

**Appendix E- Chalfont St Peter MSA 1 ref: PL/19/2260/OA Appeal Decision**

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## Appeal Decision

Inquiry held between 17 August and 3 September 2021

Site visits made on 10 August and 26 October 2021

**by Mark Dakeyne BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17 November 2021**

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**Appeal Ref: APP/X0415/W/21/3272171**

**Land between Junctions 16 and 17 of the M25, near Chalfont St Peter**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Extra MSA Group against Buckinghamshire Council.
  - The application Ref: PL/19/2260/OA, is dated 28 June 2019.
  - The development proposed is the erection of a motorway service area with all matters reserved with the exception of access from the M25, comprising of a facilities building, fuel filling station, electric vehicle charging, up to 100-bedroom hotel, service yard, parking facilities, vehicle circulation, landscaping, woodland and amenity spaces, sustainable drainage systems (SuDS)/attenuation, pedestrian and cycle links, retaining structures and associated mitigation, infrastructure and earthworks/enabling works.
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### Decision

1. The appeal is dismissed and outline planning permission for the erection of a motorway service area (MSA) with all matters reserved with the exception of access from the M25, comprising of a facilities building, fuel filling station, electric vehicle charging, up to 100-bedroom hotel, service yard, parking facilities, vehicle circulation, landscaping, woodland and amenity spaces, sustainable drainage systems (SuDS)/attenuation, pedestrian and cycle links, retaining structures and associated mitigation, infrastructure and earthworks/enabling works is refused.

### Procedural matters and background

2. The site address is taken from the application form but elsewhere the site is referred to as land at Warren Farm. In describing the appeal site in this decision, I will sometimes refer to it as Warren Farm.
3. The application was submitted to Chiltern District Council but, in April 2020, a new unitary authority, Buckinghamshire Council (BC), was formed from the County Council and the four district councils, including Chiltern. Therefore, BC is now the local planning authority.
4. The application is in outline with all matters reserved except for access from the M25. The illustrative master plan, parameters plan and landscape plans are provided to give an indication of how the site would be developed. That

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said, the evidence provided at the inquiry was on the basis that a detailed scheme would follow the design principles set out in these plans. Moreover, a permission could be linked to the plans by condition. Therefore, I have based my assessment of the impacts of the development on the illustrative master plan, parameters plan and landscape plans.

5. The development falls under Schedule 2 Part 10 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as an urban development project exceeding the thresholds and criteria in Schedule 2 of the Regulations. An Environmental Statement (ES) was submitted by the appellant together with two addendums.
6. The ES as a whole complies with the above Regulations. The information provided is sufficient to enable the environmental impact of the proposed development to be assessed. The contents of the statement, comments received on it and all other environmental information submitted in connection with the appeal, including that given orally at the inquiry, have been taken into account in arriving at this decision.
7. BC, at the meeting of the Strategic Sites Committee on 23 June 2021, resolved that, had it been in a position to determine the application, it would have been refused because of the harm to the Green Belt, landscape and visual impact, loss of the best and most versatile agricultural land (BMV), and harm to the setting of heritage assets.
8. The Council also raised a second putative reason for refusal relating to the absence of planning obligations. However, a unilateral undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (S106) dated 22 September 2021 deals with a range of obligations, namely an employment and skills strategy; a local procurement strategy; groundwater monitoring and management; the provision of a significant area of land to the west of the appeal site to be used as Community Land; a Public Rights of Way Strategy; a Underpass Improvement Strategy; a Woodland Management Strategy; Biodiversity Net Gain; Sustainable Drainage Systems (SUDs) Maintenance; a Security Framework, including for the Thames Valley Police (TVP) access; Highway Works; a Travel Plan; a North Orbital Cycleway Contribution; a Traffic Regulation Order Contribution; a Management Company for SUDs and the Community Land; and a Council Monitoring Fee. I will return to the S106 later in my decision.
9. There were three Rule 6 parties appearing at the inquiry. Bickerton's Aerodromes own Denham Airport which lies about 1km to the south of the appeal site and were solely concerned with the issue of aviation safety. Moto Hospitality Ltd (Moto) and Colne Valley Motorway Service Area Ltd (CVMSA) have put forward alternative sites for MSAs. These sites are not before me for determination but are potentially relevant as a material consideration. I visited the alternative locations.

### **Main issues**

10. The appeal site lies in the Metropolitan Green Belt. The proposal constitutes inappropriate development in the Green Belt as set out in paragraph 149 of the National Planning Policy Framework (the Framework).

11. Taking into account the above background and other considerations raised in the evidence, the main issues are:

- the effect on Green Belt openness and purposes;
- the effect on the character and appearance of the area, including landscape and visual effects;
- the impact on the designated heritage assets at Mopes Farm, with particular reference to the effect on their setting;
- the effect on the BMV agricultural land;
- the effect on veteran trees, ancient woodland, and biodiversity more generally;
- the effect on aviation safety; and,
- whether the harm to the Green Belt and any other harm is clearly outweighed by other considerations, so as to constitute very special circumstances.

## **Reasons**

### ***Green Belt openness and purposes***

#### *Openness*

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
13. The MSA would involve a developed area of some 12 ha with significant building footprints, comprising the facilities building, the linked hotel and a filling station<sup>1</sup>, and large areas of associated parking, access routes and other infrastructure. The appeal site is largely devoid of development, other than where it is dissected by the M25. Therefore, in terms of the spatial dimension, the proposal would cause a substantial loss of openness.
14. With regard to the visual dimension of openness, that part of the appeal site to the west of the M25 comprises a chalk valley cutting through rolling farmland. The open land extends between the M25 and Denham Lane, the latter forming the eastern extent of Chalfont St Peter. The MSA would involve a significant incursion of built form and infrastructure into this open landscape together with a marked change in landform.
15. These changes would be clearly perceived by users of the footpath which runs near to and across the northern part of the site and by the many motorists on the M25. Drivers on the M25 would have their eyes on the road ahead and would also anticipate seeing MSAs at regular intervals. That said drivers would have some appreciation of the surrounding open landscape. Moreover, passengers would be more likely to enjoy the passing open countryside preserved by Green Belt.

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<sup>1</sup> In total over 8,000 sq m of building footprint



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16. The area to the east of the M25 is already close to major works associated with HS2 and crossed by overhead power lines. Moreover, most of the area would remain open with swathes of meadow and woodland planting. In this context the provision of slip roads and the bridge over the M25 would have some, but not a significant, effect on the openness of this parcel of land.
  17. In terms of the wider area, the topography and wooded landscape would limit views of the main areas of built development and parking. In particular, the lie of the land would prevent views of the MSA from Denham Lane and Chalfont St Peter. That said, parts of the buildings, the bridge and slip roads would be visible from some longer distance viewpoints.
  18. But overall, there would be substantial harm caused by loss of Green Belt openness.

#### *Purposes*

19. The Green Belt purposes of a) checking the unrestricted sprawl of large built-up areas; b) preventing neighbouring towns from merging into one another; and c) assisting in safeguarding the countryside from encroachment are relevant. There is agreement between the Council and the appellant that there would be harm caused to purpose c) and I concur.
  20. In terms of purpose a), the development would not be contiguous with the large built-up area of Chalfont St Peter and Gerrards Cross. The majority of the development would be contained by the M25 and HS2 to the east, open land to the west, and existing and proposed woodland and landscaping to the north and south.
  21. There would be some perception of sprawl caused by the development in that it would be in relatively close proximity to the eastern edge of the built-up area and would be experienced as such, most notably by users of the footpath as they walked to and from the settlement. Moreover, paragraph 137 of the Framework does not qualify its reference to sprawl by associating it only with large built-up areas. However, applying the specific wording of purpose a), there would not be unrestricted sprawl of the built-up area. In this respect my findings are consistent with the Inspector who considered the proposal for an MSA on a different site at Warren Farm to the south<sup>2</sup>. In the previous appeal the MSA was further away from the settlement edge but in both cases the MSA would not be contiguous with the built-up area.
  22. With regard to purpose b), there is a gap of about 2km between the edges of Chalfont St Peter and Maple Cross and a greater separation between Chalfont St Peter and Harefield. The development would span some 0.5 km at its widest point, thereby eroding a significant proportion of the gaps. In views from the edges of Maple Cross and Harefield the overbridge and slip roads would be visible. These structures would be seen with the HS2 viaduct and embankment. But such existing and proposed works would have a clear connection with a major transport corridor and not contribute to a feeling of merger. The other parts of the development would not be visible from the edge of Maple Cross. Parts of the MSA buildings would be seen in the distance
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from the edge of Harefield but with the wide Colne Valley in the foreground. It would appear that none of the development would be visible from the edge of Chalfont St Peter. An MSA in this location would not lead to a merger of settlements. As with the development considered in the 1999 decision, the development would contribute to the closing of the gap but not bridge it.

23. All in all, there would be significant harm to Green Belt purpose c) but only limited harm to purpose a) caused by some perception of sprawl and no material harm to purpose b). In arriving at these judgements, I have had regard to the Buckinghamshire Green Belt Assessment<sup>3</sup>. The assessment is helpful in providing an overview of the sensitivities of areas of Green Belt. However, the relevant parcels included in the assessment (44b and 40b), although including the appeal site, are more extensive and abut the settlements of Chalfont St Peter, Maple Cross and Denham Green. Therefore, the scores attributed to the parcels cannot be applied directly to the appeal site.

#### *Beneficial use*

24. Paragraphs 142 and 145 of the Framework refer to compensatory improvements to, and beneficial use of, Green Belts. These provisions relate primarily to plan-making and to the positive role to be played by local planning authorities. However, the provision of access, the opportunities for informal recreation, and the enhancements to landscape, visual amenity and biodiversity that would be facilitated by the community land have been put before me as considerations that should be taken into account in considering the Green Belt impact of the development.
25. The development of Green Belt land is strictly controlled by current Government policy. However, the provisions of the UU would ensure that the community land would be managed and maintained as an open area in perpetuity which gives even greater certainty that it would be protected from development.

#### *Conclusions on Green Belt*

26. Notwithstanding any Green Belt benefits arising from the community land, the development would represent inappropriate development and would lead to substantial harm to the Green Belt by reason of its effect on openness and purposes. The development would undermine the fundamental aim of Green Belt policy set out in paragraph 137 of the Framework.

#### *Character and appearance*

27. My findings on the visual dimension of Green Belt openness above are also relevant to the landscape and visual effects. The MSA itself would result in a major transformation in the landscape to the west of the M25 with a less significant change to the east. The landscape change would arise from the creation of the development platform to replace the natural contours of the chalk valley with its linear hedgerow and trees, the introduction of significant built development in the dip, and provision of the associated infrastructure in and around the building complex, including slip roads, overbridge, and lighting.

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<sup>3</sup> CD 6.9 – 6.11 – Report and Pro-forma

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The comprehensive planting, including woodland planting to the perimeters, would help to soften the harshest elements of the scheme but would not mitigate the effects on the existing landscape fabric of the site to any significant degree.

28. The relevant Statement of Common Ground (SOCG)<sup>4</sup> sets out the agreed landscape effects. I generally concur with the findings. The development would have major negative residual effects on the landscape fabric of the site, significantly altering the most attractive landscape components within the site. As a result, there would be significant adverse effects on a localised section of the Chalfont St Peter Mixed Use Terrace Landscape Character Area (LCA).
29. In terms of the effects on the wider landscape, these would be generally limited because of the setting down of most of the development and the resultant extent of containment by topography and existing and proposed natural and man-made features. However, there would be some adverse effects on views across the Colne Valley, an important element of the wider landscape. This would particularly be the case from the east, at the edge of Harefield, from where the prominence of the overbridge, slip roads, lighting columns, relocated pylons and associated earthworks on the skyline would be evident. Even if the bridge was to be designed as a slender structure it would still sit on the skyline. However, apart from this specific aspect, residual landscape effects on the adjacent LCAs and the Colne Valley Regional Park would not be significant.
30. The SOCG also sets out agreed visual effects with which I again concur. Because of the sensitivity of footpath users and its position overlooking the development, the visual effects from the northern footpath would be major negative. Residual visual effects from other public viewpoints would be less harmful, ranging from negligible to moderately adverse, due to the aforementioned siting, containment, and mitigation. The moderate adverse effects would arise primarily from the aforementioned highway infrastructure and their effects on views from the edge of Harefield and bridleways immediately to the south and east of the site which form, in part, a stretch of the South Bucks Way. In relation to users of Denham Lane and residential receptors in the same locality there would be no discernible visual effects. The only residential receptor adversely affected would be The Orchards Traveller Site, albeit that tree planting would limit this to a residual minor negative effect.
31. Despite the background noise of the M25, parts of the appeal site have reasonable tranquillity which currently adds to the experience for recreational users. The MSA would significantly erode the tranquillity of these parts of the appeal site for such users, albeit that the community land would have the potential to provide similar areas for quiet recreation.
32. The scheme has sought to achieve the best landscape fit for the site, in the context of a desire to provide a range of facilities and infrastructure, many of which are essential features of an MSA. The siting of much of the development within the valley would reduce its conspicuousness. In addition, the landscaping improvements to the community land would enhance its landscape

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<sup>4</sup> CD 2.17

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and visual qualities. Moreover, it is almost inevitable that the construction of an MSA on the north-west quadrant of the M25 would have significant landscape and visual effects.

33. However, notwithstanding these factors, the particular location of the development leads to inevitable major landscape and visual effects which it is not possible to mitigate. In this case the development would result in significant harm to the character and appearance of the area, by reason of its landscape and visual effects.
34. As a result, the development would not recognise the intrinsic character and beauty of the countryside and would conflict with Policies GC1 and GB30 of the Chiltern District Local Plan (CDLP) as it would not relate well to landscape features, would not be well integrated into its rural setting and would not conserve the scenic beauty or amenity of the landscape. That said, the new landscaping would be suitable for the development proposed and, therefore, there would be compliance with Policy GC4 of the CDLP.

#### ***Designated heritage assets***

35. Mopes Farm, which lies off Denham Lane to the south-west of the appeal site, contains three Grade II listed buildings - the farmhouse, a barn, and a barn with an attached cottage. There is an historical association between Mopes Farm and part of the appeal site in that they were in the same ownership during the 19<sup>th</sup> century. Some of the appeal site would have been farmed from Mopes Farm.
36. The farmhouse and associated buildings are no longer used as a farmstead. There is no farmyard or the other familiar sights, sounds and smells of a busy farm. Through conversion, refurbishment, and alteration, they now have a solely residential function. The special architectural interest of the listed buildings lies in their surviving historic fabric, antiquity, and group value. Additionally, the farmhouse displays fine craftsmanship. These attributes are best experienced from within the complex and from close by, including, in the case of the cottage and barns, from Denham Lane. From these immediate surroundings the buildings can be read together. The historic fabric and special architectural interest of the Mopes Farm complex and the close-up experience would be unaffected by the appeal scheme.
37. The appeal site forms part of the wider setting of the heritage assets. Glimpsed views of the roof of the farmhouse can be seen from parts of the appeal site. However, there is now no functional relationship between the appeal site and Mopes Farm. The wider agricultural setting has been altered by the M25 which, along with modern agricultural methods, have reshaped the field pattern. Moreover, a relatively modern industrial unit lies between the farmstead and fields in and around the appeal site. Therefore, the wider setting, including the appeal site, makes only a limited contribution to the significance of the heritage assets. In any event arable fields, pasture and meadows would be retained on the community land between the development and the listed buildings. Thus, the listed buildings would not be hemmed in by the development. The views of the farmhouse roof from the appeal site, although not significant in experiencing the heritage assets, would not be materially affected.



38. In conclusion, the proposal would have a neutral impact on the designated heritage assets at Mopes Farm, with particular reference to the effect on their setting. Therefore, there would be compliance with Policy CS4 of the Chiltern Core Strategy (CCS), insofar as it relates to the protection of the historic environment, and Policies LB1 and LB2 of the CDLP, as the historic assets and the setting of the listed buildings would not be adversely affected. The setting of the listed buildings would be preserved.

#### ***Agricultural land***

39. The proposal would result in the loss of some 16.5 ha of the BMV agricultural land (Grade 2 and Grade 3a land). Of the BMV land, some 6.5 ha to the east of the M25 is currently affected by the HS2 construction compound. The intention is that, without the appeal scheme, this land would be returned to agricultural use.
40. The appellant's evidence explained that reinstatement of agricultural land after construction works does not usually lead to land of the same quality. This is due to factors such as compaction and weather conditions affecting the displaced soils, particularly during soil handling. It was suggested, based on research, that only some 20% of such land is reinstated to the same quality after construction works.
41. Of the remaining 10 ha of BMV land to the west of the M25, there are a couple of very small parcels of Grade 3a at the north-west end of the site which, in practice, would be farmed alongside land of lesser quality rather than differently. That said, there are three more significant blocks of BMV land on the western portion of the site, including the largest parcel upon which the MSA complex would be sited.
42. Based on the above evidence, although the actual loss of BMV land equates to 16.5 ha, in reality the development would result in the effective loss of a little bit less than 10 ha of BMV land.
43. Most of the appeal site is 'share-cropped' whereby the landowner and those undertaking the cropping share the value of arable crops such as wheat, barley, and oilseed rape. The cropping is currently undertaken by Whitby Farms who are based near Slough. The land lost for cropping is unlikely to be significant for the farm business as a whole.
44. Finally, in relation to this issue, the soil resource displaced by the development would be likely to be reused within the site and community land for landscaping and to encourage wildflower meadows and grasslands.
45. All in all, the loss of the BMV agricultural land leads to moderate harm. In reaching this conclusion I have had regard to the Framework which highlights the economic and other benefits of the BMV agricultural land and Policy CS4 of the CCS which expects developments to take into account the presence of the BMV land.

#### ***Veteran trees, ancient woodland, and biodiversity***

46. The proposal would lead to the loss of an ash tree (T247) sited alongside the concrete track. This has been assessed as being a veteran tree. The development would also lead to the loss of some fifty other trees, three tree

groups, one area of woodland and nine hedgerows. However, the majority of the trees are classified as Category C (trees of low quality).

47. There are two areas of ancient woodland immediately to the north of the appeal site, the larger of which is known as Bloom Wood, the smaller Middle Wood. The ancient woodlands would not be directly affected by the development. However, concerns have been expressed that increased vehicle activity in the locality would lead to harmful nitrogen deposits at the ancient woodlands. Modelling, assuming a worst-case scenario in relation to car park use, traffic speeds and the location of access roads, suggests deposition levels have the potential to exceed the relevant 1% critical load on a part of the woodland nearest the MSA. This has been assessed as having a minor adverse effect. However, in reality actual deposits would be likely to be less, given the robustness of the assessment.
48. The scheme incorporates significant new woodland planting, including extensions to the existing ancient woodland in the northern segment of the site. In addition, the UU would facilitate enhancement and management of Bloom Wood and the creation of hedgerows, tree planting and meadows within the community land. These measures would have biodiversity benefits, in addition to providing landscape and visual mitigation. Overall, the development would lead to a biodiversity net gain in accordance with paragraph 174 of the Framework. The enhancement and management of Bloom Wood would offset any minor adverse impacts from nitrogen deposits.
49. Paragraph 180 of the Framework requires that development resulting in the loss of irreplaceable habitats such as veteran trees should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Putting to one side whether the exceptional reasons strand of this national policy requirement has been met, the new planting proposed, which would result in a significant increase in tree cover on the site, would constitute a suitable compensation strategy.
50. Overall, the proposal would not harm ancient woodland and biodiversity more generally. There would be compliance with Policies CS24 and CS32 of the CCS. There would be some harm caused by the loss of a veteran tree. Whether there are wholly exceptional reasons to override this loss is a matter which I will return to in my overall planning balance.

#### **Aviation safety**

51. Part of the appeal site lies beneath the flight circuit for Denham Airport. The flight circuit is constrained in size and height due to the existence of Heathrow's airspace to the south and RAF Northolt to the south-east.
52. An assessment conducted by Bickerton's Aerodromes considered the risk posed by the MSA to aircraft using the Denham circuit. The assessment concluded that there is a significant risk that forced landings can and will occur in the vicinity of the appeal site and community land and that effectively removing part of the area would increase the risk. That the majority of flights from the airport are undertaken by single engine aircraft, where engine failure can have severe consequences, and many flights are for training purposes, are considerations in assessing the risk.

53. The risk assessment concluded that the level of risk fell within the 'as low as reasonably practicable' (ALARP) category. In such instances the risk should only be tolerated where it is considered justified by the benefits and the impracticalities of reducing the risk. This assessment is the only one before the inquiry. On the basis of this assessment, the aerodrome manager objected to the application.
54. There was much discussion at the inquiry about the role that land use planning has in reducing risk, given the regulatory framework which applies to airports which is primarily enforced by the Civil Aviation Authority (CAA). However, the relevant SOCG<sup>5</sup> agrees that aviation safety is a material planning consideration for the appeal and this was agreed by the appellant at the inquiry. This reflects that planning has a role in controlling the use of land in the public interest which goes beyond the regulation of aviation activity by the CAA. The role can also extend beyond the safeguarding procedures set out in Annexe 1 to the 2002 Direction<sup>6</sup>. This is supported by the references to aviation in the Framework, the non-regulatory role of the Airfield Advisory Team (AAT) within the CAA, and that the loss of areas for forced landings can be a material consideration in a planning decision<sup>7</sup>.
55. On the basis that the planning system has a role, it was reasonable for the aerodrome manager to commission the risk assessment and raise objections as a result of its conclusions, even though the area being assessed was not controlled by the aerodrome. Alternative forms of development for the appeal site and community land are very limited because it is Green Belt. Objecting to the current development proposals was a legitimate way that the aerodrome operator could mitigate the risk through the land use planning process.
56. That part of the appeal site to the west of the M25 and the adjoining community land is predominantly in arable use with large fields divided by hedgerows and tracks. The surface of the fields will vary depending on whether they are laid to crop, ploughed or fallow. However, whatever the exact condition, the combined site is one of the larger open areas for forced landings under the circuit. The area would not facilitate forced landings at take-off and landing but would provide a suitable zone on the downward leg of the circuit. This is demonstrated by the fact that a successful forced landing occurred in 2007 on the southern portion of the appeal site.
57. This is not to say that pilots predetermine that the area of the appeal site and community land would be used in the event of an emergency. However, it is good practice to alert pilots to potential areas for forced landings. Of those potential areas, the appeal site and community land is far from being the only area but is accessible from a good proportion of the circuit.
58. That said, the suitability of the area upon which the MSA itself would be built is affected by the topography of the valley and the proximity of woodland, the M25 and pylons. These features would be in the mind of a pilot during the short period when they need to make decisions about a forced landing.

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<sup>5</sup> CD 2.35 - SOCG on aviation issues between the appellant and Bickerton's Aerodromes

<sup>6</sup> CD 10.1 - The Town and Country Planning (safeguarded aerodromes, technical sites, and military explosives storage areas) Direction 2002

<sup>7</sup> See for example CD 10.17 - Appeal decision ref: APP/C2741/W/18/3223376 dated 31 October 2019

Therefore, some of the appeal site, particularly its north-east corner, would not be particularly suitable for forced landings at present.

59. That part of the appeal site to the east of the M25 has the line of pylons along its western boundary and woodland to the south. HS2 will run to the east. Parts of the site has the chalk valley running through it. Some of the area is suitable for forced landings but its utility is affected by the nearby features and its topography.
60. Of the areas that are less constrained, the majority would remain open as it would form part of the community land. A smaller field pattern, more hedgerows, and community use within this area, would have some effect on its utility for forced landings, but it would remain predominantly open and level. Some scrubland on the site of former minerals workings would be improved. Existing small obstructions, such as a metal container, would be removed. That said, the proximity of the MSA with its buildings, parking areas, road layout and human activity would be in the mind of the pilot, particularly because of the fear of undershooting on a northern approach into prevailing winds.
61. The position of the slip roads, the realignment of the pylons, and planting of woodland belts on the portion to the east of the M25 would reduce its utility. New slip roads would also create a further hazard in the belt of land immediately to the west of the M25.
62. Overall, there would be a moderate reduction in the utility of the area of land (the appeal site and community land) for forced landings when taken together and therefore some reduction in choice for a pilot. This is reflected in the AAT's conclusion 'that the development of the MSA will reduce the area available for a forced landing to a significant extent', bearing in mind that this comment did not take into account the benefits of keeping the community land open.
63. As a result, I conclude that there is likely to be some harm to aviation safety through an increased risk for aircraft pilots and any passengers. However, it is unlikely that the loss of some areas for forced landings would be of such a magnitude as to reduce the attractiveness of Denham Airport as a place to fly from. Those who take part in general aviation are unlikely to base their choice of airfield on the existence or otherwise of forced landing sites. If that were the case then the future of more constrained airfields would be under threat. Therefore, the existence of the airport would be unlikely to be prejudiced or its overall economic value in serving business, leisure, and training needs reduced, as referred to in paragraph 106 of the Framework. Moreover, the MSA would not place unreasonable restrictions on the airport. Furthermore, I do not see the increase in risk being of a magnitude which would be sufficient, in itself, to justify dismissing the appeal. But it is an issue that should be attributed some harm in the overall planning balance.

#### **Other considerations**

64. In terms of other considerations these comprise primarily the need for the MSA; economic, social, and environmental benefits; and other alternative sites for the provision of an MSA.

### *Need*

65. Annex B of Department of Transport Circular 02/2013<sup>8</sup> recognises that MSAs should be provided at intervals of no more than 28 miles apart. The Circular also notes that the distances are not prescriptive as travel on congested parts of the network may take longer.
66. There are no MSAs on the western section of the M25 between South Mimms (junction with the A1) and Cobham (near the A3). Taking into account the wider motorway and strategic road network connected via the M25, including the M1, M40, M4 and M3, there are some 42 gaps between MSAs exceeding 28 miles. Some of the gaps are upwards of 50 miles. There are a few other gaps close to 28 miles on these heavily congested stretches of the motorway network, where travelling can often take considerably longer than 30 minutes, particularly during peak periods. There is a clear need for a new service area in the north-west quadrant of the M25 between the junctions with the M1 and M4.
67. In arriving at the number of gaps above or close to 28 miles in the preceding and following paragraphs, the measurements use actual distances between the centre of MSA car parks and include gaps in both directions<sup>9</sup>. These figures build on those used in the SOCG on need<sup>10</sup> to provide a more comprehensive assessment. It seems logical to use the points between which drivers can commence their rest period and such an approach has been endorsed by the Secretary of State in a case where there was a dispute<sup>11</sup>. This method of measurement was supported by witnesses from both CVMSA and Moto. The measured distances using car park to car park is slightly greater than if measured from off slip to off slip (as favoured by the appellant) but does not make a significant difference in terms of the number of gaps which are above 28 miles.
68. Table 3.1 indicates that the appeal proposal would fall between 30 existing gaps which are 28 miles or greater and resolve 19 of them by bringing them down to less than 28 miles. The development would include all the minimum requirements for an MSA as set out in Table B1 of Circular 02/2013. Meeting this need would have considerable road safety benefits and would represent a significant positive in the planning balance.
69. There are some elements of the scheme that are not needed to meet the minimum requirements for an MSA. This includes the 100-bed hotel, the business centre within the facilities building and the level of car and HGV parking proposed. That said, whilst not supported by a strong need case, a hotel is a common element of an MSA and provides an extra facility with some safety and welfare benefits for motorway users. Moreover, there is an acknowledged severe shortfall of HGV parking in the south-east and the proposal would go some way to meeting this need. There would be limited

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<sup>8</sup> The Strategic Road Network and the Delivery of Sustainable Development

<sup>9</sup> ID 2.3 - Table 3.1 of the proof of evidence of Mr Roberts

<sup>10</sup> See CD 2.2

<sup>11</sup> Conjoined decisions by Secretary of State for MSAs and truck stop on the A1(M) North Yorkshire in 2012, Refs: (A) APP/E2734/A/09/2102196, (B) APP/G2713/W/09/2108815, (C) APP/E2734/W/10/2133571, (D) APP/E2734/W/10/2133577, (E) APP/G2713/W/10/2133567



benefit from the business centre and above standard car parking. All in all, these additional elements represent a moderate benefit.

*Economic, social, and environmental benefits*

70. The development would involve some £160 million of investment by the appellant and partners, up to about 750 construction jobs and 340 full-time equivalent operational jobs. It is expected that some 75% of the operational jobs would be taken up by people from the Chiltern local area. The jobs would be subject to a Local Employment Strategy, incorporating local employment and training opportunities. However, the economic benefits of an MSA go beyond jobs. As Circular 02/2013 points out, 'operating an effective and efficient strategic road network makes a significant contribution to the delivery of sustainable economic growth'.
71. The provision of the community land, including publicly accessible recreational space and an improved footpath network and landscape and ecological enhancements, would represent environmental mitigation. These works, alongside management of Bloom Wood, would also give rise to some social and environmental benefits, particularly through creating access opportunities in the Colne Valley Regional Park and achieving biodiversity net gain.
72. The provision of electric charging infrastructure and sustainably constructed buildings would be expected on a development of this nature and scale to comply with national and local policy and would not represent material benefits.

*Highways and accessibility*

73. The MSA would be accessed by slip roads off the M25 with an emergency vehicle access off Denham Lane. National Highways (previously Highways England) and BC as local highway authority (LHA) have no objection to the access proposals, subject to conditions and the planning obligations<sup>12</sup>. The emergency access would be capable of being made safe and suitable, with acceptable visibility splays. The Denham Lane vehicular access would not allow police and other emergency vehicles to reach the M25 as such an arrangement would be contrary to Circular 02/2013. However, TVP would be able to access a dedicated parking area which would allow them to control anti-social behaviour and criminal activity at the MSA.
74. The site is not adjacent to centres of population. The development would be predominantly accessed by private vehicle, as is inevitable for an MSA. However, there would be the possibility of locals from the Chalfont St Peter area who work at the MSA reaching the development during daylight hours by foot or cycle using the footpath/cycleway connections from Denham Lane which would be provided through obligations relating to the community land. There are also bus services in and around Chalfont St Peter, albeit not many workers would undertake a bus journey and then walk to the site. The appellant also proposes a workers' minibus service as part of the travel plan.
75. It would be unlikely that significant numbers of workers and others would park on Denham Lane and residential streets nearby to access the MSA because of

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<sup>12</sup> See CD 2.2 & 2.34- SOCG between appellant and Highways England and appellant and BC

the distance that they would need to walk. They are more likely to drive via the M25 and then park at the MSA. However, there are provisions within the S106 to monitor parking levels on and around Denham Lane for five years. Should this give rise to issues in the future then a Traffic Regulation Order could be implemented, funded by the appellant.

#### Pollution

76. I have addressed the air quality impacts in terms of ecological receptors above. In relation to human health receptors, the evidence provided in the ES and summarised in the technical note produced at my request<sup>13</sup>, indicates that air quality impacts from traffic emissions on the residents of the Orchards Caravan Park would be negligible and not significant. Due to the separation from the edge of Chalfont St Peter, there would not be any air quality impacts on the primary school and nearby residents. The air quality affects during the construction phase from Denham Lane would be time limited and unlikely to be significant.
77. Increased noise and light spill would be inevitable consequences of the MSA. However, the evidence indicates that the effects would not be significant providing mitigation relating the construction phase (best working practices) and operational phase (screening to the Orchards Caravan Park) are implemented.

#### Delivery

78. The appeal scheme is deliverable from a highway perspective. Although detailed design work would be needed, including for the overbridge, and works such as relocating power lines would be necessary, no major obstacles to delivery have been put before me. It would appear that the MSA would be capable of being open around 2026/27.

#### Alternative sites

79. It is common ground that there is a need for one MSA in the north-west quadrant of the M25. The proposal before me gives rise to 'clear public convenience or advantage' but also 'inevitable and adverse effects or disadvantages to the public'. Case law indicates<sup>14</sup> that, in such circumstances, it is necessary to consider whether an alternative site exists for the same project which would not have those effects or would not have them to the same extent.
80. In considering the alternative sites put forward by Moto and CVMSA, it is necessary to consider whether they are likely to cause less harm than the appeal proposal, whether they would meet the need just as well or better than Warren Farm, whether other benefits would be comparable or greater and, crucially, whether they are likely to be deliverable. I will now go onto consider the two alternative sites put forward against these matters.

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<sup>13</sup> See ID 4.1

<sup>14</sup> CD 7.5 - Secretary of State for the Environment v Edwards - Court of Appeal (1993) 69 P. & C.R. 607

### Moto

81. Moto's site is to the south of M25 Junction 20 between Hunton Bridge and Kings Langley. The site would be served by an access off Watford Road, the A41. As such an MSA here would be 'off-line', in other words not served by direct access off the M25 between junctions. An application for an MSA on the site was refused by Three Rivers District Council in July 2021.
82. The Moto site lies within the Green Belt. An MSA would be inappropriate development in the Green Belt. The Moto site developed area would be more compact than the appeal site and, therefore, would cause less harm to the spatial dimension of openness. However, the Moto site is highly visible on rising ground. An MSA would be prominent from many surrounding viewpoints, including the M25, the A41, the church and minor road at Hunton Bridge, the canal towpath, the footpath near Round Wood to the north east, and residential streets in Abbots Langley. Considering the spatial and visual dimensions together, the effects on Green Belt openness would be likely to be comparable with the appeal proposal.
83. The Moto site would have an adverse effect on the Green Belt purpose c). In terms of purpose a), the site is sandwiched between the major transport corridors of the M25 and the A41. Open land alongside the River Glade and canal would not be affected, providing some separation from Abbots Langley which is contiguous with the large built-up area of Watford. The Green Belt gap to the north of the M25, towards Kings Langley, would be retained. However, because of the narrowness of the river valley gap and the way the site would be viewed from surrounding urban areas and settlement edges, there would be a perception of development leading to some unrestricted sprawl from the large built-up area of Abbots Langley/Watford.
84. With regard to purpose b), there are no settlements nearby to the west. The M25 and gap to the north provides a clear barrier and separation to prevent merger with Kings Langley. The effect on the Green Belt purpose of preventing the merger of towns would be limited.
85. Overall, an MSA on the Moto site would have no clear advantages in Green Belt terms compared with the appeal proposal.
86. The site is made up ground and there are many urban influences nearby, such as road and rail corridors with their associated noise, and the built-up areas of Abbots Langley, Watford, and Kings Langley. However, the site appears as a natural landform forming part of the western valley slopes to the Gade Valley. It is likely that the amenity building and parking areas would sit towards the top of the site. The prominence of the site from viewpoints would lead to an MSA having significant adverse effects on the landscape of the Gade Valley and significant visual effects for sensitive receptors nearby. The size of the site and its topography would limit the scope for effective mitigation. Again, I do not consider that, overall, the Moto site has any material advantage over the appeal site in terms of the landscape and visual effects of an MSA.
87. In terms of other harms, based on documentation and my site visits, there would be likely to be less than substantial harm to the significance of the designated heritage assets of the nearby Church of St Paul and associated structures, North Grove Lock and Lock House on the canal, and the Hunton

Bridge Conservation Area, by reason of the effect on their settings. The level of harm would be likely to be towards the lower end of the scale.

88. With regard to the effect on trees on the site, there would be likely to be some loss through the formation of the access and the removal of the hedgerow which divides the fields and that loss might include veteran trees. In this respect there is a dispute between experts for the appellant and Moto, albeit that the latter have had the benefit of a close visual inspection of the trees referred to. From the evidence before me, I assess that the harm in relation to the veteran tree issue at the Moto site would be comparable to that at the appeal site. Any loss of veteran and other trees could be compensated for by replacement planting. Standing deadwood could be retained as part of a scheme or its loss mitigated by on or off-site measures.
89. Additional traffic on the north off slip road of the M25 would be unlikely to be of a scale that would adversely affect the adjacent North Grove Wood by reason of a deterioration in air quality as there is a buffer of the embankment and planting between the slip road and the woodland. The site appears to have limited ecological value at present and an MSA would be capable of achieving biodiversity net gain.
90. As things stand, there are unresolved highway safety and congestion concerns because of the additional traffic movements which would occur at the roundabout at Junction 20 and because of the need for a new access off the A41. These concerns resulted in four highway related reasons for refusal more than 2 years after the application was submitted. There is continuing dialogue between Moto and the highway bodies, including about improvements to Junction 20 and works on the A41. But whether the objections from National Highways and Hertfordshire County Council as LHA are capable of being resolved remains to be seen.
91. The site does not comprise the BMV land. There would be no adverse impact on aviation safety. The site is capable of being accessed by foot and cycle from nearby built-up areas. There are frequent bus services on the A41. There is the potential to improve pedestrian and cycle connections and the bus corridor. Kings Langley Railway Station is about a mile's walk from the site. Therefore, notwithstanding the related reason for refusal, the site is capable of achieving a good level of accessibility for an MSA.
92. In comparison with the appeal site, the Green Belt, landscape, and veteran tree harms are of a similar magnitude in the round, there is likely to be a greater effect on listed buildings, but advantages in terms of the BMV land, aviation safety and accessibility. Biodiversity impacts are likely to be similar. As things stand, the greatest distinction in terms of harm is the effect of the Moto site on the highway network.
93. Turning now to need, as an off-line site, Moto would not align with National Highway's preference for on-line facilities as expressed by Circular 02/2013. The reasons for the preference are set out in paragraph B14 and relate to their conduciveness for encouraging drivers to take breaks and the avoidance of increased traffic demand on existing junctions. That is not to say that off-line MSAs are ruled out, but on-line MSAs have an advantage.

94. In terms of meeting the need in other respects, the Moto site would be comparable to Warren Farm in terms of bringing a similar number of gaps down to less than 28 miles. The Moto site would also be capable of providing a hotel and some HGV parking, albeit, in terms of the latter, not at the scale of the appeal proposal.
95. In terms of other considerations, the Moto site has the potential to generate around 200 full time jobs and create biodiversity net gain which would have economic, social, and environmental benefits.
96. The Moto site would not require a new motorway junction and also does not, on the face of it, have some of the other complexities of the Warren Farm site, such as the relocation of power lines and significant soil movement. However, a scheme has been refused planning permission and, at the time of writing, there has not been an appeal or further application submitted. There are questions about the deliverability of the site given the current planning position and the unresolved highway objections. The Moto site has similar drawbacks to the appeal site in overall terms, and when taking into account the disadvantage of being an off-line site and the questions over delivery, it performs worse. Therefore, Moto would not, based on what is before me, provide a persuasive alternative site.

#### CVMSA

97. The CVMSA site is between Junctions 15 (M4) and 16 (M40) to the east of Iver Heath. An MSA at the site would be 'on-line'. An application for an MSA on the site is currently before BC but remains undetermined.
98. The CVMSA site lies within the Green Belt. An MSA would be inappropriate development in the Green Belt. The developed area at Iver Heath would be likely to be broadly comparable to the appeal development. Therefore, in terms of the spatial dimension of openness the harm would be similar.
99. The CVMSA site has a public footpath running close to its southern boundary and a bridleway cutting through its centre. The latter would need to be diverted around the western boundary of the MSA which would take it away from the M25 for more of its length. There are some views into the site from Bangors Road North and from Slough Road near where it crosses the M25. The site is also visible from some properties on Bangors Road North and Slough Road and from Mansfield Lodge and New Cottage to the east. An MSA would have a clear adverse impact on the visual dimension of openness when seen from these local viewpoints.
100. However, the CVMSA site is relatively well-contained from the wider Green Belt by woodland to its north-west and south and by the M25 to the east. The M25 lies in a cutting hereabouts. The landform of the site combined with landscaping mitigation would allow most of an MSA to remain well-contained. Indeed, there is the potential to bench down parts of the development into the site. The exception in terms of containment would be where slip roads and associated earthworks would be required to the M25 which would be particularly prominent from the access road serving the Iver Environmental Centre and the residential and other uses nearby.



101. The CVMSA site would have an adverse effect on the Green Belt purpose c). In terms of purpose a), Iver Heath is not a large built-up area. A gap would be retained between the eastern edge of the site and the western extremity of Uxbridge. That said, there would be some perception of sprawl caused by the development in that it would be in relatively close proximity to Uxbridge. Part of the gap on the north side of Slough Road between the site and the urban edge accommodates a large national grid substation.
102. With regard to purpose b), gaps would be retained between the site and both Iver Heath and Uxbridge. The effect on the Green Belt purpose of preventing the merger of towns would be limited.
103. Overall, an MSA on the CVMSA site would have clear advantages in Green Belt terms compared with the appeal proposal because, although broadly comparable in terms of its effect on Green Belt purposes, there would be a considerably lesser impact on Green Belt openness.
104. An MSA on the site would also lead to some landscape harm in that it would lead to significant areas of buildings, hardstandings and highways infrastructure on an area of pleasant gently undulating open grassland. The landscape fabric would also be likely to be altered with cut and fill to create development platforms. In addition, the works required to the east of the M25 would affect a pleasant stretch of the tree lined Alderbourne Brook with its flanking low-lying pasture.
105. There would be localised visual effects as described above. As the residential and recreational receptors are sensitive, there would be major adverse visual effects. These effects could be reduced to an extent by new planting but would remain major for users of the footpath and bridleway and residents and others near the Iver Environmental Centre.
106. However, the Iver Heath site can be distinguished from the appeal site because the landscape overall is not as sensitive as that at Warren Farm, the amount of change to the landscape fabric would be likely to be considerably less and the extent of visual containment by woodland and other features is greater, other than for the area to the east of the M25. Of particular note is the different relationship with users of the M25 - those passing the appeal site would be on an embankment, whereas at Iver Heath they are in a cutting. Therefore, the landscape and visual harm of an MSA on the Iver Heath site would be likely to be considerably less than that proposed on the appeal site.
107. In terms of other harms, there would be likely to be less than substantial harm to the significance of nearby designated and non-designated heritage assets, including in particular White Lodge, and Mansfield Farmhouse and associated buildings, by reason of the effect on their settings. The level of harm would be likely to be towards the lower end of the scale.
108. With regard to the effect on trees on the site, there would be likely to be some loss and that loss might include veteran trees. In this respect there is a dispute between experts for the appellant and CVMSA, albeit that the latter have had the benefit of a close visual inspection of the trees referred to. From the evidence before me, I assess that the harm in relation to the veteran tree issue at the Iver Heath site would be comparable to that at the appeal site. Any loss of veteran and other trees could be compensated for by replacement

planting. There is no evidence that there would be hydrological effects on the ancient woodland to the south of the site. It is unlikely that the alder trees lining the Alderbourne comprise an ancient woodland or that the Alderbourne is a wet woodland priority habitat. That said the brook is a priority habitat but with the potential for a scheme to increase its baseline value. The CVMSA site is capable of achieving biodiversity net gain which would support the aims of the Nature Recovery Network Zone 1 within which the Iver Heath site lies.

109. The area to the east of the M25 which would be used for highway infrastructure includes land that lies within Flood Risk Zones 2 and 3. There is criticism of some of the work undertaken to support the application, including the approach to the sequential test. But focusing on the site itself rather than the application, national policy accepts that, if there are not reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, then the sequential test is capable of being met. Moreover, the need for the development and the ability to make the development safe would mean that the exception test would be likely to be met. The works that would take place in the areas at risk of flooding would not comprise vulnerable development.
110. Mineral extraction would be required from the site to deliver an MSA and meet national and local safeguarding policies<sup>15</sup>. Given that there is a shortfall of sand and gravel in the south-east and processing sites and markets are easily accessible from the site via the motorway network, mineral extraction would be a benefit<sup>16</sup>. Whilst a separate application has been made, it is unlikely that mineral extraction would significantly delay the site coming forward, more that it would be directly linked to the MSA as enabling works. HGV movements associated with minerals would be direct onto the M25 but not significant in terms of overall traffic movements.
111. Considering the site not the scheme, there might be some sterilisation of mineral resource on the southern periphery of the site. However, given the proximity of sensitive residential uses close to these boundaries, it is unlikely that mineral extraction would, in any event, be feasible. Therefore, potential sterilisation is unlikely to be significant.
112. As things stand and based on the current application, the site has given rise to unresolved highway safety concerns primarily because of 1) departures from the standard would be needed in terms of merge/diverge arrangements and weaving lengths and 2) the proposal for a link from the A4007 for staff and emergency services. Additionally, more information is needed relating to motorway widening to 6 lanes to mitigate weaving lengths and how the 6 lanes would function with plans for a smart motorway on this stretch of the M25. Additional infrastructure would be required alongside the motorway, possibly including new engineering structures. National Highways has not objected but has asked that the application is not determined (other than a refusal) until such time as concerns have been resolved. In addition, BC as LHA has asked for more information about potential shift patterns to assess impacts on the junctions of Bangors Road North with the A412 and A4007.

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<sup>15</sup> See paragraph 210 of the Framework

<sup>16</sup> See paragraph 211 of the Framework

113. However, the above issues do not suggest to me that the MSA location is incapable of being served by a satisfactory access. There is likely to be a solution to accessing the site off the M25 but more time is needed. In this respect it is worth noting that the CVMSA application was not submitted until December 2020, some 6 months after the appeal proposal. A period of more than 12 months from submission to determination would not be unusual for a development of this scale and type.
114. The site does not comprise the BMV land. There would be no adverse impact on aviation safety. The site is capable of being accessed by foot and cycle from nearby built-up areas provided a link is allowed, similar to that included with the appeal proposal. There are daytime bus services on the A4007. Uxbridge Tube Station is about 1½ miles to the east. There are proposals to link the tube station to the site with a shuttle bus service for staff. Therefore, the site is capable of achieving a good level of accessibility for an MSA.
115. In comparison with the appeal site, the Green Belt and landscape harms would be significantly less. Veteran tree harms are likely to be of a similar magnitude. The eastern part of the Iver Heath site lies within high-risk flood zones. There is likely to be a greater effect on listed buildings, but advantages in terms of the BMV land, aviation safety, accessibility, and potentially minerals. Biodiversity impacts are likely to be similar. Unlike the appeal scheme, highway issues remain outstanding but would appear to be capable of being resolved.
116. Turning now to need, as an on-line site, Iver Heath would align with National Highway's preference for on-line facilities. In terms of meeting the need in other respects, the CVMSA site would be better placed than Warren Farm in that it would fall between 32 of the gaps which are around 28 miles or greater and would resolve 20 of them. It would also reduce the gap between Beaconsfield MSA on the M40 and Cobham MSA, measured at 27 miles, to 20 or 7 miles depending on the direction of travel. This is a very busy section of the motorway network where the journey is likely to be greater than 30 minutes driving time, more often than not. In this respect the site would serve those using the M40 combined with the western section of the M25, including the often-congested section between the M40 and M4. Traffic flows indicate that the CVMSA site would serve more motorway users. National Highways has made specific reference to an MSA being located on this stretch. The site would also be capable of providing a hotel and some HGV parking albeit, in terms of the latter, probably not at the scale of the appeal proposal.
117. In terms of other considerations, the CVMSA site has the potential to generate around 300 full time jobs, create biodiversity net gain and facilitate mineral extraction which would have economic, social, and environmental benefits.
118. There is no certainty that the site would be delivered given that some matters, most notably those relating to highways, remain unresolved. However, there have not been any objections from statutory bodies. There do not appear to be any insurmountable obstacles<sup>17</sup>. The site is being promoted by one of the major players in the market. There is a reasonable prospect that an MSA can be delivered in the next few years. Indeed, if outline permission were to be

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<sup>17</sup> Referred to as 'showstoppers' at the inquiry

given in 2022, delivery in 2026/27 would be realistic which would represent similar timescales to those projected for the appeal site.

119. The decision on the CVMSA site is for someone else, including deciding whether the very special circumstances test is passed. I can only make a judgement on the comparative merits. However, based on what is before me, the CVMSA site would provide similar benefits but with appreciably less harm. Therefore, the feasible alternative of the CVMSA site is a weighty other consideration.

***Section 106 obligations***

120. The Section 106 obligations seek to reduce the impact of the development in respect of Green Belt, landscape, biodiversity, highways, and accessibility, including through the provision of the community land. The community land also has the potential to reduce the risks to aviation safety.
121. Concerns have been expressed that some of the obligations that give rise to benefits go beyond the legal and policy tests set out in paragraph 57 of the Framework. However, it seems to me that the obligations are primarily seeking to mitigate the harm that would arise from the development. They are, on the face of it, necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Therefore, for the purposes of this decision, I have taken the obligations into account in arriving at my decision.
122. Similarly, I have assumed that there would be no issues in relation to the enforceability of some of the obligations and indeed some of the suggested conditions in connection with the access from Denham Lane. I consider that this is a reasonable assumption to make based on the evidence about the ownership and use of the sliver of land adjacent to Denham Lane.

***Planning balance and conclusions***

123. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
124. Any MSA in the north-west quadrant of the M25 would be highly likely to be on Green Belt land and would cause substantial harm to the Green Belt.
125. In this case there is substantial harm to the Green Belt, significant harm to the character and appearance of the area, moderate harm caused by loss of the BMV agricultural land and limited harm caused to aviation safety. Conditions and the S106 would not be capable of mitigating the harm to an acceptable level. Although there would be some harm caused by the loss of a veteran tree, taken on its own, the need for the MSA and the other benefits comprise wholly exceptional reasons to override the loss of a veteran tree.
126. The issues of heritage assets, highway safety and accessibility, and pollution are neutral considerations in the planning balance.

127. There is a very good chance that, if I grant planning permission, the appeal scheme would be delivered and would meet the need for an MSA on this part of the M25. It would provide investment and jobs, and achieve social and environmental benefits through, in particular, the provision of the community land. These economic, social, and environmental benefits, taken together, are substantial.
128. However, meeting the need is the most important benefit. The other economic, social, and environmental benefits from Iver Heath are capable of being similar to the appeal scheme, given the availability of more than 35 ha of additional land for off-site enhancement. The harm to the Green Belt and the landscape would be considerably less. There would be no impact on the BMV land and aviation safety. The other potential harms to veteran trees and heritage assets are unlikely to be matters that prevent an MSA coming forward at the Iver Heath site, notwithstanding the great weight that should be given to the conservation of designated heritage assets, including their setting. This is in the context of considering the public benefits which would (1) outweigh the less than substantial harm to the significance of designated heritage assets and (2) represent exceptional reasons for allowing the loss of any veteran trees. Flood risk issues would seem to be surmountable.
129. There is a reasonable prospect that the Iver Heath site could be delivered in that there do not appear to be any insurmountable obstacles. The CVMSA site may be lagging behind the appeal scheme in terms of resolving some technical issues. But, to my mind, it is worth giving a site, which is likely to be considerably less harmful to the Green Belt, the opportunity to run its course. This is in the context of the Government's imperative of protecting the Green Belt. On the assumption that planning permission is granted in the next 12 months or so, delays to delivery would not be significant in the greater scheme of things.
130. For the appeal site, the substantial harm to the Green Belt by reason of inappropriateness and effects on openness and purposes, together with the significant harm to the character and appearance of the area, the moderate harm caused by the loss of the BMV agricultural land, and the limited harm caused by the loss of a veteran tree and to aviation safety, would not be clearly outweighed by other considerations to constitute very special circumstances.
131. In coming to the above conclusions, I am mindful that, in principle, the need for an MSA in the north-west quadrant of the M25 is a benefit that should be attributed substantial weight, and along with other benefits, is capable of outweighing even a substantial amount of Green Belt and other harm. However, there is a reasonable likelihood that these benefits can be achieved in a less harmful way by an alternative site. Therefore, the weight that I give to the benefits of the appeal scheme is moderated.
132. In addition, I have attributed substantial weight to the harm to the Green Belt in accordance with paragraph 148 of the Framework. In doing there has to be a gradation of harms depending on the scale and particular location of development. In this case, due to the size of the MSA and its particular impacts, the harm is pushing towards the top of the scale of substantial harm.
133. In balancing harm against benefits, I note the significant differences between the appellants and Bickerton's Aerodromes on a range of matters related to



aviation safety. There are also some uncertainties as to the utility of the community land and parts of the appeal site for safe landings post development. That said, even if I had concluded that there would be no material harm to aviation safety (and therefore in this respect the appeal site would be on a par with Iver Heath), it would not have altered my overall conclusions.

134. There would be conflict with Policy CS1 of the CCS and Policies GB2, GB30 and T2 of the CDLP. These are the most important policies for determining the appeal as they seek to protect the Green Belt. There would also be conflict with Policy GC1 of the CDLP. Whilst there would be compliance with other development plan policies relating to specific considerations such as landscaping, heritage assets and biodiversity, there would be conflict with the development plan overall.
135. Policy GB2 is not fully consistent with the Framework in that, although it sets out the categories of development that are inappropriate, these do not correspond entirely with those in the Framework. Moreover, there is no reference in the policy itself to very special circumstances. That said the explanation to the policy set out the very special circumstances test. For these reasons I give moderate weight, rather than full weight to Policy GB2. As Policy GB30 is engaged only where development would be acceptable in accordance with Policy GB2 and refers to conserving landscape rather than recognising its character and beauty, I also give only moderate weight to this policy. Policy T2 also makes no reference to very special circumstances and should also attract only moderate weight.
136. On the basis that the most important policies for determining the application are out-of-date, paragraph 11 d) of the Framework applies. However, the policies of the Framework relating to Green Belts provide a clear reason for refusing the development proposed. Material considerations do not indicate that the application should be determined other than in accordance with the development plan.
137. For the above reasons the appeal should be dismissed and planning permission refused.

***Mark Dakyns***

**INSPECTOR**

**Attached**

Annex A – Appearances

Annex B – Inquiry Documents