



GOVERNMENT OFFICE
FOR THE WEST MIDLANDS

CD 211.

Local Government Division

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Date: 6 March 2001

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEALS BY:

- A. BLUE BOAR MOTORWAYS LTD/EXEC. OF SIR JOHN GOOCH**
 - B. SWAYFIELDS LTD**
 - C. SHIRLEY ESTATES (DEVELOPMENT) LTD**
- MOTORWAY SERVICE AREAS (MSAs) – BETWEEN JUNCTION 3a AND JUNCTION 6 OF THE M42, SOLIHULL, WEST MIDLANDS**

I. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Mr M P Hill BSc MSc CEng MICE FGS, who between 30 November 1999 and 16 June 2000, assisted by Mr C Ball Dip Arch Cons, Dip Arch, RIBA, FRSA, held a public local inquiry into the following:

Appeal A – Proposed MSA at Catherine de Barnes

Appeal made under section 78 of the Town and Country Planning Act 1990 by Blue Boar Motorways Ltd/Exec. of Sir John Gooch, Bart (application reference: 970930) in respect of the failure of Solihull Metropolitan Borough Council to give within the prescribed period, notice of its decision on an application for outline planning permission (with all matters reserved for subsequent approval except for means of access) for a motorway service station on a site in the Green Belt of approximately 26.6 hectares adjacent to the M42 motorway at Catherine de Barnes;

Appeal B – Proposed MSA at Junction 5 of the M42

Appeal made under section 78 of the Town and Country Planning Act 1990 by Swayfields Ltd (application reference 9810259) against the refusal of Solihull Metropolitan Borough Council to grant outline planning permission, with all matters



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reserved for subsequent approval, for a motorway service station on a site in the Green Belt of approximately 22.95 hectares adjacent to Junction 5 of the M42 motorway at Ravenshaw, Solihull;

Appeal C – Proposed MSA at Junction 4 of the M42

Appeal made under section 78 of the Town and Country Planning Act 1990 by Shirley Estates (Developments) Ltd (application reference 1999/250) against the refusal of Solihull Metropolitan Borough Council to grant outline planning permission, with all matters reserved for subsequent approval, for a motorway service station on a site in the Green Belt of approximately 17 hectares adjacent to Junction 4 of the M42 motorway at **Boxtree Farm**, Stratford Road, Monkspath, Solihull.

2. For convenience, the MSA proposed by Blue Boar Motorways Ltd/Exec. of Sir John Gooch, Bart is referred to as Appeal A, the MSA proposed by Swayfields Ltd is referred to as Appeal B and the MSA proposed by Shirley Estates (Developments) Ltd is referred to as Appeal C. When referring to an 'on-line' facility, this decision letter means an MSA where access would be gained directly from the M42 motorway and when referring to 'off-line' it means an MSA where access would not be gained directly from the motorway.

3. The Secretary of State notes that Environmental Statements in respect of each scheme were produced in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988, as amended. However, he also notes that a number of amendments have been made to each of the proposals and/or their associated illustrative drawings since the planning applications and Environmental Statements were submitted. The most notable of these was the proposal by the appellant in respect of Appeal A that, in order to overcome the objections of the Highways Agency to the original proposal, auxiliary lanes should be provided on both carriageways of the M42 between the site and Junction 6. In order to ensure that the aims of the Environmental Impact Assessment procedures were met, additional environmental information was submitted and measures were taken to ensure that reasonable publicity was provided and consultation procedures were followed in respect of the additional information provided by the three appellants. The Secretary of State notes that the Inspector has taken account of the Environmental Statements, the additional environmental information and the consultees' responses in arriving at his recommendation (IR1.12).

4. Account has been taken of the fact that the Secretary of State's power to recover appeals has been declared by the Divisional Court to be incompatible with the European Convention on Human Rights. Nevertheless, his exercise of that power remains lawful and he has a duty to determine appeals which he has recovered. In addition, since the close of the Inquiry, the Government has issued two White Papers – "Our Countryside: The Future – A Fair Deal for Rural England" and "Our Towns and Cities: the future – delivering an urban renaissance". Revised Planning Policy Guidance Note 11: Regional Planning has also been published and a revised draft of new Planning Policy Guidance (PPG25) on development and flood risk has been issued for consultation. The Secretary of State has taken these into consideration and concluded that they do not affect his decision.



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The Decision

5. A copy of the Inspector's report is enclosed. He recommends in view of the considerations expressed in paragraphs 19.1 to 19.201 of his report that Appeals B and C be dismissed. In respect of the Appeal A he recommends that a letter be issued indicating that the Secretary of State is minded to grant outline planning permission subject to the satisfactory completion of negotiations between the Highways Agency and the appellant sufficient to allow them to enter into a Section 278 agreement under the Highways Act 1980 relating to the provision of auxiliary lanes between the proposed motorway service station and Junction 6 of the M42 in accordance with the scheme put forward at the inquiry. For the reasons given below, the Secretary of State accepts the Inspector's overall conclusions and recommendation, but in addition he is not minded to grant outline planning permission for Appeal A until the completion of any additional procedures required under the Highways Act 1980 necessary to enable the Highways Agency to reach a final decision on whether the auxiliary lanes should be constructed. The Secretary of State is minded not to agree with the proposal to use Walford Hall Farmhouse as a training centre.

The Development Plan

6. In deciding these appeals the Secretary of State has had regard to Section 54A of the Town and Country Planning Act 1990. This requires him to decide these applications in accordance with the development plan unless material considerations indicate otherwise. In this case the statutory development plan is the Solihull Unitary Development Plan (UDP) which was adopted in April 1997.

The Issues

THE NEED FOR AN MSA ON THIS SECTION OF THE M42

7. The Secretary of State has given careful consideration to the Inspector's conclusions and to the MSA Policy Statement (July 1998), which supplements Roads Circular 1/94 and PPG13 (Transport) pending the full revision of both of those documents.

8. The Secretary of State recognises that for safety and traffic management reasons, drivers should not have to travel long distances without finding services on the motorway. The MSA Policy Statement indicates that the Government wishes to concentrate on completion of a network of MSAs at 30 mile intervals. This does not amount to a presumption in favour of MSA proposals which would contribute to the 30 mile network and they will continue to be subject to the normal operation of the land use planning system. However, it is Government policy that where there is a gap of greater than 30 miles between MSAs, it is necessary to give greater weight to the needs of motorists. The Secretary of State notes the Inspector's view that the tests of need set out in paragraph 5 of the MSA Policy Statement are not specifically directed at 30 mile MSA proposals as well as at infills. He nevertheless agrees with the Inspector that, in respect of these appeals, it is relevant to take these tests into account. The Secretary of State therefore agrees with both the Inspector's approach to consideration of need and to his conclusions on this aspect (IR19.15-19.16).



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9. There are six long distance motorway routes that utilise the Solihull section of the M42 motorway (IR19.17). The Secretary of State shares the Inspector's concerns about the gap of 38 miles between MSAs at Warwick and Tamworth on the M40/M42 and, more significantly, the gaps of 49 miles between the MSAs at Warwick and Hilton Park on the M40/M6 (N) and 68 miles between Warwick MSA and Junction 4 of the M54, where a new MSA is proposed. He agrees with the Inspector that the gap of 45 miles which would exist between the proposed MSA at Norton Canes on the proposed Birmingham Northern Relief Road (BNRR) and the existing MSA at Warwick is also of particular concern (IR19.18). The Secretary of State recognises that there is an alternative western route between the M40 and the M6 via the M42 (S) and the M5 (N) and that traffic between the M40 and M6 (N) could be signed via this route. However, he notes that if traffic was diverted to follow the M5, the flows on the M5 would be increased to such an extent that the junction with the M6 would probably have to be redesigned and constructed so that M6 traffic gave way to the greater flow from the M5 (IR19.19-19.20). After careful consideration, he agrees with the conclusions the Inspector has reached in paragraphs 19.17-19.24 of his report on such an arrangement.

10. The Secretary of State notes that the stretch of motorway between Junction 4 and Junction 6 of the M42 has one of the highest motorway flows in the country and he agrees with the Inspector that there is a significant number of vehicles per day travelling between excessive gaps in MSAs on this stretch, demonstrating a substantial amount of unsatisfied need (IR19.27). He also agrees with the Inspector that it is likely that the number of long distance traffic movements will increase (IR19.30). Although the Secretary of State agrees with the Inspector that the number of accidents which the appellants claim would be saved by the opening of an MSA is open to doubt, he agrees with the Inspector that an MSA on the Solihull section of the M42 would make a contribution to road safety by providing an opportunity for drivers to stop and rest (IR19.35). He also agrees that expansion of existing nearby MSAs would not overcome the problem of the excessive gap between these facilities and the lack of opportunity for travellers to stop and rest at approximately every 30 miles. The Secretary of State agrees with the conclusions set out in paragraphs 19.25 to 19.47 of the Inspector's report and agrees with his overall conclusion that there is a significant need for the provision of an MSA serving both directions on the length of the M42 between Junctions 3A and 6.

IMPACT ON THE GREEN BELT

11. Inappropriate development is, by definition, harmful to the Green Belt, as explained in paragraph 3.2 of PPG2 (Green Belts) and the Secretary of State attaches substantial weight to this harm. He agrees with the Inspector that, as each of the three schemes lies within the Green Belt, the proposals conflict with Policy GB2 of the Solihull UDP unless very special circumstances can be demonstrated. He notes that the general presumption against inappropriate development in the Green Belt, as set out in PPG2, is reflected in the UDP. The Secretary of State agrees that an MSA is an inappropriate form of development in the Green Belt, and he is mindful that Annex A of PPG13 states that approval should not be given for an MSA within the Green Belt except in very special circumstances (IR19.12).

12. The Secretary of State agrees with the Inspector's overall conclusion that each of the proposed schemes would cause harm to the openness of the Green Belt (IR19.174).

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outweigh the harm and the very special circumstances necessary to permit such development in the Green Belt can be demonstrated (IR19.174).

HIGHWAY AND TRAFFIC CONSIDERATIONS

Appeal A

15. The Secretary of State recognises that the high existing traffic flows on and off the motorway at Junction 6 can cause severe congestion and that queues on the motorway and the large number of diverge movements associated with this junction appear to be reflected in the higher percentage of accidents on the northbound carriageway of this section of the M42 (IR19.86). However, he notes that the Highways Agency has withdrawn its objection in respect of the proposal for an MSA at this site and the Agency is satisfied that the mitigation measures, such as auxiliary lanes, proposed by the appellant would not only overcome the effect of weaving movements but would result in some benefit in terms of the operation of the motorway (IR10.8, 19.87). The Secretary of State agrees with the Inspector that the potential delays at the various traffic signals to be negotiated when gaining access to the proposed MSAs at the sites in respect of Appeals B and C would discourage the use of these facilities in comparison to the proposal at the Appeal A site. He agrees that this, and the shorter distance to be travelled between the motorway and the Appeal A site than between the motorway and the other two sites would make the scheme proposed for the Appeal A site a more attractive and inviting facility than the alternative proposals at the sites in respect of Appeals B and C (IR19.94).

Auxiliary lanes and environmental impact: Appeal A

16. The Secretary of State notes that the Environmental Statement submitted with the application for an MSA at the Appeal A site was updated to deal with a number of changes to the proposed scheme, including the provision of auxiliary lanes on the motorway to overcome objections to the original proposal by the Highways Agency. In the light of the consultation procedures undertaken to ensure publicity for this additional information, the Secretary of State agrees with the Inspector's conclusions that sufficient information was provided to the Inquiry and adequate consultations undertaken to evaluate the environmental impact of the additional elements of the scheme (IR19.7).

17. The Secretary of State is, however, mindful that the Highways Agency still needs to reach a decision on whether any additional procedures, similar to those which would be necessary for a free-standing motorway improvement scheme, are necessary to meet the requirements of the Highways Act 1980 as amended, before a decision on whether to construct the auxiliary lanes is taken. He agrees with the Inspector that if any additional Highways Act procedures raised new issues, it would be appropriate that the merits of the scheme as a whole should be reassessed (IR19.178).

18. In agreeing with the Inspector, as the auxiliary lanes are an essential feature of the proposals for the Appeal A site, the Secretary of State considers that it would be inappropriate to issue a final decision on this MSA proposal until he could be satisfied that the auxiliary lanes would be constructed and that any decision reached as a result of any additional Highways Act procedures would not require amendment to the proposed

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development (IR19.178). The Secretary of State agrees with the Inspector that an interim decision should be issued indicating that he is minded to grant planning permission. However, he considers that a final decision on Appeal A should not only be subject to the satisfactory completion of negotiations between the Highways Agency and the appellant to enter into a section 278 agreement under the Highways Act, as recommended by the Inspector, but also subject to the completion of any additional procedures required under the Highways Act necessary to enable the Highways Agency to reach a final decision on whether the auxiliary lanes between the MSA and Junction 6 of the M42 should be constructed (IR20.1).

Appeal B

19. The Secretary of State agrees with the Inspector that traffic using an MSA at the Appeal B site would introduce additional movements at Junction 5 which may increase the potential for accidents if the highway network is not improved. However, he notes that the Highways Agency considers that the road improvements associated with the proposal would allow the junction to operate more efficiently in the future than would be the case if the MSA was not constructed (IR19.134). In addition, he notes that the Highways Agency has withdrawn its objection to this scheme after reaching agreement on the mitigation works necessary to deal with the traffic impact on the trunk road network (IR10.8). However, the Secretary of State agrees that the proposed MSA at the Appeal B site would be less convenient for users of the motorway than the proposed scheme at the Appeal A site, particularly as southbound traffic would have to negotiate four sets of traffic lights before entering the MSA at Junction 5, compared to the one merge or give way which would have to be negotiated by southbound traffic entering the proposed MSA at the Appeal A site (IR19.138).

Appeal C

20. The Secretary of State agrees that all three proposals will have an impact on the local motorway and highway network. However, he is particularly concerned about the impact that an MSA would have at the Appeal C site, where the motorway junction is already being altered to accommodate the Blythe Valley Business Park and Provident Park developments (IR19.162). Agreeing with the Inspector, the Secretary of State is not satisfied that the appellant in respect of Appeal C site has demonstrated that a solution can be found which would allow the junction to operate safely and adequately in the future with the MSA in place (IR19.169). He also agrees that, as the overall junction layout would be so complicated and require motorists to make a large number of decisions, drivers who were unfamiliar with the layout of the junction could become confused to the detriment of road safety (IR19.168). In addition, the Secretary of State notes that the Highways Agency is not satisfied on both traffic and road safety grounds with the mitigation proposals associated with this scheme (IR10.45).

IMPLICATIONS FOR THE RIVER BLYTHE SSSI AND THE ECOLOGY OF THE AREA --

21. The Secretary of State agrees with the Inspector that the River Blythe SSSI is a nationally important resource and that the small but real risk which each of the three MSA proposals present to the river is a material consideration (IR19.67). He also notes that Policy DM/JL



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ENVI in the Solihull UDP seeks to protect SSSIs and prevent development that may have an adverse effect on them. The Secretary of State places weight on the fact that both English Nature and the Environment Agency object in principle to development within the catchment area of the SSSI. He also notes that the Local Environment Agency Plan (West Midlands-Tame) expresses concern about further development and its impact on the River Blythe, particularly the potential for increased surface water run-off from sites subject to development.

22. However, while the Secretary of State notes that the Environment Agency considers that an MSA development would have a detrimental impact on the quality and ecology of the SSSI, he agrees with the Inspector that it should be possible to install a surface water drainage catchment and treatment system to provide adequate and reasonable protection for the River Blythe SSSI and that the risks presented to the SSSI by an MSA development could be kept at an acceptably low level (IR19.68, 19.129, 19.159). However, the Secretary of State attaches importance to taking every reasonable step to protect the SSSI from actual or potential harm. In this respect he does not consider that the condition suggested by Solihull Metropolitan Borough Council (Suggested Planning Condition 20) provides sufficient safeguard and therefore he is of the view that any planning permission should only be granted subject to a condition requiring that no development should take place until a scheme for dealing with all surface and foul water has been submitted to and approved by the Environment Agency and the local planning authority. The Secretary of State is therefore minded to impose Condition 29.

23. The Secretary of State agrees with the Inspector that none of the proposals would cause any serious harm to the ecology of the area (IR19.70, 19.130, 19.161).

LISTED BUILDING: APPEAL A

24. The Secretary of State is concerned about the impact of an MSA development on Walford Hall Farmhouse, a fifteenth century Grade II* listed building which lies within the boundary of the Appeal A site and is an architecturally and historically valuable building. The appellant proposes that this building, which has stood empty and neglected for about 10 years, should be brought back into use as a training centre in association with the MSA. The Secretary of State agrees with the Inspector that while listed building consent is not required for the proposed change of use, the alterations which would need to be made to the building, as a consequence, would require consent (IR19.71). He notes that the Inspector has considered the appellant's detailed proposals for the re-use of the farmhouse against the guidelines set out in PPG15 (Planning and the Historic Environment) for listed building consent applications (IR19.71).

25. The Secretary of State agrees with the Inspector that the best option in considering the future of a listed building, as paragraph 3.10 of PPG15 confirms, is the reinstatement of the use for which the building was originally designed (IR19.76). He also notes that the Inspector has concluded that he is not convinced that the best option for the building, namely a restitution of residential use, is not economically viable (IR19.77). The Secretary of State recognises that the training use may be sufficient to keep the building in active use and thus secure its survival (IR19.80). However, provision of a building for training does not fall within the scope of what should legitimately be provided at MSAs as set out in the MSA

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Policy Statement. Furthermore, the Secretary of State agrees with the Inspector that the alterations necessary for the change of use would have a detrimental impact on the character of the listed building (IR19.80). He is therefore minded to exclude the proposals for the use of Walford Hall Farmhouse as a training centre from any planning permission granted.

26. Subject to any representations on the point from the parties, the Secretary of State considers that the modification of the application by the omission of the proposal to use Walford Hall Farmhouse as a training centre does not require another planning application. This is on the basis that the modification would not represent a substantial alteration of the original application because the development without the training centre proposal is not so changed that to grant it would be to deprive those who would have been consulted on the changed development of the possibility of consultation. However, the Secretary of State considers that it would be appropriate to give the parties to the appeal an opportunity to comment on the omission of the training centre from any planning permission granted. These views should be submitted within 28 days of the date of this letter.

27. The Secretary of State agrees with the Inspector that the MSA development itself would harm the setting of the listed building (IR19.107). He notes, however, that the Inspector concludes that the benefits of the scheme marginally, but clearly, outweigh the harm that it would cause (IR19.110). However, in respect of the harm to the setting of the listed building, the Secretary of State does not consider that it is possible for him to reach a conclusion without further consultation with English Heritage. He recognises that English Heritage has been consulted in respect of the application for the Appeal A site and he has considered letters dated 30 March 1998 from it to Solihull Metropolitan Borough Council and 11 January 2000 from it to the Planning Inspectorate, both of which were submitted to the Inquiry. In large part the letter of 30 March 1998 includes extracts from reports submitted with the application, but is inconclusive in respect of English Heritage's view on the impact of an MSA development on the setting of the listed building. The Secretary of State does not therefore consider that this letter is sufficient to enable him to reach a decision on whether the benefits would outweigh the harm. Accordingly, he has decided to invite views from English Heritage on the impact of the MSA development on the setting of Walford Hall Farmhouse. These views should be submitted within 28 days of the date of this letter.

LODGE PROPOSALS

28. The Secretary of State agrees with the Inspector that as part of an MSA the lodge is inappropriate development in the Green Belt and as such the whole development must demonstrate the very special circumstances necessary for the granting of planning permission at this location. A lodge would add to the footprint of the built development and have some impact on the openness of the Green Belt. The Secretary of State agrees with the Inspector that if the inclusion of a lodge results in the development not demonstrating the very special circumstances necessary to justify an MSA in the Green Belt, then the whole development should be refused or the lodge should be deleted from any planning permission (IR19.102). In respect of the sites in respect of Appeals B and C, he agrees that a lodge would consolidate existing built development and would be harmful to the rural landscape (IR19.141, 19.171). The Secretary of State agrees with the Inspector's conclusion that as the proposed lodge at the Appeal A site would be linked to the amenity building and well contained within the MSA development (which would itself be well screened from neighbouring settlements), it

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would not have a serious additional visual impact on the area, over and above that of the remainder of the development (IR19.103). The Secretary of State therefore concludes that the inclusion of the lodge at Appeal Site A would not prevent an MSA development as a whole at this site from demonstrating the very special circumstances necessary to justify such development in the Green Belt.

29. The Secretary of State shares the Inspector's concerns that, with the proximity of all three sites to the NEC and Birmingham International Airport, a lodge would be attractive to people using these facilities and it is likely therefore that it could become a destination in its own right, which would be contrary to the MSA Policy Statement. However, this statement recognises that overnight lodges have come to be regarded as falling within the scope of what could legitimately be provided at MSAs, it makes clear that in future the Government will not approve, and will not allow signing from the motorway to, any MSA which, in addition to the compulsory MSA facilities, provides anything beyond a lodge which may provide overnight accommodation and a modest meeting room for up to fifteen people, but not a bar, restaurant, function rooms or more extensive conference facilities.

30. The Secretary of State agrees with the Inspector that it would be unreasonable to deny motorists the opportunity to stop and rest at an MSA lodge simply because it is close to a major facility and may be used by visitors travelling to that facility (IR19.101). He also notes that one of the conditions would impose a limit of 66 **lettable** bedrooms, which would prevent a full scale hotel development of the type which Government policy does not consider falls within the scope of what should legitimately be provided at an MSA. Nevertheless, the Secretary of State agrees with the Inspector that as the proposed schemes at the sites in respect of Appeals B and C would result in off-line MSAs with access available from the road network, a lodge on these sites could become a destination in its own right (IR19.139, 19.170). He agrees that as Appeal A site is not connected to the local road network, the ability of the lodge to become a destination in its own right is limited (IR19.104). The Secretary of State is therefore minded to grant planning permission for the MSA at Appeal A site which may include provision for a lodge.

Overall Conclusions

31. The Secretary of State agrees with the Inspector that there is a significant need for an MSA serving both directions of travel on the M42 between Junctions 3 and 6. He also agrees that each of the proposed schemes would cause harm to the openness of the Green Belt (IR19.174). The Secretary of State agrees with the Inspector that the proposal for an MSA at the Appeal A site is the only one of the three where the benefits outweigh the harm and the very special circumstances necessary to permit such development in the Green Belt can be demonstrated. He is therefore minded to grant planning permission for an MSA development at the Appeal A site, which may include provision for a lodge, but not the use of Walford Hall Farmhouse as a training centre. However, he does not consider that it would be appropriate to issue a final decision until the Highways Agency has entered into an agreement under section 278 of the Highways Act, until the completion of any additional procedures required under the Highways Act necessary to enable the Highways Agency to reach a final decision on whether the auxiliary lanes should be constructed and until the views of English Heritage and other parties on the impact of an MSA on the setting of the listed building (the



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Walford Hall Farmhouse) have been considered. The Secretary of State has decided to dismiss Appeal B and Appeal C.

Conditions and Agreement

32. The Secretary of State has considered the Deed of Planning Obligation by Undertaking signed and offered in support of the application for an MSA at the Appeal A site, which contains planning obligations for the purposes of section 106 of the Town and Country Planning Act 1990 and which would ensure a long term commitment to the management and maintenance of the proposed off-site mitigation works. He considers that, in the light of the tests set out in DOE Circular 1/97 (Planning Obligations), the agreement is necessary, relevant to planning and directly related to the development proposed. He also considers that what is offered and the terms on which it is offered as set out in the document of 14 April 2000 are fairly and reasonably related in scale and kind to the proposed development, and that it is reasonable in all other respects. However, the Secretary of State notes that the "Owners", as defined in the Deed, have not joined in the main obligations. He considers therefore that the owners and their successors in title will not be bound by the obligations, with the result that if they agreed with another developer to carry out the development or sold the land to another person those third parties would not be bound by the obligations. The Secretary of State therefore considers that a new Deed should be entered into which binds all the owners of the land and off-site land in respect of each obligation in the Deed.

33. The general conditions suggested by Solihull Metropolitan Borough Council and the additional conditions suggested by the Highways Agency have been considered by the Inspector in the light of Circular 11/95 and he has made a number of recommendations for amendment to some of these conditions. In so far as these relate to the Appeal A site, the Secretary of State agrees with the Inspector's conclusions and recommendations at paragraphs 19.182- 19.197 of the Report in relation to the conditions and has amended them accordingly. However, to ensure that every reasonable step is taken to protect the River Blythe SSSI from actual or potential harm, he is minded to impose Condition 29 in substitution for the suggested condition relating to drainage (Suggested Planning Condition 20).

The Secretary of State's Decision

Appeal A

34. On the basis of all the evidence before him, the Secretary of State is minded to grant outline planning permission for an MSA at the Appeal A site, excluding the use of Walford Hall Farmhouse as a training centre, subject to:

- i. appropriate conditions;
- ii. the execution of a signed agreement under section 278 of the Highways Act 1980, between the appellant and the Highways Agency and the completion of any additional procedures required under the Highways Act 1980 necessary to enable the



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Highways Agency to reach a final decision on whether the auxiliary lanes should be constructed;

iii. consideration of the views of the parties on the omission of the use of Walford Hall Farmhouse as a training centre from any planning permission granted in respect of Appeal Site A;

iv. consideration of the views of English Heritage and of any further representations received in respect of the impact of the proposed MSA on the setting of the listed building;

v. the entering into of a new Deed of Planning Obligation by Undertaking which binds all the owners of the land and off-site land in respect of each obligation in the Deed.

35. The views of English Heritage and any other parties on the impact of an MSA development on the setting of Walford Hall Farmhouse and the views of the parties on the omission of the use of Walford Hall Farmhouse as a training centre should be submitted to the Secretary of State within 28 days of the date of this letter.

Appeal B

36. For the reasons given in paragraph 12, the Secretary of State hereby dismisses Appeal B.

Appeal C

37. For the reasons given in paragraphs 12 and 20, the Secretary of State hereby dismisses Appeal C.

38. A copy of this letter has been sent to Solihull Metropolitan Borough Council and other interested parties.

Yours faithfully

ANNE FROST
Authorised by the Secretary of State
to sign in that behalf

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FINAL DRAFT CONDITIONS

General

1. Approval of the details of the siting, design and external appearance of the buildings and landscaping of the site (hereinafter called the “reserved matters”) shall be obtained from the local planning authority in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in condition 1 above relating to design and external appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.
3. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Layout and Buildings

5. The siting of all buildings, car parks, access roads and service areas shall not materially depart from that in drawing number DH.301.05.C.
6. Site levels shall accord with the details shown in drawing number DH.301.05.C.
- 7A. The maximum height of buildings over specific ground levels related thereto shall not exceed the following: (a) amenity building 7.5 metres; (b) the lodge 7.5 metres; (c) the petrol forecourt canopy 5.5 metres and the HGV fuel forecourt 6.5 metres; and (d) the fuel services building 6 metres.
- 7B. The footprint of all buildings on site should not exceed that shown on the illustrative master-plan (DH.301.05.C).

Highways and Access and Lighting

8. The means of access to and egress from the site shall not materially depart from the details as shown in drawing number DH.301.05.C.
9. All roads and access ways and areas shall be constructed in accordance with details of circulation to be submitted to and approved by the local planning authority before the commencement of development.
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10. No building shall be first used by the public until such time as the means of access to and egress from the site have been constructed in accordance with the approved plans.

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11. Details of all exterior lighting shall be submitted to and approved in writing by the local planning authority before the development commences. In the interest of the visual amenity of the area surrounding the site, no illumination of the fascia of the canopy of the fuel forecourt shall be permitted. Development shall be carried out in accordance with the approved details. Details shall include reference to the colour, design and height of the lighting columns and lanterns and their levels and type of illumination. Any future changes in the type, colour, design, height and level of illumination of any external lighting shall receive written approval by the local planning authority before any such change is implemented.
12. No work shall commence on the Motorway Service Area until such time as an agreement under section 278 of the Highways Act 1980 between the developer and the Highways Agency has been signed.
13. Other than for the purposes of constructing on/off slip roads to the M42 motorway no construction traffic shall enter or exit the site from B4102 or Friday Lane. During the construction of the on/off slip roads, construction access shall be via the access to Walford Hall Farm.
14. There shall be no vehicle access to the MSA from the B4102 once the on/off slip roads are completed.
15. No material operation as defined in section 56(4) of the Town and Country Planning Act 1990 or any re-enactment or amendment thereof shall be carried out until the owner of the land is, by agreement enforceable by the Highway Authority for the M42 motorway, committed to pay for the highway works described on drawing numbers 98092/53, 98092/24 and 98024/25.
16. No part of the development shall be occupied until the highway works described on drawing numbers 98092/53, 98092/24 and 98024/25 have been completed.
17. No part of the development shall be open for use by users of the M42 motorway at any time when a signing agreement complying with the guidance laid down from time to time by the Highway Authority for the M42 motorway is not in place on the M42 motorway.
18. The land within 67 metres of the centre line of each side of the M42 motorway shall not, save with the prior consent of the local planning authority for the M42 motorway, be used for any purpose other than landscaping, planting or access to/egress from the development .
19. Vehicular access/egress other than that referred to in condition 8 shall not be obtained between any part of the site and any other land.
20. No advertisement signs shall be erected within the curtilage of the service area which are visible from any part of the M42 motorway.



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Parking

21. No building shall be first used by the public until space has been laid out within the site in accordance with approved plans for the following to be parked: 598 cars, 10 caravans, 75 heavy goods vehicles and 21 coaches.

22A. All vehicle parking areas shall not be used for any other purpose than for the parking of vehicles by visitors to the Motorway Service Area.

22B. Vehicle parking areas shall only operate in accordance with a parking time control regime submitted to and approved by the local planning authority in writing.

Uses

23. The Amenity Building shall contain no more than 465 square metres of net retail floor space (gross internal) within Class A1 of the Town and Country Planning Use Classes Order 1987.

24. No retail sales of clothes, fashion accessories, furniture, or DIY goods shall take place.

Conference/Meeting Rooms

25. Only one room shall be set aside/used on the Motorway Service Area site for any conference or training. That room shall not have capacity for more than 15 people to meet or train at any one time.

The Lodge

26. The lodge shall contain no more than 66 **lettable** bedrooms unless otherwise agreed in writing with the local planning authority.

Fuel Area

27. The fuel sales building shall not exceed 360 square metres (gross internal) unless otherwise agreed in writing with the local planning authority.

Fuel Storage

28. The storage of fuel above and below ground shall accord with details to be submitted to and approved in writing by the local planning authority.

Drainage

29. No development shall take place until a drainage scheme for dealing with all surface and foul water has been submitted to and approved in writing by the Environment Agency and the local planning authority and these works shall be carried out as approved.

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30. All surface water run off systems from parking access roads and service areas shall be provided with fuel oil storage interceptors to the approval of the local planning authority.

Landscape

31. All hard and soft landscape works both within and outside the application site shall be carried out in accordance with the approved details. The works shall be carried out prior to the first opening for public use of any part of the development or in accordance with a programme agreed in writing with the local planning authority.

32. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the development hereby permitted is first open for public use. Development shall be carried out in accordance with the approved details.

33. The landscaping reserved matters referred to in Condition 1 above shall include:

- (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
- (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
- (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree;
- (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition “retained tree” means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

34a. The plans and particulars submitted in accordance with condition 33 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting, and means of protection.



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34b. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is sooner, for its permitted use. The landscape management plan shall be carried out as approved.

34c. No development shall take place until a schedule of landscape maintenance has been submitted to and approved by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

35. No work shall commence on construction of any of the buildings on site until such time as the earth works related thereto as shown in drawing number DH.301.05.C have been carried out in accordance with detailed plans submitted to and approved by the local planning authority including proposed grading and mounding of land areas including the levels and contours to be formed and showing the relationship of proposed mounding to existing vegetation and surrounding land form.

Construction General/Parking

36. Before any work on site takes place access to the highway is to be constructed to local planning authority approval and provision is to be made within the site for:

- (a) the loading and unloading and storage of all construction plant and materials to be used on the site;
- (b) the parking of all vehicles including the cars of construction employees and other people who will be working at or visiting the site;
- (c) ensuring that no mud or other materials from the site is deposited on the highway.

37a. The detailed siting of any construction compounds shall be submitted to and approved by the local planning authority.

37b. No work shall commence on site until such time as a scheme for site preparation has been submitted to and approved by the local planning authority in writing.

Archaeological and Conservation Matters

38. No development involving any ground disturbance shall take place until an archaeological investigation of the site has been carried out in accordance with specifications to be submitted to and agreed by the local planning authority in writing.

39. Notification of the commencement date and information as to who the archaeologist(s) should contact on site shall be given to the local planning authority in writing not less than 14 days before development commences.

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40. Opportunity shall be allowed for the carrying out of a detailed landscape survey by an archaeologist nominated by the developer and approved by the local planning authority, of the existing ridge and furrow before it is altered or destroyed.

41. The developer shall afford access at all reasonable times to archaeologists nominated by the developer and approved by the local planning authority, and shall allow them to observe the excavations and record archaeological evidence that may be uncovered as a result of the development.

Ecology and Habitats

42. Prior to the commencement of development a detailed scheme for ecological investigation measures for protection, mitigation, creation of new foraging habitats shall be submitted to and approved by the local planning authority in writing. Any scheme proposed should ensure that damage to existing hedgerows, hedgerow trees, areas of semi-improved grassland and wetland habitats by means of measures such as protective fencing and unworked boundary zones is minimised.