

FINAL REMARKS IN RESPECT OF THE A511 GROWTH CORRIDOR CPO AND SRO ON BEHALF OF LEICESTERSHIRE COUNTY COUNCIL.

Introduction.

1. The Inquiry in respect of the A511 Growth Corridor Scheme, hereafter the Scheme was opened by the Inspector on the 11th June 2024 and following the presentation of evidence on behalf of Leicestershire County Council and hearing briefly from one registered objector, was closed the following day after a site visit was held. Prior to closing the Inquiry, the Inspector indicated that he would be assisted by a formal written closing which set out the Council's case in summary form, which could be used to assist in preparing his report. This document, entitled Final Remarks is that written closing and it has been prepared with the intention of assisting the Inspector with his task.
2. At the Inquiry, the Inspector was informed that the position at the time the Inquiry was being conducted was that there was only one outstanding objection in respect of the Orders being considered. Although seven statutory objections in respect of the Orders had been made originally the Inspector was informed and the Inspector accepted the position in respect of the objections that had been raised. That position was that four objections had been formally withdrawn, namely those entered originally by North West Leicestershire District Council, Cadent Gas Ltd, Wilson Enterprise Ltd and Mr and Mrs Measures. The notice of withdrawal in respect of all four had reached the Inspector.
3. Two objections entered by Morrisons and Network Rail were at a stage where a withdrawal of objection had been indicated but that the formal notice of withdrawal had not yet been received. In respect of Network Rail, a time estimate of 5 to 10 days (from the 10th June) was given as the time required for them to complete that process after which it was anticipated a withdrawal of their objection would be capable of being notified. In respect of Morrisons, although the paperwork necessary to enable the objection to be removed had been sent by the Council on the 18th May 2024 no

response was received within the four weeks leading up to the inquiry to progress the matter. Subsequently negotiations did continue although no certain timescale was available to identify when that objection would be withdrawn. Accordingly, in respect of both of those remaining objections the position was not certain at the time the inquiry was held but the expectation was that both would be withdrawn if time were allowed to complete the process. It should be noted that in respect of both objections no specific evidence was presented to the Inquiry by either party beyond that originally submitted to support the objections. On being notified of that position the Inspector was content to allow time following the end of the formal part of the Inquiry for that paperwork to be completed given the importance of it as part of the overall consideration of the Orders.

4. That can be updated to the extent recorded in the letter sent by email to the Inspectorate dated the 16th July 2024. An addendum to these closing remarks has been prepared, as was indicated in that letter to inform the Inspector of the current situation. Given that final remarks should reflect the position at the time the evidence was completed, these final remarks have been prepared on that basis. The addendum has been prepared to bring the matter up to date as at the 16th July 2024 rather than altering the position as existed at the end of the inquiry. Hopefully that will be clear and given that the position related to Morrisons and Network Rail is self-contained it will not alter the understanding of the case.
5. In short that addendum will now only address the situation in respect of the objection raised by Morrisons. The other objector, namely Network Rail, having had time to consider the situation as advised by the Council, including the extension provided by the Inspector, has formally withdrawn the objection it raised. Accordingly, that objection can now be treated as being formally withdrawn with the Council agreeing to a set of documents which will enable the Scheme to proceed without delay and which fully protects the rights and responsibilities of Network Rail. Those various documents are identified within the letter of the 16th July and can therefore be considered to be before the inquiry itself.
6. The final and seventh objection was that raised by and on behalf of [REDACTED] [REDACTED] attended the inquiry, with members of her family and asked that her brother

speak on her behalf. Although present at the Inquiry and invited to take part by the Inspector their involvement was limited to responding to direct invitations from the Inspector to make their position clear. The Inquiry therefore presented at least three opportunities for the objection to be made and explained, namely when appearances were being invited, following a description given by Mr Randle as to the state of the objections and finally a specific request to make an opening statement to the Inquiry following the Councils opening statement.

7. At that time [REDACTED] was represented by her brother [REDACTED] who addressed the Inspector directly. Although that address by [REDACTED] was not followed either by cross examination of the Councils witnesses or the presentation of specific live evidence the Inspector was informed of the important points arising from [REDACTED] objection. That included a clear statement from [REDACTED] and I quote “*there is no objection to them* (meaning the Council) *taking the land*” but some form of land swap or replacement would be required. Although that statement should be treated with some caution given the nature of the process and the lack of [REDACTED] with it, it did represent a clear statement of affairs. Further comments as to the specific nature of the objection that will be addressed below.
8. The net result of that is therefore that of the seven original objections the Council understands that five (now including Network Rail) have formally been removed, one (on behalf of Morrisons) is most likely to be removed given time to complete confirmation of certain documents, leaving just the one objection from [REDACTED]. In respect of that last objection, which although remaining does not appear to be an objection to the Orders but rather seeking a resolution to matters that the Inquiry is not required to consider, namely compensation matters or perhaps accommodation works relating to items currently placed on the land. It would appear therefore that all the objections to the Scheme have in reality been withdrawn but the Council, adopting the cautious approach would ask that the first five be treated as withdrawn but with the remaining two to be addressed. The objection raised by [REDACTED] which was actually raised before the Inquiry will be addressed in these final remarks and will reflect the information presented to the Inquiry updated as anticipated to take into account a revised planning application on her land being presented to and validated by NWLDC. The second and final objection raised on behalf of Morrisons will be

addressed via the addendum added to these final remarks and will reflect the position as it stands as of the 16th July 2024 as indicated in the letter of the same date.

9. The final point to note in respect of the Inquiry, having identified the objections that have been entered is to formally record that following the full and complete notification of the Inquiry in accordance with the procedural requirements no new or additional objections had been brought forward and at the time the Inquiry was held nothing new or additional had been raised.
10. Accordingly, the Inspector opened the Inquiry and confirmed that position in respect of the objections to the Orders and conducted the Inquiry by hearing the Councils evidence either from live witnesses or by taking into account the written evidence presented on behalf of the Council from others. Only one objector actually attended the Inquiry, and even then, no one asked to be heard by the Inspector other than in response to a suggestion that an opening statement might be useful. The response to that being that the [REDACTED] family, through [REDACTED] did explain their concerns in a summary form which established their points to the Inspector.
11. Given that Statutory Objectors did raise objections and despite the fact that most objectors had withdrawn their objections, the Inquiry was held pursuant to the relevant procedural guidance. The Council confirmed to the Inquiry that prior to withdrawing their objections the Council met with the various objectors and was able to meet the concerns being raised without any adverse consequence for the Orders themselves. The Council was also fully engaged with [REDACTED] through a combination of different representatives. With the exception of the variation to the Scheme as set out in the proposed modifications, principally in respect of plots 005, 006, 040, 041 and more latterly 019, no other alterations to the Orders were or are required.
12. The Council did confirm to the Inspector at the Inquiry that none of the matters agreed with the various objectors would give rise to any difficulty in pursuing the Orders and nothing created an impediment to the Orders being brought forward.

13. Having set those matters out by way of introduction these final remarks will concentrate on those matters relevant to the assessment that has to be undertaken. In so doing they will not seek to address the objections that having been made have been withdrawn. One of the purposes of the closing remarks is to seek to set out the position of objectors and to explain from the Councils point of view why they should not be accepted. There is no requirement for that to take place in circumstances where the objections have been withdrawn and so I can deal with the objector's position very shortly.

The Objections.

14. Seven Objections were made but given that five have been withdrawn (which includes the one from Network Rail) there is no need to be deal with those five beyond a recognition of the position that there is no longer an objection to be addressed. Although one formal objection remains that does need to be dealt with and another where the paperwork necessary to lead to it being withdrawn has unfortunately not been completed in a final form, there is one matter that can be addressed initially. There is one very significant consideration which arises from the withdrawal of the objections as well as considering the basis of the two which remain, which is directly relevant to the decision that has to be made and for that reason I need to set it out in these final remarks.
15. The nature of the objections, despite the fact that nearly all of them have been withdrawn, need to be taken into consideration to the extent that they identify what was not being objected to. The objections, including those that still remains, did not challenge the need for the Scheme, or the advantage it would bring in seeking to address the various objectives underlying the proposals. The objections did not challenge the traffic justification, they did not question the benefits that would arise, they did not question the route as selected or the design approach. There is nothing within the objections as drafted which raises any such concerns in fact in respect of each of the objectors the need for the Scheme and the benefits arising from it would appear to be recognised and accepted.

16. The agreements reached with those various parties by the Council, which led to their objections being withdrawn, has not changed the Scheme as proposed to any material degree, other than in respect of plots subject to the modifications. That indicates the proper approach to the consideration of the use of a CPO, where it is promoted in the form anticipated to be capable of confirmation but if the opportunity exists to improve it and have less impact, that change should be followed. NWLDC's suggestion of a different location for a compound, resolved the issue with them but it did require a different location being made available which NWLDC has done. In respect of plot 019 a further consideration of the approach to be followed in respect of the construction of the Scheme, at a greater level of detail and with revised landscape ambitions, resolved the need to acquire that plot. Finally, a more detailed examination of the potential to use the existing highway lands meant plots 040 and 041 were not required. That is a perfect example of the process working properly whereby a Scheme with its anticipated needs is brought forward but with the willingness of the promoter to fine tune it where appropriate to seek to meet the legal test for the use of such powers. Accordingly, even though changes have been made to meet specific points none of the objections raised attacked the fundamental need for the Scheme or the means by which it was to be pursued.
17. In so far as such matters can be judged by reference to the objections raised that can be taken, therefore as a clear indication that the Scheme is in the right place to meet its ambition. It is successful in meeting its objectives and it has done so in the most appropriate way. The fact that none of the objections raised any such challenge is something that should be recorded and will need to be taken into account.
18. Having set that out I can say that there is no need to consider five of the seven objections any further given the fact they were withdrawn; although the two remaining objection will be addressed below in the context of the statutory tests to apply to the use of the CPO powers. What remains, given the guidance in the relevant procedural rules, is for the Inspector to be satisfied that the Orders which the Council has brought forward meet the relevant tests. The fact that an Inquiry would not have been required if the objections had not been made or if they had been withdrawn at an earlier stage, although relevant is not the answer. The Council accepts that the

Inspector still has to carry out the same exercise in respect of the justification for the proposals.

19. The Council welcomes the pre-inquiry note issued to the Inquiry by the Inspector, including as it did reference to the “Statutory Tests” and that will be used to inform these final remarks. However, before turning to those tests there are a number of matters that need to be addressed. These are first to identify the Orders, secondly to identify position in respect of the planning permission and thirdly to identify the Councils case for the Scheme, including dealing with planning matters.

The Orders.

20. There are two orders before this Inquiry, and they consist of the following: -

The Leicestershire County Council (A511 Growth Corridor) (Side Roads) Order 2023; the “SRO”

The Leicestershire County Council (A511Growth Corridor) Compulsory Purchase Order 2023; the “CPO”.

21. Those two Orders, with their specific titles are drafted in the appropriate technical language required to meet the provisions of the applicable forms and Statutes. In respect of all such Orders there are specific technical steps that have to be complied with and specific forms to be followed. The Council, as promoters of the Orders, has confirmed that all necessary statutory procedures and formalities have been complied with and that the relevant requirements have therefore been met; see ID 3.

The Planning Position.

22. In providing closing remarks for a case of this sort, reference would often be made to the Planning Permission, given that is what underlies the Scheme itself and provides the justification for the use of the CPO and the SRO. On this occasion, it is more accurate and more helpful to describe the Planning Position given that consent for the proposals arises not only from a specific planning permission but also from the use of other powers available to the Council.

23. In this case there is the planning permission granted following the application made, along with a separate and additional section 73 change to that permission. There is no need to set out what that may mean as a technicality given that it is the stated intention of the Council to undertake the development to reflect the planning permission with the section 73 changes in place. Those changes were limited in overall extent but were significant in effect as it led to a change to the drainage system to be adopted as part of the Scheme. Those changes reduced the land take necessary as well as providing a better and more efficient proposal at substantially less cost. In addition to that permission there is to be reliance placed upon the use of permitted development rights to enable other works to be undertaken.

24. In these closing remarks the term planning consent will be used to reflect that which is contained within the overall planning permission as well as incorporating the matters to be undertaken relying upon the permitted development rights.

25. The use of permitted development rights was considered fully by the Council to ensure that it would adequately cater for the situation and to allow for the works intended. That required the assessment of a level of detail for the works outside the planning permission and that was carried out to ensure that no difficulty would arise. The use of such powers is explained fully in the evidence of Ms A Carruthers in section 3.26. In short, the powers contained with Schedule 2, Part 9 Class A of the GPDO permits the carrying out by a highway authority, which LCC is of the following: -

“on land within the boundaries of a road, any works required for the maintenance or improvement of the road; or

On land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.”

26. Those powers are quite extensive but are not unlimited and they seek to ensure that the works envisaged operate within the boundaries of the existing road or adjoining it. All relevant requirements that arise for consideration under the use of the GPDO

powers were considered and having been considered the decision was made to proceed and make use of those available powers.

27. No objection has been raised in respect of the use of permitted development rights and no challenge has been made to the use of them by the Council. There are no further considerations which arise in respect of that factor.
28. As such it is clear that all the authorisation required to ensure that the relevant planning consent exists for the Scheme is made out. The requirements arising under Circular 2/97 Department of Transport Note on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks, is therefore met.
29. Before turning to summarise the Council's case in respect of these Orders there is one further matter that needs to be addressed. It is an important feature especially given the nature of what has been done and the confidence with which the witness responsible is inviting us to give to the results. That is the transport case. That has not drawn much comment either before or during the consideration of the Orders before this Inquiry. There is therefore the possibility that it will not be given the weight that it is due as part of the consideration of the Orders. The traffic case was made in documents supporting the planning application and it was considered as part of the assessment of the planning applications themselves. It did not need to be dealt with to the same degree when considering the use of GPDO powers but the relevance of it is obvious. Given its obvious relevance and potential significance it does need to be referred to.
30. In respect of all highways schemes it is customary to prepare and then present traffic and transport information in relation to what is proposed. Best use is made of the information available to build what is required so that the potential consequences arising from a road proposal can be identified, analysed, and thereafter explained to the decision maker. It is rare where the events conspire in such a positive way so as to allow us to make the claim that can be made before this Inspector at this inquiry,

31. There was a pre-existing traffic model that was available. That model is in the course of being updated with more recent information. That information covers the period following Covid-19 and the effect of that and other changes such as price rises and such like. It is without doubt a period where changes are being felt, information has and is still being gathered and thereafter analysis being carried out. As Mr Dazeley described it, we have a huge amount of information that needed to be taken into account. Mr Dazeley's solution was to acknowledge the existence of that additional information and the limitations offered by the current model and so building a new model for assessing the effects of this Scheme was appropriate.
32. The excitement in Mr Dazeley's voice in describing what had taken place, the "match" that he was able to achieve comparing the results from the model when assessed against real life and therefore the use that it could be put to must have been apparent to all. I think it fair to say that the traffic information presented to the Inquiry was of the highest possible quality and not only can they be relied upon as such but great confidence in the results is possible. That might have emerged even more strongly if anyone had thought it necessary to question or challenge the results. The fact that challenge never came should not mean that the weight to be given to that information is diminished in any way. The traffic case is sound and convincing.
33. Section 9 of Mr Dazeley's evidence describes the situation. Having described why a model was required he presented to the inquiry the forecast situation both without the Scheme and then with it, before describing the benefits which arise in financial terms.
34. Without the Scheme as population and employment grow traffic growth will continue to the east of Coalville on the A511 in the direction of the M1 motorway. There will be increases in journey times, increases in the congestion being experienced and additional delays with stationary traffic and although not a traffic point that will add to pollutants. Key junctions which are currently experiencing delays will only get worse with increasing queues and related consequences. That is the current scenario getting worse overtime which will make local conditions worse, will prevent the ambitions related to the Growth Corridor from being met and will fail to provide any benefit in the context of the objectives set out for the Scheme.

35. In highway terms what is proposed by the Scheme (which is the whole package of changes proposed) is not what might be regarded as being a major intervention. It after all is the alteration of one roundabout, the addition of a new Link Road into that roundabout with a few hundred metres of road to connect with the Spine Road of the development to the south and some additional changes and alterations within or adjoining the current highway. In new highway terms it is not the biggest Scheme that has ever been promoted.
36. The effect of the Scheme, drawing upon the information provided by Mr Dazeley as a result of the incorporation of the new information into the ASTM, shows a changed situation which perhaps outweighs the nature of the route. It is the creation of the new connection to the A511 which unlocks that potential and the relatively minor changes at the various road junctions which allows the traffic to flow. It is a Scheme where the benefits can be clearly identified and relied upon with confidence to inform the judgment being made. If the Scheme is not pursued, which will only occur if the Orders are not made, then that opportunity and effect will be lost.
37. In Mr Dazeley's assessment, based on the up-to-date information he told us about, the Scheme will reduce travel times and delays in and around Coalville and beyond. The Scheme is forecast to transfer traffic from less suitable roads onto the main road, the MRN and reduce overall vehicle distance by shortening the road distance between southeast Coalville and areas to the north and west via the A511. The capacity improvements along the A511 and A50 will result in a reduction in end-to-end journey times and will also improve journey time reliability by reducing congestion. The Scheme will reduce conflicting movements at various junctions with enhanced safety implications and accidents are expected to reduce due to reduced use of the less suitable smaller roads. The additional and consequential benefits for both pedestrians and cyclists via the new pedestrian crossings and the facilities on the Link Road would also be achieved.
38. That will lead to financial benefits which have been assessed and are recorded in Mr Dazeley's evidence and when taken into the overall assessment indicate a positive BCR in the medium to high value for money category.

39. It was worth drawing that information out as part of the overall Scheme assessment as it is a very positive picture to paint. The concern, given the lack of any challenge to it is that the significance of it might otherwise have been missed. From there it is possible to move onto the Councils case but in so doing it should be born in mind that the information just discussed relating to the traffic implications are an essential part of the Council's case and underlies much of the case being made to promote these Orders.

The Councils Case.

40. Having set out the various matters above including the introductory comments, the identification of the position in respect of the objections, the Orders and the planning position, the Councils case can be summarised quite shortly.

41. The Council's ambitions and responsibilities for the area including and around Coalville arise from the coming together of a number of different factors. In strict highway terms there is the need to cater for current and future local traffic movements but to do so on a road system which has national and regional significance in addition to its local use. The current A511 is part of a local road network, catering for local traffic, it is part of the recently created Major Road Network (MRN) and it connects two elements of the Strategic Road Network (SRN) comprised of the A42 and the M1 Motorway. The current A511 is therefore a significant part of the highway network and must cater for all varieties of traffic movement from the purely local through to the strategic.

42. In addition, Coalville is an established location with a significant local residential population where employment opportunities exist. The provision of part of the current A511 in the form of a bypass around the main town centre is a recognition of that situation. The need for that coincided with the growth of the area where according to the North West Leicestershire Economic Growth Plan Evidence Base 2022 – 2025 (document LP11) in the past ten years the district's population has increased by 11.9%. That percentage increase is greater than any other rate of growth within the

district, it exceeds that for the East Midlands region, which stands at 8% and dwarfs the national figure for Great Britain as a whole at 6.5%.

43. Coalville and its environs are therefore located within an area where growth has occurred, along with the inevitable traffic growth, but the ambition is for that growth to continue. It is no coincidence that the Scheme before this Inquiry is entitled the A511 Growth Corridor proposal as that reflects the ambitions for the area with more development coming forward.
44. Those ambitions, which as Mrs Portsmouth identified in her evidence, are fully recognised within the operative Development Plan for this location. The Development Plan for the location where the Scheme is being promoted is comprised of the 2021 NWLDC Local Plan (as amended by the Partial Review which did not alter the support it presented for the proposals, see document LP3) and the Hugglescote and Donington le Heath Neighbourhood Plan (LP14) dated 2021. Although the inquiry does not need to explore the planning policy in detail, given that the planning consent exists, it is pertinent to the fact that the Orders before this inquiry are needed to bring it forward.
45. The Local Plan details the requirement for a minimum of 9620 dwellings and 66ha of employment land over the plan period 2011 to 2031 in policy S1. Policy S2 thereafter identifies the settlement hierarchy which is intended to achieve that level of growth within the locality. The approach adopted is to direct most of the growth to the settlements identified as being higher up in the settlement hierarchy and Coalville is identified as a principal town to take such growth given that it is the District's main town.
46. The Local Plan allocates a significant level of residential development to Coalville along with employment growth and in so doing the Local Plan recognises that it is anticipated that additional highway network capacity will be required along the A511 Growth Corridor to accommodate the growth envisaged.
47. In addition, the NWLDC Infrastructure Delivery Plan (LP2) acknowledges the excellent strategic road access and connectivity outside of the District that exists. The

road network provides access to various cities both locally and further afield as well as for local industry of significant importance such as the Bardon Hill Quarry, which is a nationally significant quarry and aggregate business.

48. The location of the Scheme is near the centre of an area known as the “Golden Logistics Triangle.” This is an area comprising around 289 square miles that is renowned for its high density of distribution facilities. According to the Office for National Statistics this triangle is within a four-hour drive of 90% of the British population, which makes it an ideal location for goods distribution around the country. That significance is not showing any signs of reducing given that the ONS report that following Covid-19 and the exit from the EU that the rise of transport and storage has accelerated in the past two years.
49. Given those circumstances it is not at all surprising that the level of use of the highway network in this location is substantial and that there are times where the network is congested with all the adverse consequences that can bring. Given the continued ambitions to add to that level of usage, as the ambition for continued growth is met, that will only get worse. The alternative is that the road conditions will create a situation where the growth cannot come forward which will frustrate the adopted ambitions for the area as set out in the planning policy documents supported by the Council’s own transport plans.
50. The choice is therefore to seek to do something to ensure that the advantages arising from continued growth can be achieved or to call a halt to it and neither deal with the current level of problem and congestion and certainly frustrate any future ambition.
51. There has not been a single voice raised that the Council should pursue a no change option with matters being left as they are. The concerted view, which reflects the fact that the Council’s plans are well known and have been in existence for a considerable period of time is to seek to address the problem. That, as is envisaged in the planning policy document, included the addition of highway capacity to provide for the needs which currently exist, and which will only get worse overtime, or which will frustrate development from coming forward. That was the choice made by the Council.

52. It was not made, however without first considering the options available. As long ago as 2008 the Council along with NWLDC jointly commissioned studies to aid the understanding of the causes of the traffic problems in and around Coalville and Ashby and to identify measures to deal with them to enable growth to continue. Further work followed, including the commissioning of further studies, which are referred to in Ms Carruthers evidence. That work included the commissioning of SYSTRA Ltd in 2016 to develop a robust evidence base to support improvements to the A511 Growth Corridor in order to enable economic regeneration of the area and to facilitate new housing and employment opportunities to arise.
53. The end result of that work was then, not to adopt a single proposal, but to identify potential interventions that might be considered further. A total of 28 such interventions were identified (see OAR Document SA6) which were examined against the Scheme objectives and the end result of that was the selection of the option which ultimately became the Scheme before this Inquiry and for which the necessary planning consent has been achieved.
54. Following that whole process, which is described in detail in the information before the Inquiry the Scheme was selected as the option to pursue to best meet the various requirements that had been identified.
55. The current use of the road and its significance as part of the road network in this part of the county has been recognised for a considerable period of time. The Council's attitude towards the need for some action in respect of it has been supported by NWLDC, is recognised within the Development Plan and is an essential element of the various transport related plans adopted by the Council.
56. Without the intervention proposed the traffic modelling work that has been undertaken throughout the development of the Scheme (initially in the OBC in 2019 but confirmed more recently as described by Mr Dazeley) indicates that several of the junctions along the A511 were operating at or near to their capacity. Without intervention that will inevitably worsen, and conditions will get worse and or the growth ambitions will be frustrated.

57. The cost to the local economy of the resulting congestion will be exacerbated by the level of traffic growth resulting from the provision as set out in the Development Plan with the adverse consequences that will have for local residents, those seeking to use the road as well as the continued success of the area as part of the Golden Logistics Triangle.
58. Traffic counts collected by the Council using ATC demonstrates how the A511 is a key strategic and logistics route, carrying around 28,000 vehicles a day on average with HGV's forming around 22% of that total. In addition, the forecast personal injury collisions statistics indicate a situation where an improvement should be achieved and the transfer of traffic from less suitable roads onto the improved road should help achieve that.
59. The objectives identified at the concept stage for a scheme of the sort now being promoted were set out in opening. They do not need to be repeated again, although they are clearly relevant as it is the conclusion that is the important factor. All seven of the objectives are met with the Scheme before this Inquiry. Such a situation is not always achieved, with trade-offs between such ambitions often being required to achieve what is the best in all the circumstances. That trade off was not required in this case and that is further support for the Scheme as proposed.
60. The planning consent exists and what is now required is the approval of the Orders to allow the Scheme to proceed so that the advantages identified can be achieved. This closing will therefore turn to consider the Orders directly in the next section.

The Statutory Test in Respect of the CPO.

61. The underlying purpose of the CPO is to ensure that the Council has access to all the land it requires to build the Scheme in accordance with the planning consent, meaning the specific planning permission as well as the use of the available permitted development rights as explained previously. The CPO should not go beyond that which is required to enable the Scheme to be built, which would therefore justify the acquisition of the land and any other interest that would interfere with that process,

but further the CPO should provide for sufficient land to allow the construction to take place including necessary working space and necessary landscape provision. The CPO as published and subject to the modification dealing with plots 005, 006, 019, 040 and 041 provides for that.

62. An initial comment to make in respect of the CPO is that the proposed modifications should not be seen in a negative light. The need for such modifications is not a criticism of the process or the work undertaken by the Council in promoting the Scheme but rather a positive aspect arising from the willingness of the Council to bring forward its proposals but then to listen to and respond to any matters which objectors might raise. There is a continuing obligation on the Council, following the publication of a CPO to receive comments, with some being in the form of objections to consider matters brought to the Council's attention and to respond to them. The three locations where modifications have been promoted by the Council in this case are a demonstration of the effective work of the process including the consideration of matters by the Inspector. The Council is pleased with the way that the system operated on this occasion and are delighted to promote the modifications and urge that they be accepted as they represent an improvement in the Scheme overall.
63. All three modifications seek to remove land from the CPO that would otherwise have fallen within it. All three modifications can be undertaken without adverse consequence for the Scheme and are acceptable. Plots 005 and 006 are no longer needed as alternative arrangements have been made. The need for the space previously identified within those plots and the purpose to which it was to be put, was therefore accepted by the NWLDC but given recent changes to the land identified as plots 005 and 006, an alternative location for the activity that was to be carried out on those plots needed to be found. The Council accepted that position and worked with the NWLDC to find a solution. That solution guarantees that the needs of the Scheme are met but in a way that acquisition of those plots is not required. In respect of plot 019 the consideration took a little longer as it did not arise from the provision of an alternative area of land for the use envisaged but rather from a more detailed consideration of the overall proposals necessitating further work before the decision was made. Having carried out that work the Council was able to decide that plot 019 could be removed as the Scheme was capable of being brought forward without it.

Accordingly, the removal of plot 019, although not removing the objections from the owners completely did resolve any difficulties in respect of that land. Finally, the modification in respect of plots 040 and 041 arose, once again as a result of the Council establishing that a different approach could be followed to that which had been intended. The plots were intended to be used as a compound but a more detailed assessment, which was undertaken even though no specific objection was raised in respect of those plots, indicated a different approach could be followed. The use of existing highway meant that these areas were not necessary to enable the Scheme to proceed. The modifications are therefore presented to be taken into account and what follows is written on the assumption that they will be accepted.

64. The CPO provides the means by which the land can be acquired to allow the Scheme to be provided. The CPO has been drawn to reflect the position as shown in the planning consent that exists (in the way described above) and as now shown in the planning permission that has been granted along with the permitted development rights. This includes that required for all aspects of the Scheme including the changes to the various junctions, the alterations to the Bardon Roundabout and the provision of the Bardon Link Road itself.
65. Some of the land is already in the ownership of the Council, largely in the vicinity of junctions where relatively minor changes are to be made, and the CPO is brought forward to obtain any remaining areas of land along with any other interest. The CPO, therefore, allows for the land required for the Scheme. As such it does contain all the land needed to allow the Scheme to proceed. Each plot of land identified is required for a particular purpose and therefore the acquisition to meet that purpose is essential.
66. Within the CPO paragraph 1 lists the purposes for which the land is required, which include the construction of the Scheme and any related factor arising there from in respect of the Bardon Link Road as well as the other intended changes. Paragraph 2 identifies the land to be acquired as being coloured pink on the plan and interests coloured blue. Without that acquisition the Scheme could not proceed and that is what provides the justification. It also includes the area of land over which rights only are required to enable the Council to provide for replacement facilities such as the footpath diversion and private means of access.

67. There is, following the promotion of the various modifications, limited objection to the CPO before the Inquiry. Of the seven original objections raised and more particularly those identified as being related to the CPO, only two remain (once again on the same basis as set out above, namely that raised by [REDACTED] [plot 018] and the Morrisons objection where final agreement has not been reached). The fact that most objections to the CPO have been resolved is significant as it means the owners of the land and therefore those directly affected by it are not seeking to oppose the acquisition. Given the nature and general acceptance of the Scheme that position is not surprising. There are however two remaining matters which arise from that. The first is to address the remaining objections and secondly to note the following. The withdrawal of objections, although important and of weight in the overall assessment, does not remove the requirement for the Inspector to satisfy himself of the position. There is however no doubt that the withdrawal of objection should help with any judgment that has to be exercised in respect of that question.

68. The principles that apply in relation to the use of compulsory purchase powers are well established and have been set out in a variety of guidance notes and documents over the years. They were set out clearly in Circular 06/2004 where a series of questions were posed that had to be answered to justify the position. Today the guidance is contained in Guidance on Compulsory Purchase Process and the Crichel Down Rules, published July 2019. The guidance can be summarised in the following paragraphs, and in so doing it reflects the same list of matters contained within the Inspectors pre-inquiry note; in setting this out I draw upon what was set out in the Council's opening remarks.

69. A CPO should only be made where there is a compelling case in the public interest. Is there a compelling case in the public interest to justify the acquisition and the disturbance of the owner's rights? In this case the simple answer is yes. As described above the Scheme enjoys the benefit of planning consent which reflects the public benefit that it gives rise to. The Scheme, taking into account all its elements, is the means by which the seven objectives can be met and not only the relief that will give to existing roads within the area where traffic flows will benefit from reassignment onto the new and more suitable route the area itself, which has been a long-standing

ambition for the area will enable the area to meet its growth ambitions. The area is recognised as being at the heart of the growth corridor with significant ambitions to provide for future residential and economic growth. It is intended to provide for more housing and more commercial growth and as confirmed to the inquiry that growth is reliant upon the provision supplied by this Scheme. In addition, there is considerable support for the Scheme from a wide range of stakeholders, including the District Council, the landowners and finally there is the lack of opposition to the principle of the Scheme. Even in respect of the remaining objectors it is not claimed that the public interest is not served, but rather and quite understandably [REDACTED] preferred if it could be served without taking her land and Morrisons held similar views although they were prepared to moderate them.

70. The second question relates to the interference with owner's rights. The question is posed in the following way, does the purpose for which the CPO is being brought forward justify the interference with the Human Rights of the affected owner? In order to meet the objectives of the Scheme, which includes the removal of traffic from less suitable roads in the area, with all the negative consequences that has, as well as providing for the growth as set out in the planning policy the new road is required and must be provided. Given therefore the essential need for the road and given the fact that no one is suggesting it could be provided elsewhere in order to meet the planning objectives for the area, the answer is yes. Although that matter might apply most directly to the Bardon Link Road, insofar as the question arises in respect of any other part of the Scheme the answer would remain the same.

71. The next test relates to whether the acquiring authority have a clear idea of how it is intending to use the land to be acquired. In respect of all the land within the CPO the answer is yes. The land acquisition justification relates to the areas contained within the planning consent as applied for and now granted, supported by the works making use of the permitted development rights and as such the position could not be clearer. The proposals have been developed over a period of time dating back as far as 2008 where a combined study was undertaken between the Council and the District Council to seek to establish as to how best to meet the needs of the area. That position has been confirmed at various times since that date with the Council expressing support for the proposal and explaining the reasons underlying it; see the series of Council

Cabinet Reports within SA 1 to SA 10 within the Core Document list which are produced for a complete picture. In essence they show the ongoing commitment to a scheme to meet the identified needs and to provide advantageous solutions to the area generally and to growth ambitions in particular. That historical development proves that the Council has, as the promoter of the CPO a very clear idea as to why the land is required and its evidence has described that in detail. Once again, and even allowing for the remaining objections, the fact that there is no objection suggesting otherwise is indicative of the position.

72. Can the acquiring authority demonstrate that the resources to carry out the plans within a reasonable timescale exist? It is significant to note that the “test” does not require all resources to exist at the time that the permission is sought but rather that they will be available within a reasonable timescale. Such a position reflects the reality of the situation at any given moment given that timescale may vary. In respect of this case there are however three elements which take the question to a level where great confidence can be had in respect of the situation. There is the element of central government funding where the only question is whether it will, following the 2023 announcement be actually more generous than was previously thought. The probability of it coming forward is not in question and that can be treated as meeting the test in respect of it and the only doubt, which is not actually relevant as the potential increased amount is not relied upon within the figures, is whether it will increase.
73. The second element is the reliance upon funding from development under a section 106 type arrangement in accordance with planning policy set out in the Local Plan. That element is already being collected and the Letter of Comfort from the NWLDC attached to the rebuttal evidence provided all the assurance required in respect of it. In fact, that letter was obtained by the Council as late in the process as was reasonable to ensure that it reflected the most up to date position it could.
74. The third element relates to the situation should anything unexpected or untoward happen. Although that is not anticipated the Council has made it clear that should an element of forward funding be required, with the Council recouping monies spent when the section 106 payments arise that is also accommodated. It is for that reason

Ms Carruthers obtained from the Council confirmation that the funding arrangements will be available in accordance with the requirements. The Council has identified specific “pots of money” available but further it has identified how the remainder will be obtained, which means the Council has sufficient funding to cover the Scheme costs. It has also confirmed, should the need arise that it will forward fund any costs to be obtained under the section 106 arrangements pending the arrival of such funds. That has been done by confirming that the Council will underwrite the process from funds. As such that is a guarantee of the resources being available in accordance with the test. Added to that is the confirmation that in reaching agreement with the objectors no further or additional “problems” have arisen which may interfere with the process the position is clear, and the test is met. Once again therefore, this question is answered positively. Planning consent exists for the Scheme and the detailed design works for it will continue to fine tune the proposals in order to meet the planning conditions on the permission. Further the Council is keen to progress the matter and has a target commencement date in mind of May 2025, subject to the outcome of this Inquiry, in order to ensure that it falls within the funding arrangement that are in place. As currently advised, there is no reason to anticipate any delay in that projected start date.

75. Finally, there is the question of impediments in the process. The question being whether there are any impediments which are likely to interfere with the progress of the Scheme? Such impediments as can be foreseen would often relate to funding, the planning process, or related matters. In this case the funding position has been explained and set out above, the planning consent exists, and the outstanding conditions are not onerous or likely to give rise to concern, as confirmed by Ms Carruthers, supported by her team, there are no other matters of concern.

76. There are, therefore, no known impediments to the Scheme progressing. The cost of the Scheme has increased, which is a reflection that it has been costed more recently and the means by which it will be paid for is explained. Funding will come from a variety of sources and the Director of Corporate Resources has confirmed the position. All the necessary planning consent is in place, and the Council is keen to progress the proposal.

77. Accordingly, the guidance as contained within the 2019 version of the advice is met and, as indicated, the Statutory Tests set out in the Inspectors note are met. The only remaining comment to make in respect of the CPO is to address the final remaining objection raised at the Inquiry. In doing so I will concentrate on the last remaining plot within the CPO owned by [REDACTED] given the proposed modification to remove Plot 019, namely Plot 018.
78. Although the objection raised on behalf of [REDACTED] was put repeatedly on the basis that there was not much point in taking time to describe it as the land would be taken anyway, that is not the view of the Council, and it is unlikely that the Inspector will consider it on that basis. The proper basis to consider any objection raised in respect of a CPO, given the nature of the activity itself and how serious it is for an affected landowner is to examine it with care. That is the approach followed by the Council and there is no doubt that the Inspector will look at it in the same way.
79. The Council was pleased to see that [REDACTED] attended the Inquiry and responded to the various requests made by the Inspector to take part. That helped, although the matter was not developed further either by asking questions of the Council's witnesses or by presenting any further evidence themselves, to understand the opposition being raised to the CPO of plot 018. It goes without saying that the landowner did not want to have any land taken but in saying that it was recognised that the Council had a job to do and that improvements to address increasing congestion and to support the local growth agenda were needed. I set out above the specific reference given by [REDACTED] on behalf of [REDACTED] that there was no objection to the land being taken, and at least by inference therefore no objection to the Scheme but rather it was how matters were to be resolved on the rest of the land that was at issue.
80. Reference was made to specific items that were located on the plot and how they were meant to be accommodated if plot 018 was to be taken. Those various aspects were seen on site during the Site Visit that took place. The loss of land within plot 018 amounts to 50.3 square metres taken from the southwestern corner of the land being used by [REDACTED]. That land is, following a detailed assessment of the planning history and supporting aerial photographs outside the area for which planning permission exists for the gypsy and traveller site. If there was any doubt about that it

was resolved with the indication that planning permission had been applied for retrospectively to regularise the use of that land, which would not have been necessary if the land enjoyed permission.

81. The Council undertook the investigations it was able to identify the lawful position which disclosed the following. The main part of the former house and its garden did enjoy a planning permission for use, restricted to a certain number of caravans for use and storage on the land. Although reference was made to a handwritten sketch to support that planning permission, which was neither capable of being scaled or considered to be accurate, the land forming plot 018 was clearly outside of the approved area. The aerial photos (see AC6 Rebuttal proof) from 2010 onwards show the situation as it changed with a solid clear hedged boundary shown as about the time the planning permission was issued in 2014.
82. The land in question is therefore owned by [REDACTED] and there is little doubt that some use is being made of it, but it is not a lawful use in planning terms. It would appear that the use of it would be at a level that exceeds the planning permission restriction on the number of caravans that can be stationed on the site and the occupation of them. There can be no certainty about the future use and occupation of the land and the land to be acquired needs to be looked at in that light. The recent planning application, which, at the time the public inquiry was held, had not been seen by the Council as it had been returned unvalidated has now moved on; with relevant details having been added to as ID 10 to the inquiry document list. The application made under reference 24/00531/FUL was validated on the 7th June 2024. It was therefore an application made and presented following the grant of planning permission for the Scheme and further after the CPO was published. It was therefore an application made in the light of both the planning permission in respect of the Scheme and the CPO. As indicated details of the application, including the representations made to it on behalf of the Council have been added as ID 10.
83. Although it would be speculation to consider the potential outcome of application 24/00531/FUL, the current position is clear. The land being acquired does not enjoy lawful use rights as part of the gypsy site or even a site in its own right. No active and

authorised pitch is affected by the acquisition and no loss of facility will actually occur. There is therefore no justification for refusing the CPO on that basis.

84. The Council formally responded to that recent planning application and in so doing indicated that the application as made conflicts with the planning permission granted for the Scheme and further how it relates to the proposals overall. Those views will no doubt be taken into account in dealing with that application, but the essential point is that the application itself arises from the creation of new facilities on the [REDACTED] land rather than an adverse consequence for those already permitted and in existence. The CPO requirements are therefore met.

85. In addition, should it be demonstrated that rights and interests do exist which may give rise to some element of compensation or perhaps even the need for accommodation works that will be assessed and undertaken in due course. During the Council's opening statement, the position in respect of such matters was identified and made clear. Compensation and accommodation works fall outside the scope of this Inquiry and are not relevant to the outcome, although such factors can be acknowledged as existing.

86. [REDACTED] did not put forward any genuine basis for the rejection of the CPO, beyond a desire not to lose the land, which is understood. The public interest is met by the Scheme as proposed and accordingly the Council would invite the Inspector to conclude accordingly.

87. For the avoidance of doubt the other remaining objection is addressed in the addendum below.

The Statutory Tests in Respect of the SRO.

88. The purpose of an SRO is to maintain access to all land and property directly affected by the Scheme and it makes the necessary changes to the highway network. Necessary in that context means that required to meet those requirements arising from the planning permission as applied for and as now issued supported by the permitted

development rights. The SRO provides the means by which rights are removed and new rights created sufficient to cater for the effects of the Scheme. Objections to an SRO are to be examined in the light of the existence of planning consent for the Scheme.

89. The essential test in looking at the SRO is whether the power given by Section 14 of the Highways Act 1980 to deal with roads crossing the classified road or Section 125 of the same Act dealing with private means of access to premises have been dealt with appropriately. In respect of section 14 the order stopping up the highway cannot be made unless *“the Minister is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up”* and in respect of section 125 the order can only be made if no access is reasonably required or another reasonably convenient access is available or will be available. They are therefore the tests to be applied in seeking to make objections to the SRO. It is important that irrespective of what was stated as part of an initial objection, there do not appear to be any remaining objections in respect of the SRO as the inquiry comes to an end. No issue was raised in the objection maintained [REDACTED] and five other objections were withdrawn and agreement, albeit not completed has been reached with Morrisons.

90. The County Council SRO, as described in the draft Order, having taken into account those matters raised by the Department which have been addressed in writing by the Council, provides for all the necessary alterations to the existing road network and creates the new means of access required. These changes can be described as follows; please see the evidence of Mr McGrath for details along with the SRO itself.


91. At the Hoo Ash Roundabout widening works will necessitate a temporary stopping up of the footpath N25 for safety reasons which will subsequently be re-provided. A new PMA is to be created on the Bog Lane/Footpath to provide for landowner access during the duration of the works to improve the road. These works are necessary for safety reasons with the intention that matters be largely returned to the current situation once the works are complete.

92. As explained by Mr McGrath in his evidence although covering three elements the location at Thornborough Road Roundabout, Stephenson Way Dualling and Whitwick Road Roundabout are considered as a single entity given that they are interconnected. The existing highway boundary at this location is to be moved to allow for a widening of the road to include 57m of new highway to the east of Whitwick Road, 28m south of the A511 roundabout at the junction with Hermitage Way/Whitwick Road and Stephenson Way. Once construction is complete any working space acquired under the CPO that is not required can be offered back to the current landowner.
93. Broom Leys Road Junction also includes road widening to include 16m of new highway some 8 m east of Stephenson Way. This land is already owned by the Council and the works will be undertaken on that land.
94. Unsurprisingly the Bardon Road Roundabout location and the new Bardon Link Road running in a southerly direction from it is where the majority of changes within the SRO take place. These consist of the construction of the new Link Road itself through the gap created by the demolition of the four properties located at 38 to 44 Bardon Road inclusive. Access to those properties need to be stopped up with no need for an alternative to be created as the properties themselves will be removed. Access to number 36 will also need to be altered to provide for a safe arrangement which is achieved by providing a new access. Footpath N86, which crosses the land to the rear of those four properties must be accommodated within the Scheme. This is achieved by stopping up the relevant part and diverting it before reconnecting the route with the original. The diversion included within that is necessary so as to provide the road itself and also the necessary drainage measures arising from the proposals. The diversion is the minimum necessary to enable the Scheme to be built and to operate and will not entail an excessive diversion. A new PMA is to be provided to allow access to the Network Rail land from the public highway for access purposes. A further PMA is to be established from the highway to the maintenance layby associated with the attenuation basin south of the railway line. There has been no objection to any part of those proposals and all necessary provision is made for known requirements.

95. There remain three elements to the Scheme at Birch Tree Roundabout, Flying Horse Roundabout and Field Head Roundabout. In respect of all three elements the works consist of highway improvements works where no additional provision is necessary.
96. The SRO is required to allow the Scheme to proceed, it provides in part the justification for the CPO, and it is required if the Scheme is to proceed. No objections relate to any part of the elements contained within the SRO once the changes suggested in correspondence between the Department and the promoters are taken into account. Minor modifications have been proposed to the SRO as a result of the technical check carried out by the National Transport Casework Units (MOD6) which do not affect the justification for the SRO in any way.

Conclusion.

97. This Inquiry has been short. That should not be taken as any indication as to the significance of the project, which is of considerable importance given the nature of the road, providing as it does a new and better opportunity to travel from east to west without accessing other less suitable roads in the area as well as making improvements to the various junctions. It is perhaps a better indication of the general acceptance of the Scheme, the need for it and the fact that the Council is seeking to promote it in the right place, supported as it is by the planning policy in the Development Plan and supporting documents.
98. This inquiry has, however provided the opportunity to identify and inform the Inspector of all relevant factors which have a bearing on the acceptability of the Scheme including the fact that there is no alternative being suggested as a variation of or alternative to the published proposals. That has been done successfully and we can be confident that all relevant factors are known and that an informed judgment can be reached. That judgment will be reached on the basis of a consideration of the evidence called and relied upon by the various parties; albeit limited in the context of the last remaining objector despite opportunities being offered to add to it. The Council is of the view that the decision is clear cut and that is strongly in favour of the Scheme being able to proceed at the earliest realistic opportunity.


4/5 Gray's Inn Square,

Gray's Inn, London 2nd July 2024.

The contents of these final remarks have been read and approved by the Council and stand as its own statement. The contents can therefore be relied upon as a statement of the Council's own position.

Addendum to the Final Remarks addressing the Objection raised by Morrisons,

1. At the inquiry it had been anticipated that the objection raised by Morrisons had been addressed by the Council sufficiently to expect that agreement between the parties could have been reached and that the objection itself would be withdrawn. To do so certain documents were to be drafted and agreed and then signed to guarantee the position going forward. The time period between the end of the inquiry hearing and the inquiry being formally closed was expected to be sufficient to allow that to happen.
2. Unfortunately, that has not proved possible. The Council remains of the view, which it is believed is shared by the objector that all matters pertinent to the agreement being reached and hence the withdrawal of the objection being achieved have been settled. The Council is not aware of any outstanding matter that would frustrate the agreement being reached and has no explanation as to why that position has not been reached by this time.
3. In short following the raising of the objection, which is recorded within both the Council's Statement of Case and the evidence of Ms Ann Caruthers, the Council sought to engage with Morrisons in respect of the matters raised.
4. The Statement of Case identified the points being raised by Morrisons and sought to provide an answer to them. No additional or new matters have been raised to add to

those contained within the letter of objection originally delivered by Morrisons. Those matters that were raised were addressed by the Council and following that, discussions have taken place with the intention of reaching agreement as to how the land would be obtained to allow the Scheme to proceed bearing in mind some land was needed on a permanent basis with other parts being required for certain activity and for a certain period of time. Following that period the land could be offered back. None of the proposals affected operational land used by Morrisons and would not render the site inaccessible or unusable.

5. It appeared as though once Morrisons understood the needs of the Council that the matter was capable of agreement and resolution. Nothing has been raised with the Council to cast doubt on that and the Council still fully expects, given time that full agreement would be reached, and that the objection would have been withdrawn.
6. Unfortunately, the time to allow that has expired. There is no firm indication as to when the agreement will be reached and accordingly the Council cannot seek additional time to allow that to happen. The objection must therefore be treated as remaining and will need to be addressed.
7. In seeking to do that the Council would invite the Inspector to follow the course that would normally apply where an objection has been made, where no additional or new information has been presented to defend it or explain it further at the inquiry and where the Council has prepared and issued a response to it. That would also require the fact that agreement has been suggested and has very nearly been achieved to be taken into account.
8. In that respect the Council is happy to leave the matter for the Inspector to record and report upon as an outstanding objection although one that was not pressed at the inquiry as agreement was expected to be reached. The matters raised are identified in the Council's Statement of Case and the evidence and the answers from the Council are identified therein. The need for the land is clearly made out as that is the only way that part of the Scheme can be provided with the advantages that flow from that and the objector has not sought to argue the contrary. The clear need for the land, which is properly within the CPO and provides for certain aspects within the SRO is justified

on the basis of it being fundamental to enabling the Scheme as proposed to be brought forward at this location. Without the land the proposals simply cannot be achieved.

9. The Council's attempts to reach agreement are fully consistent with the approach as indicated by the relevant guidance and the fact that agreement was very nearly reached without the removal of any of the land from the CPO indicates that it is properly within it. The Council undertakes that it is happy and willing to continue with the same approach but given that the inquiry is about to close the only way that it can protect its position and ensure the land is acquired to allow the Scheme to proceed is to retain the land in the CPO. The Council accordingly asks the Inspector to adopt that course of action.

End of Addendum