

FINAL REMARKS ON BEHALF OF LEICESTERSHIRE COUNTY COUNCIL

Introduction

1. I would start by indicating the purpose of these final remarks given that the Inquiry into the Orders, namely the SRO and the CPO, has been somewhat unusual. I do not mean unusual in the sense of it being a virtual inquiry, as we are all getting used to that, but rather the nature of the Inquiry itself.
2. As a result of the Pre-Inquiry meeting and the Inspectors identification of issues that would need to be examined based on the objections received the Leicestershire County Council, hereafter “the Council”, produced a substantial body of evidence to address all the matters that had been raised. Clearly such an approach was not only necessary but further it continued the approach which the Council has adopted throughout the promotion of the North and East Melton Mowbray Distributor Road, hereafter “the Scheme”, to be open and transparent and to seek to assist all interested to understand the purposes underlying the promotion of the new road and the need for the Orders before this Inquiry.
3. In so doing the Council was acutely aware of the fact that the Inquiry was into the objections and representations made in respect of the Orders themselves and that the report to be prepared by the Inspector would seek to address those matters and not into the Planning Permission underlying it. As the process has continued certain matters have become very clear and they influence the approach I intend to take in these concluding remarks.
4. Following the publication of the Orders objections and representations were received. In total there were 22, including all irrespective of when they were produced and whether some replaced others; for example, number 17 Spreckleys Farm where an objection was entered but prior to the Inquiry the land itself was sold and an objection was entered by number 22 Wilsons Enterprises. In total therefore there were 22 and given that a number of them were from Statutory Objectors the need to hold a public inquiry was established subject only to withdrawal of the Objections.

5. As we conclude the Inquiry it can be noted that the 22 have reduced, as often happens so that the final numbers of remaining objectors is 13, although that includes Network Rail (number 7), with whom agreement has been reached and formal withdrawal is expected and Spreckleys Farm (number 17) which is the land that has been sold. To assist the Inspector, they can be identified as follows by reference to their respective objection number; they are 3, 5, 6, 12, 13, 14, 15, 16, 19, 20, 21 along with number 7 NR and 17 Spreckleys farm although the new owners (number 22 Wilsons) have withdrawn.
6. The Objections and Representations withdrawn are the remaining 10, which are numbers 1, 2, 4, 8, 9, 10, 11, 18 and 22. I do not intend to address those withdrawn objections to any greater extent than referring to them, with one exception. As they have been withdrawn all that is required is that the withdrawal is noted. The exception is in respect of number 11 Framland Farm Ltd, which I need to mention as they were represented before the Inquiry despite the objection being withdrawn.
7. I can make my comments as part of the introduction as it is a purely formal recognition of the position. The withdrawal of the objection followed the signing of an agreement which includes a confidentiality clause operative on both parties. The contents of the agreement cannot therefore be disclosed and there is no need for the inquiry to be concerned about that as the important point is not the agreement but rather the consequence arising from it. That consequence is that the objection has been withdrawn and there is no remaining consideration that needs to be addressed. As a formal exercise I recognise that the objection had the potential to seek to alter the Scheme but that has not been presented to the Inspector and it will fall to be considered by Melton BC with the Council being an active consultee in that process. That will be resolved through that forum and this inquiry has no need and in fact no power to seek to interfere in it.
8. That leaves a total of 12 matters to consider as objections, although that 12 does include both NR and also the previous owners of Spreckleys Farm. Of the remaining 10 most have not chosen to appear at the inquiry. The exception being Mr Felgate on behalf of objector 11 who appeared to explain the basis of the withdrawal of their objection and which I say no more about as that objection has gone. The other is Mr

Brooker (objection 3), supported by Mr Curley, and I will return to this objection below. There is also Mr Brown in respect of objection 20 which I also return to below.

9. The Inquiry has therefore heard from four individuals representing three objections and only Mr Felgate and Mr Brown can be regarded as Statutory Objectors as their clients have land affected whereas Mr Brooker is not as he has no land taken. There are two further affected landowners who presented evidence to the Inquiry neither of which chose to make an appearance as they are entitled to do. They are Messrs Hatton and Lovegrove (objection 15) and also Mr Henderson (objection 13) and in respect of both the Council produced written rebuttal statements. In respect of both, the land taken is limited to the “half road width” of an existing highway which under the presumption is owned by them. Other than that, no land is taken from either for the provision of the Scheme.
10. That is the context for my comment that the Inquiry has been unusual. A great deal of considered, detailed and extensive evidence was prepared and presented to the Inquiry. That evidence was produced in accordance with the inquiry timetable laid down by the Inspector following the pre-inquiry meeting. It was made available widely along with a detailed and comprehensive web site which sought to identify, exhibit, and make available the supporting documents. Overall, it provided a wealth of information in respect of the Scheme, how it came forward and the effects of it. It fully explained the basis on which planning permission was sought and granted as well as setting out in great detail the supporting information.
11. Although therefore it would be speculating to an extent, I do wonder if that, at least in part explains the reason why the actual physical appearances at the inquiry have been limited and further that much of the outstanding objection is related to details, suggestions that land is not required or more usually could be acquired in a different way rather than as fundamental opposition to the proposals. Accordingly in these closing remarks I intend to set out the Councils case in summary to seek to assist the preparation of the Inspectors Report, and then to make comments about the outstanding objections. Before I do that, I would wish to record the following as it is of direct relevance to understanding the position.

Matters not challenged

12. Those Objections that were made but subsequently withdrawn do not need to be dealt with, whereas Objections that remain will need to be addressed. There is one very significant consideration which arises from the totality of the objection, 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.
13. The nature of the objections, including those that have been withdrawn, need to be taken into consideration to the extent that they identify what was not being objected to. The objections 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 relevant to matters before this inquiry in fact in respect of each of the objectors the need for the scheme and the benefit it would give appear to be recognised and accepted. I say that even mindful of suggestions that some aspect might also be needed, such as Mr Bell's additional link or Framland Farm altered roundabout, which will need to be considered elsewhere.
14. The agreements reached with those various parties by the Council, which led to their objections being withdrawn, as well as in respect of the objections which remain that were not resolved has not changed the Scheme as proposed. In fact, it was heart-warming to hear Mr Brooker express his view of the advantage to his neighbourhood that the Scheme would present and others such as Mr Henderson recognised the benefit. Accordingly, none of the objections attacked the fundamental need for the Scheme or the means by which it was to be pursued.
15. 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 ambitions, 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.

16. Having set that out I can say that there is no need to consider the withdrawn objections any further and consideration of the remaining matters will be in the light of the advantages and benefits that will be achieved, and which appear to be accepted. I do not recall any objection challenging the need for, the route of or the justification of the proposals as they arise from the planning permission granted.
17. What remains therefore, 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 withdrawal of objections from Statutory Objectors as well as the basis on which those objections from such objectors remain will clearly be relevant to that exercise but the fact that they are generally matters of detail or reflect ambitions to ensure land is available without the use of CPO powers rather than as a challenge to the proposals is relevant. The Council accepts that the Inspector still has to carry out the same exercise in respect of the justification for the proposals.
18. In so doing the Inspector will bear in mind what both the LCC, wearing its planning authority hat and the Melton Borough Council indicated their respective positions in respect of the Scheme before this inquiry. In so doing they both indicated the essential support for the Scheme which supports a clear and firm conclusion that it meets relevant planning policy. As such the NPPF guidance is very clear in that the Scheme should proceed as a planning permission without hindrance and that is a strong motivating factor when looking at these Orders.
19. The position was described in Ms Leeder's evidence at page 26/27 where the following was set out. LCC indicated within the Planning Report on page 4 "in principle the proposal is in accordance with the policies and strategies of the Development Plan, which makes provision for an allocated corridor of investigation for the MMDR." Whereas MBC provided a response to the Council in respect of the Scheme which indicated the following: -

“The Scheme intends to improve Melton’s quality of life and the environment of Melton Mowbray town centre by addressing congestion, air quality and noise issues, whilst supporting economic development and the delivery of housing to meet the needs of the local population. It will provide new transport infrastructure to access proposed new residential sites whilst ensuring that the new development does not worsen traffic conditions in the town. It will reduce congestion and air pollution in the town, improve access to the town centre, reduce HGV movements in the town, improve walking and cycling facilities, deliver environmental measures and enhancements and improve highway safety for all road users in Melton Mowbray. It is considered that the proposal underpins the successful and timely delivery of the objectives of the Melton Local Plan, providing much needed transport infrastructure, meeting the objectives of Local Plan policies SS1, SS2, SS4, SS5, IN1 and the relevant environmental policies, in addition to the WoW&TA Neighbourhood Plan.”

20. Those comments are clear and unequivocal. In fact, the comments from MBC are a comprehensive, unreserved, and ringing endorsement of the position as well as an identification of the significant, strategic, and essential advantages which arise from the Scheme. That leaves just two comments to make at this stage.
21. Given that clear endorsement of the Scheme as well as the clear absence of fundamental challenge to the need for it, the route it is to follow, or the provision being made it will be an easy task to address the issue identified by the Inspector in opening. The question was raised as to the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social, or environmental wellbeing of the area.
22. The pursuit of the proposal through the Local Plan and the conclusions of the local plan Inspector help explain that the inclusion within the Local Plan carries that forward and the list of factors identified by MBC itself continue the same approach leading to one very clear conclusion. The Scheme is essential to the continued growth and further improvement within Melton Mowbray and without it the advantages cannot be achieved. That requirement is clearly met, and it is hard to see how, given the list of advantages including in respect of traffic congestion, HGV movements, air

quality and noise implications as well as other factors how the position could be said to be any stronger.

23. That would have been sufficient but to add to that we now have the adoption by MBC, within the last week or so, of the Developer Contributions SPD. That was adopted following a recommendation which included a description of the position; see sections 3 and 4 of the Report. It is made clear that the MBC has a corporate priority of supporting the County Council in the delivery of the MMDR (the Scheme). The Scheme is listed as being of the highest priority for MBC and such a position is truly reflective of the advantages which arise from it. It is fair to say that the Scheme is the lynch pin upon which the future of Melton Mowbray rests.
24. The clear conclusions to be drawn from those various matters is that there is a strong and weighty level of support for the Scheme which recognises the essential role it is to play in meeting local needs and ambitions and providing for much needed growth. That just leaves me to identify where my final remarks will proceed from here.
25. The Council welcomes the comments issued to the Inquiry by the Inspector as part of the note on the pre-inquiry meeting addressing the various “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 Council’s case for the Scheme, including, albeit shortly dealing with planning matters.

The Orders

26. At this Inquiry there are two matters to be considered and they consist of the following: -

The Leicestershire County Council (A606 North and East Melton Mowbray Distributor Road, Classified Road) Side Roads Order 2020; the “SRO”.

The Leicestershire County Council (A606 North and East Melton Mowbray Distributor Road) Compulsory Purchase Order 2020; the “CPO”.

27. Those two matters, namely the SRO and the CPO, 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 both Orders there are specific technical steps that have to be complied with and specific forms to be followed. The Inspectors request, which is made in relation to all such orders, for confirmation that all necessary statutory procedures and formalities have been complied with is to ensure that the Council has complied with the relevant requirements. In respect of these Orders, I repeat the response I gave in opening that on behalf of the Council, all requirements have been met to the best of our knowledge and belief.

The Planning Permission

28. In these closing remarks I only need to make two comments in respect of the position related to the existence of planning permission, bearing in mind the guidance in respect of the need for it as a consideration in relation to the Orders before this Inquiry.

29. In short it is expected that all relevant planning permissions will be in place before the acquisition of land is authorised, I use the word expected as that does not require all aspects to be finalised but rather that it can be demonstrated that there is no planning impediment to completion.

30. That is the position in respect of this Scheme. The planning permission exists, and that includes the minor alteration to it granted recently, with the principal consent having been issued on the 4th June 2019. Planning permission therefore exists for the Scheme, and it was granted, as one would anticipate, subject to certain conditions. Those conditions are in the course of being addressed and it has been confirmed that there are no onerous conditions or any that is likely to have any detrimental effect on meeting the date permitted by the permission. It is anticipated that all will be in place so that the permission can be implemented within the time given and the Council

enjoys the position where it owns Sysonby Farm so that implementation of the permission can be virtually guaranteed.

31. The Council has no desire to delay implementation, in fact it has a strong desire to press on with the Scheme so that it can commence during 2022; Miss Walker confirmed that position during her evidence.
32. Accordingly, the planning permission exists, the Council is actively seeking to address all conditions, and many have been commenced already and that actively has proved beneficial in respect of these Orders. The work being undertaken has enabled certain locations where matters being addressed within the Orders, in particular the SRO has identified where the SRO itself can be improved. Those improvements, many of which relate to PMA's and agricultural access have been brought forward as modifications to the Orders to ensure the accurate, consistent, and complete picture is presented.
33. Taken together the position is clear. Planning permission exists and can be implemented within the timescale envisaged for activity and uses that are clearly identified and that meets requirements identified by the Inspector at the opening of the inquiry. This includes knowing what the land is to be used for; the compelling public interest underlying the acquisition; the certain fact that the land is required for that purpose and the inability to be certain that it would be available by any other means especially in the absence of powers to acquire land for temporary purposes; the viability and funding arrangements for the Scheme and the absence of any other impediment.
34. I said above that there were two points to raise in respect of the planning permission and I have addressed the first. The second is to remind the inquiry of the situation and to put the planning permission into a context.
35. The planning application would not have come as any surprise to anyone living, working or being generally familiar with Melton Mowbray itself. The application was made to construct the proposal on the 1st October 2018 before being considered and permission being granted in June 2019. There was however a long history prior to the

application being made, including its consideration as part of the adoption of the Melton Local Plan which was adopted in October 2018 following an Examination in Public in October 2017 which included consideration of a north and eastern distributor road proposal.

36. When that proposal was presented, it was supported with a level of detail reflective of the work undertaken by the Council in 2017 and earlier to identify the proposal and assess the potential for it including an assessment of various options going both east and west of the town. The history of the development is set out in considerable detail in Miss Walker's evidence and was available in both the Statement of Reasons and the Statement of Case. I do not refer to the full extent of that work as it can be read in those documents, but I make two points.
37. The first is that prior to its consideration as part of the Local Plan and its subsequent adoption into it a great deal of work was undertaken by the Council to identify the most appropriate route option. Following that the matter was considered as part of the Local Plan and the local plan introduced a protective corridor, which as I stated in opening is helpful in respect of questions of need. Thereafter the route corridor was protected, and an application was made,
38. The second point relates to the consideration of the application. Once again it is fully described in the evidence, and it is clear that a number of matters were raised which necessitated further investigation and work which resulted in further public consultation. All that was undertaken and completed prior to the matter being considered for a grant of planning permission.
39. The whole exercise can only be described as comprehensive as well as being determined. The Council's ambition throughout was to ensure the Scheme was publicised to the full extent and that it was carried forward to ensure anyone interested was fully informed about the Council's intentions with ability to contribute to the end result. It was a full and transparent exercise from start to finish and in fact it might be accurate to describe it as a shining example of how to bring forward a major transport scheme, which will inevitably have consequences but to do so in such a fashion that

people have their say, that they are responded to where possible but ultimately a design must be achieved.

40. The extent to which the process has been pursued is far in excess of any specific requirements, it has enabled comment to be made throughout and those comments where appropriate have been taken on board as part of the design. The final proof of that being the recent change to the planning permission to separate users of the public right of way away from private users where farm animals would otherwise come into contact at a constrained location to pass under a bridge. That demonstrates the process throughout and the confidence that we can have in knowing that the public are well aware of it and where possible the Council has reacted in a positive and supportive way. As I indicated earlier that does not mean all aspects were capable of being resolved in that way.

The Scheme Summary

41. The Scheme which is the subject of the planning permission and for which the two Orders are required has been described extensively in the evidence provided. In Miss Walker's evidence section 8 gives a description of the proposals and in Mr Glossop's evidence in section 4 he describes the Highway Engineering aspects with section 6 setting out a detailed description to explain and justify the land acquisition aspects. The particular detail arising from the works in the vicinity of the SSSI are described in detail by Mr Simons. In respect of traffic Mr Dazeley's evidence describes the position based on the traffic model he has used, and Mr Weir describes the landscape implications and effects.
42. Taken together with the specific and individual evidence produced the various other environmental witnesses, and I hope I will be forgiven for not listing them by name, there is a very comprehensive body of evidence which describes in full and in detail the overall need for and effects of the Scheme.
43. One significant factor arises from that which is not something that can be claimed in respect of all such proposals. In many such schemes it is often an essential trade-off

between an advantage of one type offered against a disadvantage offered in a different location. The end result then being a balance between the various aspects. In this case that is not quite the position as there are identifiable advantages to be identified and therefore taken into account across the board.

44. In air quality terms there are improvements to be identified and recognised arising from the Scheme. Even though the starting point may be from a base where the air quality implications are not too severe the recognition that there will be an improvement is important. Similar conclusions arise from the noise assessment as set out in Miss Scott's evidence.
45. The treatment of the SSSI is a major advantage arising from the Scheme. Although the works in respect of that are significant and potentially major the fact that the bodies interested in and responsible for that location are supportive is a huge advantage. To say they are supportive is itself understating the position as they welcome the works as the means to provide the improvement required and I believe it is fair to say that there is no other identified option to achieve that. They are a clear and very significant advantage which arises from the Scheme which should be given significant weight in looking at the proposal overall.
46. In virtually all respects the Scheme will bring with it improvements and advantages which do not currently exist and will not be achieved without the Scheme itself being built. Traffic will be removed from the town centre, that enables more sustainable types of movement to be promoted such as cycling and walking as well as the promotion of public transport measures. That will bring forward changes and improvements in environmental terms. At the same time the Scheme provides the means by which the town can grow and develop.
47. Appendix F to Miss Walker's note to the Inquiry identifies a reference to the Melton Manufacturing Zone and at section B it states the following in respect of the relationship of the Zone to the Scheme itself. It indicates; -

“Strategic Fit:

- The Leicester and Leicestershire Local Industrial Strategy identifies Melton as one of the two key growth centres and acknowledges the need for a Food Enterprise Centre to support the sector growth.
- Leicester and Leicestershire Strategic Growth Plan identifies Melton as a key centre and strategic growth area, with specific reference to economic growth in Agri food and drink processing.
- Melton Mowbray Distributor Road is recognised by the Strategic Growth Plan and is being delivered in partnership with Leicestershire County Council with a £49.5m funding from DfT. Completion of the MMDR in 2022 will open access to the proposed sites and make them more attractive to a wider range of manufacturing business.”

48. Taking all those matters together it is not at all surprising that the MBC referred to the Scheme, the contribution it will make and the essential need for it in the terms it did as I set out above. It would appear to be beyond argument that the need for the Scheme and the advantages and benefits which arise from it have been clearly established. The Scheme has been awaited for some time and the need for it to be delivered are clear and obvious. Finally, I can indicate that is reinforced by the technical value for money exercise carried out by Mr Dazeley.

49. To achieve a positive benefit to cost ratio assessment is not particularly surprising especially in congested conditions. In this case however the result of the exercise has disclosed a very significant result with a very healthy return of 3.2. as such that is a further example of the benefits arising from the Scheme overall.

50. Having summarised those various matters I just need to identify the Scheme itself in a brief form before returning to an assessment of the Scheme against the tests which arise in relation to the use of CPO and SRO powers.

51. The Scheme has been designed to meet the requirements of the DMRB and has been through the relevant and applicable design process. It has been designed by an experienced designer who is well used to applying the relevant applicable guidance seeking to achieve a safe and complete design. That has been done here and I do not believe anyone has made any suggestion to the contrary.

52. The Scheme will be around 7km in length and runs from the A606 Nottingham Road in the north to the A606 Burton Road to the south of Melton Mowbray. As such it provides a road that would bypass the town centre and as it connects into all the more significant roads it crosses via a series of six roundabouts it will act as a distributor of traffic around the north and eastern side of the town. It was in recognition of those various functions and the achievement of them that the Scheme was given the name it was.
53. The provision envisaged by the Scheme to deal with the traffic anticipated to use it requires a single carriageway at 7.3 metres wide but with a further and segregated 3-metre-wide footway/cycleway running along the length of the Scheme. Connections to existing cycle provision will be made at the various junctions. The Scheme is therefore a road Scheme but with the advantage of a separate cycleway to add to the overall provision in the area.
54. Speed limits are to be imposed on the Scheme, which therefore reflect the overall design approach to those various sections consistent with a proper design approach. Drivers using sections of road with an urban feel are used to driving at 40 mph whereas on more rural single carriageways the speed limit of 60 mph is more appropriate. That approach has been followed for this Scheme with a 40 limit between Roundabouts 1 to 3 and a higher speed limit thereafter. Such an approach is the correct design solution to this road and once again that has not been questioned in any objection that has been maintained.
55. The route selected has been a balance between being close enough to the town itself to ensure that it attracts the traffic it is intended to serve whilst seeking to minimise impacts on residents; that is existing residents as future development locations will be responsible within their own layout to control such matters.
56. There are a number of watercourses within the route corridor in addition to the SSSI location which have been addressed in the overall design. The advantage offered by using bridges where required on the Scheme to cross such locations as crossing points either for the public or as PMA 's has been built into the Scheme to minimise such

structures. The potential drainage required for the proposal has been assessed in detail to ensure that it can be built, used, and maintained to meet the requirements specified for it including any changes in recognition of climate change and the implications arising therefrom.

57. All PMA's and necessary changes to enable the Scheme to be built and operated have been identified and the Council is grateful for the involvement of others to achieve the result it has in that respect.
58. All the roundabouts provided on the Scheme are of a size required to cater for the anticipated use and have been located and will be constructed in a manner suitable for their use. They will be built offline where appropriate to seek to minimise conflict with and use of the current network as that is of benefit to both the local users of the network and also those constructing the Scheme. All haul routes necessary to build the Scheme have been included to achieve that aim.
59. Mitigation measures, whether in the form of noise fences, landscape provision or similar are included within the planning permission and will come forward with the Scheme to ensure they are provided. In addition, any further licence or measure required to address any factor relating to the Scheme construction will be applied for in the normal way with activity not taking place until they have been achieved. In that respect it should be noted that the Council has been working with those various representative bodies and as such no problem is anticipated to arise.
60. One specific location where mitigation measures have been identified as being necessary is at Grammar School Farmhouse close to roundabout 2 and they will be in place early in the process and if others are identified as being required in relation to construction they will be considered as part of the Scheme construction.
61. Lag Lane will be closed off over much of its length, removing motorised through traffic whilst at the same time providing a new dedicated bridleway for the enjoyment of pedestrians, cyclists, and horse riders.

62. Taken together the Scheme provides a comprehensive solution to the movement of traffic from north of the town to the south and by connecting back into the roads accessing the town it will encourage traffic to use the most appropriate route for its journey. The figures of traffic relief given by Mr Dazeley indicate that it will achieve its ambitions and permit other measures to be taken should that be the correct approach within the town itself as part of an overall package.
63. The topography around the north and eastern edge of the town is varied. The ambition of the Scheme earthworks is to achieve a cut and fill balance to avoid costly, unnecessary, and environmentally disadvantaged movement of spoil to or from the site. At the same time that approach has achieved a further advantage of using the topography as part of the Scheme mitigation to use the “cuts” to mitigate the effects of the proposals as Mr Weir described.
64. Having set those matters out I can turn to the tests which apply to the operation and use of CPO powers before turning to the SRO.
65. 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 originally in February 2018 but updated repeatedly since with the current version being 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 note; in setting this out I draw upon what was set out in the Council’s opening remarks.
66. 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 permission which reflects the public benefit that it gives rise to. It is the means by which the objectives in respect of Melton Mowbray can be met and not only the relief that will give to the town itself,

which has been a long-standing ambition for the town but further, it will enable the town to meet its growth ambitions with the environmental advantage in respect of both noise and air quality effects that has.

67. The second question relates to the interference with owner's rights. The question can be 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 include the removal of traffic from the town centre with all the 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.
68. 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 exactly to the detail of the areas contained within the planning permission as applied for and now granted and as such the position could not be clearer. The proposals have been developed over a period of time dating back to before its inclusion in the most recent Local Plan for Melton. 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
69. Once again, the fact that there is no objection suggesting otherwise is indicative of the position.
70. 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 given that timescale may vary. It is for that reason why Miss Walker has 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. That has been done by indicating other funds may be available but, in any event, 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 permission 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 2022, subject to the outcome of this Inquiry, in order to ensure that it falls within the funding arrangements that are in place.

71. 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 permission exists, and the outstanding conditions are not onerous or likely to give rise to concern, as confirmed by Ms Leeder and there are no other matters of concern.
72. 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 – Corporate Resources (Mr Tambini) has confirmed the position. All the necessary planning permission is in place, detailed development of the proposal continues to meet the planning conditions and the Council is keen to progress the proposal.
73. Accordingly, the guidance as contained within the 2019 version of the advice is met and as indicated in the Statutory Tests in the Inspectors note are met.

The Statutory Test in Respect of the SRO

74. 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. 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 permission for the Scheme.
75. 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. Subject to one matter, it is important that no objections were brought before the Inquiry in respect of any such matter.
76. The one matter I would draw attention to is the reference in the written evidence of Messrs Lovegrove to the closure of Lag Lane and their argument that would not result in a reasonably convenient access arrangement. Such an argument is hard to maintain when the true purpose of the Scheme is understood. The Scheme will close Lag Lane to unlimited public use but reopen it as a bridleway and also for the use currently enjoyed by the users of those fields, which will be maintained. For smaller agricultural vehicles they may be able to use the whole of Lag Lane whereas for larger vehicles they would only be able to access from the south and directly off roundabout 5. As such for all current users the ability to access the fields will remain the same within the proposals but for the need to stop and access the gateway or other restriction which would be locked. As such the argument does not arise and the statutory test is met by the provision being made.

77. The SRO, as described in the draft Order taking into account the proposed modifications which have been presented to and considered by the Inquiry, provides for all the necessary alterations to the existing road network and creates the new means of access required. The Scheme is extensive it crosses agricultural land as well as roads and other access points. The Council has taken a considerable amount of time to seek to ensure that all necessary access arrangements are catered for and the involvement of the various objectors in that process, for example Network Rail gives a level of confidence in the final result.

78. The SRO is required to allow the Scheme to proceed, it provides in part the justification for the CPO, and it is an essential requirement if the Scheme is to proceed. Given the length of time spent on that at the inquiry and the thorough and detailed way that the Inspector led the roundtable session considering those matters I do not need to address the detail any further. The relevant test is met, and the SRO should be made subject to the modifications brought forward.

Objections and Representations

79. Finally, that brings me to address the objections themselves which I can do shortly given the essential nature of them. I will start by indicating those matters that I will not address.

80. It has been made clear at the Inquiry that matters relating to the interpretation of the Law, matters relating to compensation and matters relating to accommodation works are not before the Inquiry. Neither is government policy although its application to the Scheme would be.

81. In closing I can state that the closest we appear to have got to questions of law is the misunderstanding arising from the process in respect of the use of CPO powers, although even that is not really a question of law. It was stated by some that it was a statutory requirement to seek to agree matters prior to the use of the CPO procedure. As I indicated to the Inquiry based on the most recent guidance that is a

misunderstanding of the position. It is not a statutory requirement as the approach is one based on guidance. The guidance does not prohibit the use of CPO powers in fact it suggests the parallel use of discussions and CPO powers might be wise to show the Council's determination and intent.

82. In this case the approach has been to seek to discuss and to reach agreement where possible. That approach follows and meets the guidance in its entirety and no valid objection can be found to exist on the basis alleged. The Council has spoken with all landowners that it has been possible to do, those discussions followed a period of extensive consultation in respect of the Scheme prior to permission being granted and has continued since. Mr Lakin, who has appeared repeatedly at the Inquiry, has taken the time and trouble to explain that when asked to.

83. This does not therefore amount to an objection in this case.

84. The next point I raise relates to the application of Government policy, not as a challenge but as it is applied as part of the Scheme. I deal with this shortly as I cannot recall any objection that has attempted to do that in this case. The need for the Scheme and its compliance with policy generally appears to have been accepted.

85. Matters of compensation will arise but not at this time. Mr Merry has described the position beautifully in his evidence and I know that some objections have been withdrawn on the basis that it was recognised that the point being raised was about compensation claims. In fact, an examination of many of the objections that have not been formally withdrawn would appear to raise matters that might fall under that heading, I have in mind Twin Lakes where access is to be maintained and the further detail being requested does not arise from the effects of the Scheme but may relate to compensation of perhaps even accommodation works. Mr Brown for The Ernest Cook Trust recognised some element of his objection fell under this head or also accommodation works and only raised a specific point about acquisition and the potential for that to be achieved through agreement with up to eight parties. Such an approach does not represent the certainty that is required.

86. I do not therefore intend to say anything further about compensation as I suggest it is clear where that is the basis for the objection being made.
87. I can also be short in respect of accommodation works although I do need to add a point of detail. The Council has sought, throughout the development of the Scheme including the period since planning permission was granted to be transparent and to meet the needs of those affected by the Scheme where it was possible to do so. Arguably the change to the planning permission and the revision to the bridleway at Thorpe Brook to meet a concern raised could have been seen as accommodation works.
88. The Council did not adopt that approach but rather examined the situation and then took steps to deal with it on the basis that the concern being raised did give rise to a potential conflict that was best avoided. The question was not therefore asked as to what the problem was but rather what the proper solution was. That solution was to seek to change the planning permission, include the additional crossing point of the brook so that the users were separated either side of the brook to avoid conflict which may occur albeit on an occasional basis.
89. Insofar as that indicates the Council's approach it might be best described as complete in order to bring forward the Scheme on the best basis possible. Accordingly, there is no reason to believe that such an approach will not guide the approach to accommodation works going forward, and Mr Merry has recognised that there will be such measures, but one thing is clear. Those works are not matters for the inquiry to be concerned with and they will be addressed in the most appropriate way in the future.
90. What therefore is left. I would suggest that in closing I do not need to deal with those matters covered in the written representations as they were considered in full before the inquiry and there is little to be gained by simply rehearsing once again what was covered.
91. That leaves therefore the position in relation to Lag Lane raised by Mr Brooker and supported by Mr Curley. The position on the basis of the evidence produced appeared

to be somewhat confusing but I was grateful that it was clarified to indicate that the only real point that was being raised related to the possibility of larger delivery vehicles accessing Lag Lane and then using the driveway into the 5 private dwellings to turn. It did not relate to the vehicles seeking to access the paddocks on an occasional basis to cut the grass or to delivery vehicles that were delivering to the close itself.

92. Although we spent some little time examining that objection, which we should note was not from a Statutory Objector as no land was being taken but from a concerned local resident, the position resolved itself once Mr Simons had explained the position. He explained that not only was the location of the gate or restriction to be placed close to the speed limit signs and therefore visible from the village but further it was adjacent to the entrance into White Gable. The owners of that property had opposed the potential use of a turning head and had acknowledged that vehicles do and can continue to turn in their and other driveways.
93. Given that confirmation Mr Brooker indicated that he agreed with everything Mr Simons had described and that his objection fell away if that access way was capable of being used and all he was looking for then was some form of signage or demarcation indicating that was the case. As such that does not indicate a continued objection on the face of it.
94. However, the request made as to signing or demarcation is entirely unnecessary. The owner of land can allow or permit any use to be made of it and we know that the owner of White Gable is aware of the current arrangement. There is no need therefore for the Council to seek to carry out anything further in terms of signing or demarcation at that location and one might ask what the justification would be for it. In terms of activity, we are talking about an occasional user, it will be a user that has not otherwise chosen to turn either at or adjacent to the house or property that is being visited and otherwise did not know the arrangements. But of course, we should not forget that the user that was of concern was not a car user but someone in a large delivery vehicle that might otherwise use their access. Such a user would therefore be very limited indeed and the Scheme as proposed, which was welcomed by Mr

Brooker for ending the rat running traffic does not need to be altered to accommodate such a rare and infrequent user of the Lane.

95. Building upon that for the Lovegrove's, the only additional point related to the possible movement of the turning head to the south. Mr Simons gave an exemplary demonstration, including an identification as to why that would be unsafe in highway terms, to describe why such a proposal was not acceptable. In any event such a change is not required as access for current use is being maintained within the Scheme and any future use for residential purposes is neither approved nor certain given the planning matters described by Ms Leeder.

96. My final comment relates to Mr Henderson. The starting point here is that Mr Henderson is technically a Statutory Objector but the land which is being taken is that within the highway which arises from the operation of the principle that half the road width is owned by the adjacent neighbour. As such there is no physical effect on Mr Henderson's land within the boundary of his land itself. Traffic on the road in front of his house will decrease along with the environmental effects of it and as for lights swinging across his property from drivers approaching and using the roundabout, they will be some distance away, their headlights will be dipped, and a bund and landscaping will be provided between the light source and his property. Mr Henderson's comments should be recorded as an objection but in the context of the Scheme itself, the need for it and the benefits which arise, including those for Mr Henderson no delay should occur to the Scheme itself.

Conclusions

97. The 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 north to south without accessing the town centre. 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.

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, but principally from the Council. 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.

Simon Randle.

4/5 Gray's Inn Square,

Gray's Inn, London

30th September 2021.

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 Councils own position.