INQ053	Council's submissions on updated Standing Advice from Natural England and the Forestry Commission

Schedule of Conditions

1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

   Reason: Pursuant to the Town and Country Planning (General Development Procedure) Order (as amended).

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.

   Reason: Having regard to statutory provisions and in recognition that reserved matters will need to take account of the DCO works.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

   Reason: Having regard to statutory provisions.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (BIR.4229_41), Parameter Assessment Plan (BIR.4229_54D) and Proposed Parking and Access Plan (223839-ARP-ZZ-ZZ-DR-CH-01908 Rev P06).

   Reason: To ensure compliance with the approved plans and details, and to safeguard amenity and the quality of the environment in accordance with Policy P14 and P15 of the Solihull Local Plan 2013.

5) Any application for the approval of reserved matters shall be in general accordance with the principles embodied in the Illustrative Landscape Masterplan BIR.4229_55-B and design principles set out in the Design and Access Statement (June 2020) by the Pegasus Group on behalf of Extra MSA Group.

   Reason: To ensure a high quality development that integrates with the local context in accordance with Policy P15 of the Solihull local Plan.

6) Any reserved matters application in relation to the matter of access which includes the further raising of Solihull Road from that constructed as part of the M42 Junction 6 Improvement Scheme (within the section of Solihull Road identified between Point A and Point B on Plan 223839-ARP-ZZ-ZZ-DR-CH-02460 Rev P01) shall not exceed a maximum height along the centreline of Solihull Road of 115.86m AOD.

   Reason: To ensure that the footprint of any alterations to Solihull Road (within the section of Solihull Road identified on Plan 223839-ARP-ZZ-ZZ-DR-CH-02460 Rev P01) to facilitate the access to the development does not exceed that of the footprint of the M42 Junction 6 Improvement Scheme for the protection of Aspbury's Copse ancient woodland.

7) Highways works associated with the development hereby permitted shall not be carried out except in general accordance with the details shown on the following submitted plans:

223839-ARP-JN-XX-DR-CH-01101 Rev P04; (Option B scheme: Proposed Highway Boundary)

223839-ARP-ZZ-ZZ-DR-CH-01911 Rev P05 (Option B Scheme: Proposed Plan and Profile DCO Link Road)

23839-ARP-ZZ-ZZ-DR-CH-01910 Rev P05 (Option B Scheme: Proposed Plan and Profile Northbound Diverge Slip)

223839-ARP-ZZ-ZZ-DR-CH-01908 Rev P06 (Option B Scheme: Proposed Parking and Access Plan)

223839-ARP-ZZ-ZZ-DR-CH-01907 Rev P05 (Option B Scheme: Proposed Plan and Profile Segregated Left Turn Lane.

23839-ARP-ZZ-ZZ-DR-CH-01905 Rev P05 (Option B Scheme: Proposed Plan and Profile MSA Link Road

223839-ARP-ZZ-ZZ-DR-CH-01904 Rev P03 (Option B Scheme: Proposed Plan and Profile Southbound Diverge Slip.

223839-ARP-ZZ-ZZ-DR-CH-01903 Rev P05 (Option B Scheme: Proposed Plan and Profile Northbound Merge Slip.

223839-ARP-XX-XX-DR-CH-01125 Rev P02 (Option B Scheme: Proposed Cross Sections

223839-ARP-XX-XX-DR-CH-01113 Rev P03 (Option B Scheme: DHS-ALR Conversion J5-6 Signing Strategy for Planning Application (Post DCO))

223839-ARP-XX-XX-DR-CH-01112 Rev P02 (Option B Scheme: Proposed Cross Sections)

223839-ARP-ZZ-ZZ-DR-CH-01925 Rev P08 (Option B Scheme: Drainage Layout Overview)

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan.

8) No development shall commence until details of highway works, in general accordance with the approved highways plans as per Condition 7, have first been submitted to and approved in writing by the Local Planning Authority. The details shall include full layout, design and construction details of the permanent means of access to and from the site from the M42 motorway, including:

a) How the proposed works interface with the existing motorway alignment, details of the carriageway markings and lane destinations;

b) How the proposed works interface with the new junction 5a DCO scheme;

c) How the proposed works interface with the existing electronic system of traffic monitoring and management on the M42 motorway;

d) Full off-site highway signage details;

e) Full drainage details for any off-site highways works; and

f) Full planting and landscaping details associated with any off-site highways works.

The scheme shall thereafter be implemented in accordance with the approved details prior to the Motorway Service Area opening to the public.

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan.

9) No development shall commence until a programme detailing the proposed phasing has been submitted to and approved in writing by the local planning authority. The programme shall include details of the following phases and how they will interface with the National Highways M42 J5a DCO scheme and M42 J4-7 Smart Motorway (All Lane Running) schemes:

a) Initial site mobilisation;

b) Construction of north facing motorway slip roads;

c) Construction of segregated left turn from M42 Junction 5a into the MSA including the lifting of Solihull Road Bridge;

d) Construction of connection into DCO link road;

e) Construction of alterations to the DCO scheme's northbound diverge slip (if applicable);

f) Conversion of DHS to ALR on the M42 between Junction 5 and 6;

g) Development of the internal road layout, car parking, landscaping and buildings.

The scheme shall thereafter be implemented in accordance with the approved details, or where varied, as approved in writing by the Local Planning Authority.

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan.

10) No development shall commence until a temporary traffic management plan for the construction works has been submitted to and approved in writing by the Local Planning Authority. The traffic management plan shall thereafter be implemented in accordance with the approved details, or where varied, as approved in writing by the Local Planning Authority.

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan.

11) No development shall commence until a Construction Environmental Management Plan, to include a Construction Risk Assessment and Method Statement for each phase of the development has been submitted to and approved in writing by the local planning authority. These shall include details of:

a) the hours of construction work and deliveries;

b) area(s) for the parking of vehicles of site operatives and visitors;

c) area(s) for the loading and unloading of plant and materials;

d) storage of plant and materials used in constructing the development;

e) measures for ensuring that no mud, grit, dirt or other materials from the site is deposited on the SRN;

f) the responsible person (e.g. site manager/office) who could be contacted in the event of complaint;

g) mitigation measures in respect of noise and disturbance during the construction phase including vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;

h) a scheme to minimise dust emissions arising from demolition/construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;

i) waste management details - including the movement of vehicles associated with the recycling/disposal of waste resulting from demolition and construction works;

j) routeing of construction traffic during all phases of development;

k) protection measures for hedgerows and grasslands;

l) measures for the management of abnormal loads;

m) temporary lighting during construction;

n) temporary drainage during construction; and

o) details of stakeholder/public communications plan.

The approved Construction Method Statement for any phase shall be adhered to throughout the construction period of that phase.

During construction, no clearance of trees, shrubs or hedgerows shall take place during the bird nesting season (1 March-31 August inclusive) unless a nesting bird survey has been carried out by a suitably qualified person and the results submitted to the local planning authority. Should the survey indicate the presence of nesting species, then no development shall take place within 4 metres of the nests during the period specified above.

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan.

12) No development shall take place until a Charging Technology Methods/Alternative Fuel Statement (CTMAFS) for the development has been submitted to and approved in writing by the local planning authority. The CTMAFS shall include the details of the charging technology proposed or alternative fuel provision including the mix of slow, fast and rapid charging points; the means by which these will be powered; and full details, including generating and storage capacities, of any substation. The development shall be carried out in accordance with the approved CTMAFS.

Reason: To promote and provide facilities within the Motorway Service Area for low emission vehicles in accordance with Policies P7 and P8 of the Solihull Local Plan.

13) No development shall take place until a final surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall:

a) Maximise the use of measures to control water at source as far as practicable, to limit the rate and quantity of runoff and improve the quality of any runoff before it leaves the site;

b) The surface water discharge rate shall be limited to a maximum rate of 35l/s for all return periods up to the 1:100 year plus climate change critical storm event;

c) SUDS should be designed to accommodate the 1 in 100 year plus climate change critical storm event;

d) Allow for a continuation of surface water flows around the site boundary;

e) Ground levels shall be profiled to direct any exceedance flows away from the built development;

f) Include details of the performance of the SuDS system including the vortex control;

g) Include details of the adoption/ownership including maintenance and operation of the SuDS system in perpetuity of the development;

h) With the exception of the highway drainage system to be adopted as part of the M42 highway, the scheme shall ensure that the site surface water drainage system does not discharge water into the Motorway Drainage System.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with Policy P11 of the Solihull Local Plan.

14) No development shall take place until the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate opportunity for site research and recording in accordance with Policy P16 of the Solihull Local Plan.

15) No development shall take place until a Bird Hazard Management Plan for the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.

Reason: To reduce the potential for bird strikes at Birmingham Airport in accordance with Civil Aviation Authority advice.

16) Before the development commences a Crane Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the approved scheme shall be implemented in accordance with the approved details.

Reason: To safeguard the Inner Horizontal Surface at Birmingham Airport in accordance with DfT Circular 01/2003.

17) Before the development hereby approved commences a noise assessment shall be carried out, submitted to and approved in writing by the local planning authority. Such assessment shall include appropriate and representative monitoring to establish baseline day time and night time levels affecting receptors. A subsequent report shall be submitted in writing for approval by the Local Planning Authority that quantifies impacts and advises on noise mitigation measures (and other control measures and limits) necessary to ensure that the cumulative noise impact from the development is mitigated. Once a detailed layout for the hotel has been confirmed the report shall also report on glazing / ventilation requirements for this facility. All works shall be carried out in accordance with submitted plans and agreed control measures and shall be in place for the life of the development.

Reason: To safeguard the amenities of receptors and future users of the development in accordance with Policy P14 of the Solihull Local Plan.

18) Prior to the commencement of work on site, a detailed Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- works and safeguards to trees T414 and T299 .

- schedule of works to retained trees e.g. access facilitation pruning and details of all special engineering works within the Root protection area (RPA) and other relevant construction details.

All tree works must be carried out in accordance with the approved details and in accordance British Standard 3998: 2010 Recommendations for tree work (or subsequent revision).

Reason: To minimise disturbance to existing vegetation during development in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.

19) Prior to the commencement of work on site all existing trees and hedges except those agreed for removal, shall be protected by barriers as specified within BS5837. Details of the specifications and methodologies for tree protection measures, type of fencing and its siting, including a methodology for any proposed works that encroach within the root protection areas of retained trees shall be submitted to and approved, thereafter the tree barriers shall be implemented and maintained on site as approved during the construction period. The protected areas shall be kept free of all materials, equipment and building activity during the site development, and ground levels within the protected areas shall not be raised or lowered.

Reason: To minimise disturbance to existing vegetation during development in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.

20) No works or development shall take place until a scheme of supervision/site monitoring for the tree (landscape/ecological) protection measures and working practices during construction has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and may include details of:

- Induction, training and personnel awareness of arboricultural (ecological/landscape) matters to all construction personnel on site.

- Identification of individual responsibilities and key personnel.

- Statement of delegated powers.

- Phasing, timing and methods of site visiting, inspection and record keeping, including updates.

- Procedures for dealing with variations and incidents; and

- Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;

The scheme shall thereafter be implemented in accordance with the approved details.

Reason: To safeguard and minimise disturbance to existing vegetation during development in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.

21) No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

Reason: To minimise the effect and enhance the character of the development in accordance with Policy P10 of the Solihull Local Plan.

22) No development shall take place until an Environmental Management Plan that is in accordance with the approach outlined in the Planning/Environmental Statement, has been submitted to and approved in writing by the Local Planning Authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. The scheme shall include details of the following:

- The timing of the works;

- The measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution) including on the River Blythe SSSI;

- The ecological enhancements as mitigation for the loss of habitat resulting from the development;

- A map or plan showing habitat areas to be specifically protected (identified in the ecological report) during the works;

- Any necessary mitigation for protected species (Bats, Great Crested Newts, Birds and Badgers);

- Construction methods;

- Any necessary pollution protection methods;

- Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking.

The works shall be carried out in accordance with the approved method statement.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with Policy P11 of the Solihull Local Plan.

23) The development hereby approved shall not be commenced unless and until a Biodiversity Enhancement Scheme to ensure that there is a net gain to biodiversity as a result of the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include:

A) details of any enhancement measures together with a management plan for the provision and maintenance of such measures for not less than 30 years from the date of implementation and;

B) prescriptions to measure and monitor any biodiversity enhancements in accordance with the Defra Biodiversity Impact Assessment Metric;

The approved scheme shall be implemented in accordance with the requirements of the scheme or any variation approved in writing by the Council.

Reason: To ensure a biodiversity net gain in accordance with the Framework and in the interests of protecting valuable ecologically important land in accordance with Policy P10 of the Solihull Local Plan.

24) The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the local planning authority. Thereafter, the scheme shall be implemented in accordance with the approved details.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with Policy P11 of the Solihull Local Plan.

25) The development hereby permitted shall not be commenced until such time as a Carbon Management Plan has been submitted to and approved in writing by, the local planning authority. The Carbon Management Plan shall:

- identify appropriate, proportional and reasonable initiatives to offset the increase in carbon dioxide emissions arising from the operation of the development;

- include a programme and timetable for the introduction of the initiatives to offset the increase in carbon dioxide emissions from the operation of the Development; and

- report annually to the Council on its Carbon Management Plan Initiatives.

- include provision for the submission of a review every 3 years to the local planning authority for approval.

Reason: To mitigate and reduce the impact of the development in accordance with Policy P9 of the Solihull Local Plan.

26) No works to the slip road off the M42 adjacent to Aspbury's Copse, including any associated level changes works, shall take place until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

a) Removal of existing structures and hard surfacing;

b) Installation of temporary ground protection;

c) Excavations and the requirement for specialist trenchless techniques;

d) Installation of new hard surfacing;

e) Specialist foundations; and

f) Retaining structures to facilitate changes in ground levels.

Thereafter the approved scheme shall be implemented in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To minimise disturbance to existing vegetation during development in accordance with Policy P10 and P15 of the Solihull Local Plan.

27) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts (1) to (4) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part (4) has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

(a) human health,

(b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

(c) adjoining land,

(d) groundwaters and surface waters,

(e) ecological systems,

(f) archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agencys Model Procedures for the Management of Land Contamination, CLR 11.

(2) Submission of Remediation Scheme

Where necessary following (1) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part 1 of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part 2 of this condition, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part 3 of this condition.

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of any proposed remediation over a period of to be agreed, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority before the development hereby approved is first used or occupied.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Model Procedures for the Management of Land Contamination, CLR 11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P14 of the Solihull Local Plan 2013.

28) Prior to occupation, full details of all permanent and temporary external lighting of the site and highway access from M42 Junction 5a, will be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be implemented in accordance with the approved details.

Reason: To maintain the safe and efficient operation of the Strategic Road Network (SRN) in accordance with Policies P7 and P8 of the Solihull Local Plan and in the interests of ecology, character and appearance.

29) No part of the development hereby approved shall be used by the public until a Parking Management Plan has been submitted to and approved in writing by the local planning authority. The Parking Management Plan shall set out the measures which will be implemented to deter parking at the site by non-Motorway Service Area users for Events or other use. The plan shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the Motorway Service Area is not used for long stay parking for events in the wider area and in the interest of highway safety in accordance with polices P7 and P8 of the Solihull Local Plan.

30) Before the buildings are brought into use, a certificate must be submitted and approved in writing by the Local Planning Authority demonstrating the buildings associated with the MSA meet a 'very good' rating under the BREEAM (Building Research Establishment Environmental Assessment Method).

Reason: In the interest of sustainable development in accordance with Policy P9 of the Solihull Local Plan.

31) Prior to the occupation of the development hereby approved, a Landscape and Ecology Management Plan (hereinafter known as the 'LEMP') shall be submitted to an approved in writing by the Local Planning Authority. The LEMP shall include long term design objectives, management actions,

responsibilities, future monitoring and maintenance schedules for all landscape areas, wetlands and ecological areas (taking into account the protection of wildlife and their habitats as well as amenity).

The LEMP shall be carried out as approved for a minimum period of 20 years and no later than 1st October in each year following the planting of any trees, hedges or shrubs on this site in connection with the development hereby approved, the operator shall submit to the Local Planning Authority a written statement detailing:

a) the number, location and species of any trees, shrubs, hedge plants which have died, become diseased or seriously damaged in the preceding 12 months, and

b) proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following six months.

Reason: To enhance the character and appearance of the landscape in accordance with Policy P10 of the Solihull Local Plan.

32) Before the development hereby approved is first occupied a scheme for CCTV coverage for the Motorways Service Area shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented and maintained for the lifetime of the development in accordance with the approved details.

Reason: To reduce crime in accordance with Policy P15 of the Solihull Local Plan.

33) Before the development hereby approved is first brought into use a detailed scheme for the provision of litter and dog waste bins within the Motorway Service Area including a management scheme for the collection of litter across the development site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.

Reason: To minimise the effect of the proposal in the interest of the character and amenity of the area in accordance with Policies P14 and P15 of the Solihull Local Plan.

34) Before the development hereby approved is first occupied a scheme for storage of refuse for the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.

Reason: To minimise the effect of the proposal in the interest of the character and amenity of the area in accordance with Policies P14 and P15 of the Solihull Local Plan.

35) No part of the development hereby approved shall be used by the public until all parking spaces, internal access roads, turning and manoeuvring areas and footpaths have been constructed and laid out in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety in accordance with Policy P7 and P8 of the Solihull Local Plan.

36) Before the development hereby approved is first occupied an Air Quality Mitigation Plan shall be submitted to and approved in writing by the Local

Planning Authority. The mitigation measures shall be in accordance with strategies set out in the Environmental Statement to minimise air quality impacts. Thereafter, the plan shall be implemented in accordance with the approved details.

Reason: To reduce the impact of the scheme on air quality in accordance with Policy P14 of the Solihull Local Plan.

37) The development hereby approved shall provide at least the minimum requirements for a Motorway Service Area as defined in Table B1 and at least the minimum parking requirements as defined in Schedule 1 of Annex B of Department for Transport Circular 02/2013: The Strategic Road Network and the Delivery of Sustainable Development. This provision shall be maintained at all times once the site is operational.

Reason: In the interest of highway safety in accordance with Policy P7 and P8 of the Solihull Local Plan and to ensure that the development meets the requisite need.

38) There shall be no access or egress to or from the M42 motorway via Solihull Road at any time during the construction period, except for designated construction vehicles under such circumstances as have been defined within the submitted Temporary Traffic Management Plan.

Reason: In the interest of highway safety in accordance with Policy P7 and P8 of the Solihull Local Plan.

39) The facilities building shall have a maximum building height of 120.5 AOD at its highest point. The gross internal area for the facilities building shall not exceed 4,644 sq.m.

Reason: To ensure that the building integrates into the local landscape and is consistent with the visual impacts identified in the Environmental Statement in accordance with Policies P10, P14 and P15 of the Solihull Local Plan.

40) The hotel shall have a maximum building height 120.5 AOD at its highest point, a maximum of 100 bedrooms and the gross internal area shall not exceed 3,697 sq.m.

Reason: To ensure that the building integrates into the local landscape and is consistent with the visual impacts identified in the Environmental Statement in accordance with Policies P10, P14 and P15 of the Solihull Local Plan.

41) The fuel filling station shall have a maximum height of 113.75 AOD for the canopy for cars and 114.25 AOD for the canopy for HGV's. The ancillary forecourt sales building shall have a maximum height of 115.40 AOD and the gross internal area shall not exceed 440 sq.m.

Reason: To ensure that the building integrates into the local landscape and is consistent with the visual impacts identified in the Environmental Statement in accordance with Policies P10, P14 and P15 of the Solihull Local Plan.

42) The link building shall have a maximum height of 120.5 AOD at its highest point. The gross internal area of the link building shall not exceed 447 sq.m.

Reason: To ensure that the building integrates into the local landscape and is consistent with the visual impacts identified in the Environmental Statement in accordance with Policies P10, P14 and P15 of the Solihull Local Plan.

43) Any tree, hedge or shrub scheduled for retention which is lost for any reason during development works, shall be replaced with a tree, hedge or shrub of a size and species approved in writing by the Local Planning Authority and planted during the first planting season after its loss.

Reason: To maintain the character of the landscape in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.

44) The retail facilities within the development shall only be part of and ancillary to the principal use as a motorway service area. No retail goods within the retail outlets (within the Facilities Building and Petrol Filling Station kiosk) shall be sold other than: food and drink items; confectionary; newspapers and magazines; tobacco; books and maps; audio and visual media; non-prescription medicines and first aid items; flowers; gifts and crafts; toiletries; car accessories and motoring supplies; and travel accessories and any other items which cater primarily for the needs of the travelling public or otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the retail facilities only cater for the needs of the travelling public and they do not become a retail destination in their own right encouraging trips on the strategic road network in accordance with Policy P7 and P8 of the Solihull Local Plan.

45) Finished floor levels shall be set a minimum of 300mm above average surrounding ground level and 600mm above the 1 in 100 year plus climate change level on storage ponds.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with Policy P11 of the Solihull Local Plan.

46) Vehicle parking areas shall only operate in accordance with a parking time control regime as set out in DFT Circular 02/2013.

Reason: To ensure that the Motorway Service Area is not used for long stay parking for events in the wider area and in the interest of highway safety in accordance with polices P7 and P8 of the Solihull Local Plan.

End of Conditions