

Re Manor Farm, Poyle Road, Slough.

**CLOSING SUBMISSIONS ON BEHALF OF SLOUGH
BOROUGH COUNCIL**

CLOSING SUBMISSIONS ON BEHALF OF SLOUGH BOROUGH COUNCIL	1
1 introduction	2
2 conflict with green belt policy	3
The Development is inappropriate development	5
The Appeal Site is not PDL in the “Grey Belt” definition	6
The Appeal Site’s strong contribution to Green Belt purpose (a)	11
The Appeal Site’s strong contribution to Green Belt purpose (b)	15
Would fundamentally undermine the purposes of the remaining Green Belt across the area of the plan ...	16
Paragraph 155 b is failed because there is not demonstrable unmet need.	17
The Appeal Scheme would cause substantial harm to the openness of the Green Belt.....	18
There are no very special circumstances justifying inappropriate development in this case.	19
3 conflict with strategic Gap policy	20
The Strategic Gap is an entirely justified policy which imposes a “very high bar” on development within it	20
CP2 is not out of date.	22
Grey Belt introduction does not change weight.	24
Including data centres in the lists in para 86/87 NPPF does not make all local plans out of date.	25
Development fails to clear very high bar for permitting development in the Strategic Gap	27
Harm to CVP and breach of CVP policy.	28
4 conflict with government statements on heathrow and Anps and proposals	29
Government wants Heathrow expansion as a “landmark opportunity... for UK economy”	29
HAL requires this site for R3 expansion	34
No evidence to justify why no longer essential for Heathrow	36
The Scheme conflicts with Government policy on Heathrow.....	38
5 no planning need case for more data centre permissions certainly not Vsc or essential.....	41
Slough Trading Estate will meet the need.....	41
appellant’s numbers case	45
Data Centre Capacity	46
Data Centre Annual Deliveries in the SAZ	47
The correct figures for Mr Powney tables.....	48
Mr Stimpson’s figures.....	49
Why is Mr Powney’s number wrong.	51
Powney used the wrong numbers.....	52
Effect of wrong numbers is to inflate need.	52
powney numbers do not survive a sense check of any real numbers of data centre capacity.	53
Powney Total Number completely unrealistic vs 369 built in largest cluster and Yondr	53
His number of 810 of increased supply in 2030 completely unrealistic over double current SAZ in one year.....	54

Powney number wholly unrealistic by comparison with live in most of South of England.....	54
Powney figures are wholly unrealistic by comparison with the national figures for capacity.	54
numbers ignore government forecasts for data centre	56
powney numbers are absurd when compared with power available	57
mr Stimpson's numbers based on take up are consistent and realistic when compared with actual figures	58
Other sources of demand figures even less reliable	59
Conclusion on Numeric Need.	59
no other form of need.....	61
NO Qualitive need	61
CNI irrelevant to whether there is a need it is to do with protection of assets.	61
6 power not reason to grant planning permission	62
private power connection agreements not reason to grant planning permission	62
uncertainty over the connection agreements	63
power will be later if it comes.....	66
the reality is that if this appeal is refused someone else will be able to take the power.....	66
Someone can take the power in the secondary market if refused.....	67
The connection agreement can come to an end or be taken by NESO if stalled.	68
If Grant and project delayed would be the worst of all worlds may be a stalled/zombie project that NESO would find hard to take power away from	70
conclusions on power not a reason to grant	70
7 SECTION 106 AND CONDITIONS	71
8 overall balances	73
the vsc balance.....	73
Other considerations	76
9 development plan balance.	80

1 INTRODUCTION

- 1.1 This scheme builds on a site which is essential for the successful operation of airport expansion of Heathrow which is a landmark opportunity for the UK. It clearly compromises the successful delivery of this vital project for the UK economy. This site is in one of the most protected areas in the whole of the UK with what the Secretary of State and Courts have said is an entirely justified very high bar to development over and above the Green Belt. Slough has already permitted the largest Cluster of data centres in Europe and has an award winning SPZ which will secure that Cluster over doubles in size over the next 7 years. Not only that in Slough Availability Zone there is a vast supply of sites which are agreed to be coming forward. That is agreed to be 1711MW which is larger than the whole capacity of data centres in the UK in 2024. The

appellants accepted that the UK would have enough AI-capable data centres to meet the Government DSIT forecast of need without this site.

- 1.2 The development is substantially harmful to the Green Belt is contrary to strategic gap and contrary to the development plan.
- 1.3 This closing will cover the issues in the following order:
 - i) Conflict with Green Belt Policy.
 - ii) Conflict with Strategic Gap and Colne Valley Regional Park policy.
 - iii) Adverse effect of the proposals on the proposals for the expansion of Heathrow.
 - iv) The weak need case put forward.
 - v) Conclusion and conflict with development plan.

2 CONFLICT WITH GREEN BELT POLICY

- 2.1 The Government in the NPPF is clear that “the Government attaches great importance to Green Belts”.¹ 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.²
- 2.2 The Green Belt, and its associated protection in national policy from “inappropriate development”, remains one of the strongest protections against certain forms of development in national policy.
- 2.3 The Development Plan’s spatial strategy provides that all development will take place within the built-up area, predominantly on previously developed land, unless there are very special circumstances that would justify the use of Green

¹ NPPF para. 142

² NPPF para. 142

Belt land.³ The protection of the Strategic Gap in the Development Plan is dealt with elsewhere below in these closings. Note that unlike in Woodlands⁴, Slough's Development Plan policy is consistent paragraph 153 of the NPPF in that it makes provision for Very Special Circumstances and is not out-of-date in that regard.

2.4 In relation to national Green Belt policy, the Council's Green Belt case can be summarised in three submissions.

- i) First, the Appeal Scheme is inappropriate development because it:
 - a) Fails to meet the definition of Grey Belt because it is on land that strongly contributes to purpose a
 - b) Fails to meet the definition of Grey Belt because it strongly contributes to purpose b
 - c) It would fundamentally undermine the purposes of the remaining Green Belt and affect its ability to serve all the purposes in a meaningful way.
 - d) There is no demonstrable unmet need for the type of development proposed.

If any one of those is correct this is not appropriate development.

- ii) Second, the Appeal Scheme would cause substantial harms to the Green Belt, including definitional harm, harm to openness, and harm to Green Belt purposes (a), (b) and (c).
- iii) Third, there are no very special circumstances to justify approval of plans for inappropriate development in the Green Belt.

2.5 We take each in turn.

³ CP1, CD 6.11

⁴ CD 7.01, p.4, para. 20.

2.6 In terms of the scope of the dispute between the parties on the issue of Green Belt, Mr Webster, the professional witness for the Appellant on these matters, was instructed after their Statement of Case, and was not involved in the mistakes and omissions within it concerning the planning history, which we will address shortly. Materially:

- i) Mr Webster acknowledged that Parcel A “*is not... considered to be PDL as defined by the NPPF*”.⁵ He is correct to do so as Mr Paul Stimpson said once the lawful use of the appeal site is appreciated. His Grey Belt case (which relates to the Council’s submission 1 above) is limited to the issue of whether the Appeal Site strongly contributes to Green Belt purposes (a) or (b).
- ii) Mr Webster also accepts the Council’s second submission: the Appeal Scheme would cause substantial harm to the openness of the Green Belt.
- iii) The parties are at odds as to whether there are VSC that is dealt with below in the balance section after need is dealt with.

THE DEVELOPMENT IS INAPPROPRIATE DEVELOPMENT

2.7 Generally, development in the Green Belt is inappropriate unless one of the exceptions in paragraph 154 of the Framework applies. None of the exceptions in that closed list apply here.

2.8 In December 2024, the Framework introduced a new category of development that is not inappropriate, namely the development of Grey Belt land in certain defined circumstances (set out in criteria (a)-(d) of paragraph 154, all of which must apply for the development to not be regarded as inappropriate).

2.9 First, the Appeal Scheme would not utilise “*Grey Belt*” land, because the Appeal Site is not “Grey Belt” for two reasons.

⁵ CD 11.8, page 63

- i) It makes a strong contribution to purpose a
- ii) It makes a strong contribution to purpose b.

2.10 Grey Belt is defined as:

“land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143’ of the Framework.”⁶

The Appeal Site is not PDL in the “Grey Belt” definition

2.11 The gateway to the Grey Belt that the Appellant initially claimed when they were seeking planning permission from the Council and when they submitted their appeal namely that the majority of the Appeal Site is previously developed land (“PDL”)⁷ is simply wrong and untenable with the facts as they are.

2.12 The Appellant’s case on Green Belt – until after their Statement of Case – was premised on a glaring error that Parcel A constituted previously developed land (“PDL”). The two planning statements and the statement of case all cited the planning history but entirely failed to mention two critical aspects of it.

- i) First, an enforcement notice requires this land to be restored “to agricultural use by reseeded”.⁸
- ii) Second, the western part shaded green was subject to a condition that required “the building and structures to be removed and the site reinstated to agriculture” within 6 months of the use ceasing which has not occurred.⁹

⁶ NPPF (Dec. 2024), p.73, **Grey belt:** *For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development*

⁷ E.g. CD 2.25, paras. 7.6-7.9; and CD 9.01, para. 2.20 [Parcel A] “comprises previously developed land that has secured numerous permissions for intensive commercial and industrial activities”; and para. 7.24 “the Appeal Site clearly falls within the definition of ‘grey belt’ land... because... the majority of the Appeal Site (Parcel A) comprises previously developed land...”

⁸ Appeal Decision para. 13, p.8 of CD 11.1 App T4b

⁹ CD 11.1 para. 3.31 and CD 11.1 Appendix T.1

- 2.13 These astounding oversights by the Appellant led to the repeated claims that Parcel A is PDL; or that the Appeal site is predominantly PDL.¹⁰
- 2.14 Mr Murphy's analysis at the time of the revised planning statement¹¹ did not mention the conditions on the green land, or the enforcement notice on the purple land that required the restoration of the land to agricultural in both cases. These omissions led to the erroneous conclusion that Parcel A represents PDL¹², and infected his analysis on Core Policy 1¹³ and against the Framework which wants to meet needs in a way that makes as much use as possible of PDL.¹⁴ It also infected Mr Murphy's earlier analysis of the appropriateness of the Appeal Scheme in the Green Belt¹⁵, on the Strategic Gap¹⁶; and on whether there were VSC.¹⁷
- 2.15 As was put to Mr Murphy¹⁸, it is a good job that the decision was not taken on the material advanced by the Appellant at application stage: any would have been in error on the analysis of the planning history; in their analysis by reference to CP1 strategy of the plan; in relation to the Framework in an important regard about "PDL-first" development; in their analysis of Green Belt appropriateness; and in their analysis of VSC.
- 2.16 In 2009, planning permission was granted on appeal in relation to part of the Appeal Site for use for concrete crushing and screening, and inert waste recycling (B2 use), subject to a condition that within 6 months of the use ceasing, the buildings and structures should be removed and the relevant land

¹⁰ The Appellant erroneously maintained this now untenable position throughout their statement of case: CD 9.01, para. 1.5, para. 2.7, para. 2.20, para. 7.10, para. 7.14, para. 7.24, para. 7.28; and in their original Green Belt Appraisal CD 1.43, para. 3.4, para. 3.9.

¹¹ CD 2.25, as raised in cross-examination

¹² CD 2.25, para. 2.14

¹³ CD 2.25, para. 5.13

¹⁴ CD 2.25, para. 5.28

¹⁵ CD 2.25, para. 5.32, 5.37, 5.49, 7.5, 7.6

¹⁶ CD 2.25, para. 7.39

¹⁷ CD 2.25, para. 8.4

¹⁸ In cross-examination

converted to agriculture in accordance with a scheme to be submitted and approved by the Council.¹⁹

- 2.17 Mr Stimpson's evidence is definitive: the use of the land for concrete crushing and screening and inert waste material storage has ceased and so all the buildings and structures on this part of the Appeal Site have to be removed and the site reinstated to be restored to agricultural use.²⁰ Likewise, Mr Ray's planning history statement described how "*[t]his use ceased on, or before the current owner completed its purchase of the site which is corroborated by employees of FVTH who advised myself on the 15th July 2025 that they had been on the site for 3.5 to 4 years including inhabiting the main building within Parcel A*".²¹ He went on to describe how:

*"[t]he majority of the site associated with the 2009 consent has been used for a mix of uses which do not benefit from Planning permission (airport parking and the storage of vans and trucks associated with FVTH and their ancillary maintenance functions within the large building in the centre of the site."*²²

- 2.18 The Council's evidence, put in a month before the inquiry opened, was not directly challenged by the Appellant. Mr Murphy's written evidence was clear that the use for concrete crushing and inert waste recycling has ceased but not clear when²³. Orally in examination in chief he began to venture an entirely different case that the use might not have ceased. However in cross examination he accepted that he "did not know the nature of what was going on at the site but thought it may have been vehicle maintenance". When he was reminded that in his proof he had set out that the Appeal had permitted the "permanent use .. for concrete crushing and inert waste recycling"²⁴ he did not maintain that what he saw at the site was some re commencement of that use. It was not.²⁵ Mr Ray's recollection was that he was told on site that the use related to

¹⁹ CD 11.1 Appendix T2

²⁰ CD 11.1, para. 3.34

²¹ CD 11.1, Appendix T, para. 4.3

²² CD 11.1 Appendix T, para. 4.7

²³ Mr Murphy proof cd11.12

²⁴ Proof Mr Murphy at 5.17

²⁵ In cross-examination

vehicle hire.²⁶ Quite clearly there is a breach of the conditions because the use permitted by the 2009 permission had ceased as was set out in Mr Murphy's written evidence and in the evidence of Mr Ray. The observations of the site visit had nothing to do with the primary permitted use in 2009.

- 2.19 In relation to the certificates of lawfulness, it is well-established that any certificate concerns the lawfulness at the time of the application of the matters described in the application (or as modified or substituted by the authority) (s.191(4) TCPA 1990).²⁷ Mr Ray describes how there have been numerous changes of use after the issue of the certificate and so the use certified is no longer lawful.²⁸ This is the case for the certificates in light blue on his ID4.
- 2.20 In contrast to Mr Murphy's at times contorted positions in relation to PDL and the planning history, Mr Webster simply acknowledged the reality by considering that Parcel A "*is not... considered to be PDL as defined by the NPPF*".²⁹
- 2.21 One annotated plan illustrates the position on site.³⁰

²⁶ As put to Mr Murphy in cross-examination

²⁷ Section 191(4) TCPA 1990: "*If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application*" (emphasis added)

²⁸ See CD 11.1, Appendix T

²⁹ CD 11.8, page 63

³⁰ CD 11.1 Appendix U



- 2.22 The green and purple represent land that is compelled by the planning system to be restored. It cannot possibly be regarded as PDL. The yellow land is also due to be restored.
- 2.23 It is accepted by all that Parcel B is entirely greenfield agricultural land.
- 2.24 Resultantly, the Appeal Site cannot be defined as PDL so cannot be considered “Grey Belt” on that basis. The Appellant has belatedly accepted this in a volte face from their earlier position.
- 2.25 Mr Webster, to his credit, did not align with the (untenable) position taken by the Appellant on this: he accepted that Parcel A comprises some (limited) lawful and some unlawful development.³¹ He only set out a very limited amount of buildings that were lawful. He accepted the correct position that “buildings 59 66 and 67 together with the hardstanding to the north of them (54) is not considered to be PDL as these areas are required to be returned to agriculture”.³² He was in every way a more reliable witness on PDL than Mr Murphy and his view should be followed. Mr Webster’s overall view was that:

³¹ See CD 11.8, para. 4.18, and throughout oral evidence.

³² 4.18 Webster proof

*Parcel A comprises both PDL and brownfield land that is subject to conditions that require its return to agriculture. **This land is not therefore considered to be PDL as defined by the NPPF**³³*

- 2.26 Where this leaves us is that there are a limited number of buildings around the site entrance that are lawful as Mr Webster said in his proof at 4.18. Nothing on the Green or purple land is lawful. The conditions on the Green land supercede the lawful development certificates which clearly predate the cessation of use under condition 28 and 29 because the use of the whole of the Green land was for the permitted use so the condition bites on all of the land. The parking in the orange area was lawful but it is not clear that has continued looking at the aerial photographs in Appendix 5 of Mr Murphy. On the link road building 58 is likely to be lawful as operational development but without the use of certificate on 61³⁴ the light blue on ID4 has been lost by subsequent changes of use.
- 2.27 The judgments of Mr Paul Stimpson are sound on this. Only a very small part of the Appeal Site is PDL.³⁵ One would be hard pressed to find an 8ha area of Green Belt land anywhere else around London with so little lawful previous development.
- 2.28 The Appellant's Grey Belt case could not longer rely on the pdl gateway but became exclusively reliant on their meritless claim that the Appeal Site does not make a strong contribution to Green Belt purposes (a) and (b). The Appeal Site does not make a strong contribution to Green Belt purpose (d), as is common ground.

The Appeal Site's strong contribution to Green Belt purpose (a)

- 2.29 As a matter of judgment, the decision-maker should conclude that the Appeal Site makes a strong contribution to Green Belt purpose (a) (to check the

³³ See page 63 Webster

³⁴ App c of Webster

³⁵ CD 11.1, para. 3.45

unrestricted sprawl of large built-up areas), having regard to the considerations which inform such judgments in the PPG.³⁶

2.30 In terms of being free from existing development, the Appeal Site performs strongly.

2.31 The first component aspect of the PPG is that assessment areas that contribute strongly to purpose (a) are “*likely to be free of existing development...*”. The PPG’s use of “[l]ikely” clearly qualifies that part of the guidance. A site which is not entirely free of existing development can still contribute strongly to purpose (a). Here, Parcel A should be treated as being almost entirely free of existing development, because it is required to be restored to that state. It should be treated as such. Unplanned and unlawful development should be “*ignored*”, as Mr Webster acknowledges.³⁷ Parcel B is free of existing development. But for ongoing breaches of planning control, the Appeal Site should be almost entirely free of existing development. It would be perverse if the breach of an enforcement notice or the breach of planning conditions could make it easier to develop a site and so advantage the person in breach. This would be allowing an applicant to benefit from their wrongdoing. Mr Webster to his credit was clear that the

*Unplanned development with the appeal site should be ignored and the appeal should be considered in its lawful state ie that of largely agricultural land*³⁸

2.32 The plans of how it looked when the appellant had it in an unlawful state³⁹ should be ignored as Mr Webster said.

2.33 The second component aspect of the PPG is that assessment areas that contribute strongly to purpose (a) are likely to “*lack physical feature(s) in reasonable proximity that could restrict and contain development*”. It is not

³⁶ PPG, Green Belt, Paragraph: 005 Reference ID: 64-005-20250225, reproduced in DW’s Table 1, para. 4.19, p.14; the PPG is not subservient or secondary to the NPPF and may, in the appropriate circumstances, even change national policy: **Mead Realisations Ltd v SSCLG** [2025] EWCA Civ 32

³⁷ CD 11.8, para. 4.14

³⁸ 4.14 webster

³⁹ See app B of Webster

credible to suggest that physical features in reasonable proximity to the Appeal Site could restrict and contain development.⁴⁰ Mr Webster sought to describe how to the west, land under the control of the Appellant is “*framed by dense vegetation and waterbodies at the Arthur Jacob nature reserve*”.⁴¹ In reality, that waterbody is not “in reasonable proximity”. In other words, there is nothing reasonably proximate to the west of the Appeal Site to restrict or contain development, so it lacks the physical features that could restrict development.⁴² The Appellant’s press releases actively promote how “[t]he site also offers the potential for further expansion” and with plans to build another massive data centre to the west of the Appeal Site as a possible second phase of development.⁴³ The absence of landscaping treatment on this border in the Appeal Scheme⁴⁴ (in contrast to the multifunctional green loop proposed in the Heathrow expansion masterplan⁴⁵) merely reflects that clear investment strategy for further expansive development reaching into the Green Belt. Mr Webster was thus unable because of his clients ambitions for phase 2 to even try to create a physical feature to the west of the proposed development that could restrict it. This would in any event not have been anything like as good a physical feature as the Poyle Road which is “readily recognisable and likely to be permanent”.⁴⁶

- 2.34 The development would lack physical features to the infill plot that would restrict development⁴⁷. All there is between the proposed data centre and the infill plot is a thin hedge which is nothing like a physical feature which is readily recognisable and likely to be permanent like the Poyle Road.⁴⁸

⁴⁰ Cf. CD 11.8, para. 4.43

⁴¹ CD 11.8, para. 4.43

⁴² CD 11.1, para. 3.64

⁴³ CD 11.1, para. 3.64

⁴⁴ CD 2.7, CD 2.8.

⁴⁵ CD 14.3, p.112, Fig. 6.12.3

⁴⁶ See para 149 f of NPPF

⁴⁷ Examination in chief of Mr Paul Stimpson

⁴⁸ See NPPF 149f

- 2.35 The third component aspect of the PPG is that assessment areas that contribute strongly to purpose (a) are “*adjacent or near to a large built-up area*”. The Appeal Site meets this description. It is obviously adjacent or near to a large built-up area: as Mr Webster told us in chief that “*we are near to the edge of London*”.⁴⁹
- 2.36 The fourth component aspect of the PPG is that assessment areas will be likely to contribute strongly to purpose (a) if the development would “*result in an incongruous pattern of development (such as an extended ‘finger’ of development into the Green Belt)*”. Note the key question is whether the pattern of development would be incongruous; the extended finger is given as a non-exhaustive example of such incongruity. Here, the scale and nature of the Appeal Scheme would result in an incongruous pattern of development. Mr Stimpson memorably described in evidence how, in breaching the Poyle Road which forms a very strong existing boundary, the Appeal Scheme would represent an “incongruous fist” punching into the Green Belt. With reference to Mr Webster’s aerial view⁵⁰, Mr Stimpson explained how the Appeal Scheme would stick out, going further than the hotel, and so not only is it incongruous in terms of its location, but its sheer size and scale is incongruous in terms of its location within the Green Belt.⁵¹ This can be judged well by the aerial photo in the Design and Access Statement.⁵²
- 2.37 Drawing all the above together, the Appeal Site makes a strong contribution to meeting the objective of purpose (a) and as such it does not fall to be considered as Grey Belt land. That is the end of the Grey Belt issue.⁵³ Paragraph 155(a) of the Framework cannot be satisfied because the development would not utilise Grey Belt land.

⁴⁹ CD 11.8 para. 4.39, para. 4.42; CD 11.1, para. 3.63; Mr Stimpson’s examination-in-chief; Mr Webster cross examination.

⁵⁰ CD 11.8, p.23, Figure 5: Aerial view to illustrate visual context to the west of Poyle Road

⁵¹ Mr Stimpson’s XIC

⁵² See page 25 electroinc CD 1.36 and page 49-51

⁵³ CD 11.1, para. 3.67

- 2.38 Conversely, even if the decision-maker reaches a judgment contrary to that of Mr Stimpson's on the strength of the Appeal Site's contribution to purpose (a), then that is not the end of the Grey Belt issue.

The Appeal Site's strong contribution to Green Belt purpose (b)

- 2.39 The Appeal Site makes a strong contribution to Green Belt purpose (b) (to prevent neighbouring towns merging into one another), having regard to the considerations which inform such judgments in the PPG.⁵⁴
- 2.40 The same points about likely being free from existing development apply as set out in relation to purpose (a), above.
- 2.41 Here, the Appeal Site forms a substantial (and important) part of the gap between towns, the development of which would be likely to result in the loss of visual separation of towns. It was accepted in cross examination by Mr Webster that judging whether it was an substantial part of a gap it was important to look at the experiential or perceptual aspect it was not a numeric exercise. Specifically, Mr Stimpson described how the Appeal Site plays a vital role in an important pocket of Green Belt to the west of Poyle Road. The critical thing is that this is one of the very few areas of gap experience in the journey from London to Slough. From the route from London to Slough [agreed to be Brands Hill] the open views along the Poyle Road are really the only relief from ribbon development achieved. Looking at the plan on page 23 of Webster these parcels of the appeal site together with the solar site and the infill site are the only perception of gap left. It is thus a substantial part of the gap from a perceptual or experiential perspective. It is agree that once the driver gets to Bath Road for the remaining journey to Slough [Brands Hill] there is ribbon development.⁵⁵
- 2.42 This is a large site – some 8ha – and in Mr Stimpson's view it is not sensible talk about it in relation to the overall Green Belt in percentage terms. To do so

⁵⁴ PPG, Green Belt, Paragraph: 005 Reference ID: 64-005-20250225, reproduced in DW's Table 2, para. 4.46, p.18.

⁵⁵ See 4.56 of Webster

would allow the death of the Green Belt in 1,000 cuts. This is a critical pocket because it is a substantial part of the experience of gap achieved on the route between London and Slough along the Poyle Road.

- 2.43 Mr Stimpson’s evidence drew comparison with the “*Summerleaze site*”, which was the subject of an appeal in relation to the Council’s refusal of a solar photovoltaic farm.⁵⁶ In that case, the Secretary of State endorsed the Inspector’s conclusions, which included that the development there “*would lead to the merging of Poyle and Colnbrook, as the site would no longer be able to provide an important separating feature between the residential areas to the north and the industrial and commercial uses to the south*”.⁵⁷ In Mr Stimpson’s view, the Appeal Site with its 30m-tall data centre would have a much greater impact than the 3m-high panels on the solar farm, particularly given the proximity of the Appeal Site to the Summerleaze site, and the important role it plays in maintaining the impression that there is a separation between Slough and Greater London.⁵⁸
- 2.44 Again, paragraph 155(a) of the Framework cannot be satisfied because the development would not utilise Grey Belt land.
- 2.45 Provided either of those judgements about the strength of the Appeal Site’s contribution to purposes (a) and/or (b) are accepted by the decision-maker, then the criteria in paragraph 155(a) of the NPPF is not made out, and the Appeal Scheme constitutes inappropriate development.

Would fundamentally undermine the purposes of the remaining Green Belt across the area of the plan

- 2.46 Paragraph 8 of the PPG guidance is clear that a judgment needs to be reached as to whether releasing the land here would affect the ability of the remaining green belt to fulfil all five functions. If this site is lost there would be ribbon

⁵⁶ CD 11.1, para. 3.75 onwards

⁵⁷ IR para. 18, see CD 10 B.4

⁵⁸ CD 11.1, para. 3.77

development along nearly all of the route between London and Slough. The remaining land cannot get the experience of gap back. In fact of course this site would also undermine the clear boundary of the Poyle Road and create a very weak boundary with the infill plot and to the west. There is already ribbon development along the Bath Road as is accepted by Mr Webster. The appeal site is one of the last areas free of Ribbon development along that route and so if this is lost the perception and experience of gap would be fundamentally undermined and the remaining land would not be able to achieve that.⁵⁹ Within this assessment the harm to purpose c also needs to be brought in which is not disputed by the appellant.

Paragraph 155 b is failed because there is not demonstrable unmet need.

- 2.47 Mr Paul Stimpson explained that there is not demonstrable unmet need for the reasons set out in the need section. However it is worthy of note in the footnote to 155b the example is given in the housing context of what would amount to unmet need. This is where there is a breach of Government set targets due 5 year supply. There is no equivalent here. There is no numeric need. The only Government forecasts of need in the case are DSIT ones in UK Compute which the appellant recognised will be satisfied with the Government's strategy which will be met without this site. There is no unmet need within the meaning of this paragraph.
- 2.48 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

⁵⁹ See evidence of Mr Paul Stimpson and cross examination of Webster

The Appeal Scheme would cause substantial harm to the openness of the Green Belt

- 2.49 As referenced earlier, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open the essential characteristic of Green Belts are their openness and their permanence.⁶⁰
- 2.50 Openness is the counterpart (i.e., the opposite) of urban sprawl.⁶¹
- 2.51 Being well-designed does not prevent something being sprawl, otherwise one could always say that development was not urban sprawl because it is well-designed. Likewise, the Appeal Scheme being “*compact and high density*” does not mean that it will not substantially affect openness: urban sprawl is the counterpart of openness.
- 2.52 In any event, the Appellant accepts that the Appeal Scheme would result in an overall substantial level of harm to the openness to the Green Belt.⁶² It is common ground that there would be substantial harm to the spatial aspect of openness arising from the Appeal Scheme.⁶³ The Appellant also accepts that the Appeal Scheme would generate localised substantial harm in terms of duration and “*remediability*”. The parties disagree over the level of harm to the visual aspect of openness arising from the Appeal Scheme, but that does not change the shared overall assessment on the substantial harm to openness. The provision of 42,244sqm within a 30m building plainly has a significant effect on the visual aspect of openness.⁶⁴
- 2.53 The substantial level of harm arising in this case should not be underplayed. Paragraph 153 of the NPPF says that authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Here, this includes:

⁶⁰ NPPF para. 142.

⁶¹ See **ID 14 R (Samuel Smith Old Brewery (Tadcaster) and Ors) v North Yorkshire County Council** [2020] UKSC 3, per Lord Carnwath at para. 22.

⁶² CD 11.8, para. 7.33

⁶³ CD 11.8, para. 7.10

⁶⁴ See DAS, CD 1.36, pp. 53, 120-123 (visualisation, View VP05C)

- i) Harm by definition - substantial weight: The Appeal Scheme is inappropriate development in the Green Belt and should not be approved except in very special circumstances.
- ii) Harm to openness – substantial weight: Even by the Appellant’s own case, there is substantial harm to spatial openness, which as the fundamental aim of the Green Belt must be given substantial weight. Mr Stimpson’s clear and unsurprising view that this massive data centre and associated development will cause substantial harm not only spatially but also visually; the Appellant accepts harm to visual openness and impact on it.
- iii) Harm to Purpose (a) – substantial weight: There is severe harm to Green Belt purpose (a) which must be given substantial weight
- iv) Harm to Purpose (b) – substantial weight: There is significant harm to Green Belt purpose (b) which must be given substantial weight.
- v) Harm to Purpose (c) – substantial weight: There is acknowledged⁶⁵, and the Council says significant, harm to Green Belt purpose (c) which must be given substantial weight.

2.54 Paragraph 153 envisages ascribing substantial weight to “any” harm; here there are multiple different harms, each attracting substantial weight.

2.55 Added to that already-heavy basket of harms amongst other harm there is significant harm to the strategic gap; harm to the clear policy promoting the third runway by using a site that is essential for the successful operation of the airport and severe harm to the Colne Valley Regional Park.

There are no very special circumstances justifying inappropriate development in this case.

2.56 This is dealt with below.

⁶⁵ CD 11.8, para. 4.99

3 CONFLICT WITH STRATEGIC GAP POLICY

- 3.1 The Appeal Site is all within the “Strategic Gap”. This is an essential part of the spatial strategy of the Core Strategy. It has been endorsed as fully justified by the Secretary of State on two occasions and upheld by the High Court twice. The Secretary of State has give it “full weight” and “substantial weight” post the NPPF having considered it against the pro growth 2012 NPPF.

The Strategic Gap is an entirely justified policy which imposes a “very high bar” on development within it

- 3.2 CP1⁶⁶ and CP2⁶⁷ are central policies to the Slough Core Strategy. CP1 is the spatial vision and CP2 sets out the policy test for one of the critical components of that the strategic gap.
- 3.3 In the SIFE appeal⁶⁸ the Secretary of State endorsed conclusions of his Inspector that “fragmented and vulnerable” is a good description of the characteristics of this area.

“I find that ‘fragmented and vulnerable’ is a good description of the characteristics of the Green Belt area east of Slough”⁶⁹

- 3.4 The Secretary of State in the SIFE appeal endorsed the reasoning of the Inspector who concluded that the strategic gap policy was merited having regard to the principles of sustainable development in the Framework.

“The policy supports the Borough’s spatial strategy, which is firmly based on the principles of sustainable development. At the heart of the Framework is a presumption in favour of sustainable development. The very high bar set by the policy is merited because of the need for distinguishing this particularly sensitive area of the Green Belt. This sensitivity stems from the combination of a number of factors that are not present to a similar degree in other parts of the Green Belt.”⁷⁰

- 3.5 The Inspector also concluded that the Strategic Gap imposes an additional policy restraint on proposals for development and should be given full weight:

⁶⁶ CD 6.11

⁶⁷ CD 6.12

⁶⁸ CD 7.10

⁶⁹ CD 7.10, para. 12.21

⁷⁰ CD 7.10, para. 12.23

*“I conclude that the Strategic Gap policy imposes an additional policy restraint on proposals for development located in this very sensitive area. The policy has full weight as a key component of the development plan for Slough. The ‘it is essential to be in that location’ test is distinct from demonstrating ‘very special circumstances’ ”.*⁷¹

- 3.6 This Secretary of State decision was upheld in the High Court in ***Goodman Logistics v Secretary of State*** [2017] EWHC 947.⁷² Mr Justice Holgate⁷³ gave a summary of the Inspector’s conclusions on the strategic gap which were endorsed by the Secretary of State. Holgate J upheld and agreed with her interpretation of policy. Mr Justice Holgate’s summary of the Inspector’s and Secretary of State decision on the Strategic Gap was as follows.

*“The Strategic Gap is particularly important. It is a fragmented and vulnerable part of the Green Belt. The very high bar set by CP2 is merited because of the need to distinguish this particularly sensitive area of the Green Belt. The policy should be given full weight as a key component of the development plan for Slough...”*⁷⁴

- 3.7 Mr Justice Holgate explained the rationale for the policy in the language of the Core Strategy Explanatory Memorandum at paragraph 7.26, and described how CP2 should be interpreted alongside Green Belt policy:

*“The remaining open land in Colnbrook & Poyle, east of Langley/Brands Hill, is particularly important because it forms part of the Colne Valley Park and acts as the strategic gap between the eastern edge of Slough and Greater London. Additional restraint will therefore be applied to this fragmented and vulnerable part of the Green Belt....”*⁷⁵

- 3.8 This policy has been endorsed and interpreted as a “very high bar” to development in not one but two High Court cases. The first was ***Helioslough v Secretary of State*** [2011] EWHC 2054.⁷⁶ That decided that CP2 applies an additional policy restraint to the Strategic Gap (and the Colne Valley Park) over and above Green Belt Designation and sets a “very high bar” because of the special sensitivity of the tightly defined area which it applies. This is the

⁷¹ CD 7.10, para. 12.25

⁷² CD 7.08

⁷³ As he then was

⁷⁴ CD 7.08, para. 21

⁷⁵ CD 7.08, para. 49

⁷⁶ As referenced at CD 7.08, para. 9 and para. 49

summary of what it held by Holgate J in *Goodman Logistics v Secretary of State* [2017] EWHC 947.

*“[the] High Court decided ([2011] EWHC 2054 (Admin)) that CP2 applies an additional policy restraint to the Strategic Gap (and the Colne Valley Park) over and above Green Belt designation, and which sets "a very high bar" (paragraph 86), because of the special sensitivity of the tightly defined area to which it applies.”*⁷⁷

- 3.9 Core Policy 2 (“CP2”) applies a policy restraint in the Strategic Gap *in addition to* that provided by Green Belt policy⁷⁸. This “very high bar” to be applied is whether the development “*is essential to be*” in the Strategic Gap. Holgate J said:

*“it is plain that CP2 proceeds on the basis that the “very special circumstances” test in Green Belt policy is insufficiently strong to protect the vulnerable Strategic Gap”.*⁷⁹

- 3.10 The Inspector’s report in the SIFE appeal, with which the Secretary of State agreed in reaching his lawful decision, provides a textbook example of how to apply the policy which seeks to protect the vulnerable and important Strategic Gap.⁸⁰

CP2 is not out of date.

- 3.11 The clear evidence of Mr Paul Stimpson was that CP2 was up to date. It has been tested against the NPPF on several occasions and found to be consistent.⁸¹ He is correct about this.
- 3.12 The fact is that the Secretary of State has been clear that post the NPPF 2012 “full weight” should be given to policy CP2. This expressly considered the degree of consistency with the Framework. This is set out in the LIFE appeal decision.⁸²

⁷⁷ See CD 7.08, para 49

⁷⁸ See Murphy CD 11.12 para. 12.8, referencing supporting paragraph 7.26 of CP2, CD 6.12, pdf p.2

⁷⁹ CD 7.08, para. 54

⁸⁰ CD 7.10, para. 12.20 onwards

⁸¹ See examination in chief of Mr Paul Stimpson

⁸² See cd 7.10 at 12.23

- 3.13 Firstly, it expressly tested CP2 by reference to its consistency with the Framework.

Core Policy 2 predated the publication of the Framework. Applying national planning policy, the weight to be attached to the policy depends on its degree of consistency with the Framework. ⁸³

- 3.14 Having done that the Inspector found that:

*The policy supports the Borough's spatial strategy and is firmly based on the principles of sustainable development*⁸⁴

- 3.15 Mr Murphy accepted that the Spatial Strategy of the Plan was firmly based on the principles of sustainable development. Looking at CP1 it has a brownfield first approach, an approach of putting high density and intensive uses in the town centre and has areas for regeneration.

- 3.16 CP2 is an essential part of the Core strategy and sets out the policy for the strategic gap. The SIFE Inspector described this as an essential element of Slough's Core Strategy in a passage expressly accepted by the Secretary of State. She said

The Strategic Gap is an essential element of Slough's Core Strategy.

- 3.17 So, it is all part of a spatial strategy that is firmly based on the principles of sustainable development. It is hardly likely being based on that principle that it would easily go out of date.

- 3.18 In any event the Inspector was clear having tested it against the consistency with the NPPF 2012 that full weight should be given to CP2. She said:

*The policy has **full weight**⁸⁵ as a key component of the development plan for Slough.* ⁸⁶

- 3.19 This was endorsed by the Secretary of State who accepted the reasons of the Inspector at 12.20 to 12.27. ⁸⁷

⁸³ 12.22 of CD 7.10

⁸⁴ 12.23

⁸⁵ My emphasis

⁸⁶ §12.25 of CD 7.10

⁸⁷ See para 15 of DL CD7.10

3.20 The Secretary of State could not possibly have given full weight to CP2 if they thought that it was inconsistent with the NPPF. We know that CP2 is fully consistent with the 2012 NPPF which was a “pro-growth” document.⁸⁸

3.21 The Secretary of State confirmed that this very policy should be given substantial weight in the Helioslough case as well. They said as is reported accurately in the SIFE decision that

In the 2014 Radlett decision the Secretary of State attributed substantial weight to the Strategic Gap Designation..⁸⁹

3.22 Not only has the Secretary of State given full weight and substantial weight to CP2 on two occasions post the NPPF but Mr J Holgate endorsed as perfectly lawful the approach in the decision. In fact, he summarised the critical part of the decision that he upheld on the strategic gap in the following way

*“The Strategic Gap is particularly important. It is a fragmented and vulnerable part of the Green Belt. The very high bar set by CP2 is merited because of the need to distinguish this particularly sensitive area of the Green Belt. **The policy should be given full weight as a key component of the development plan for Slough...**”*

3.23 There was no suggestion that there was any error of law in giving full weight to that policy. The Judge found that the Inspector’s interpretation of the policy which was endorsed by the Secretary of State was correct.

3.24 This policy having been specifically found to be so consistent with the NPPF 2012 that it should be given full or substantial weight Mr Murphy sought to suggest that the revisions of 2024 changed that. Mr Paul Stimpson explained why neither the Grey Belt nor reference to data centres changed matters.

Grey Belt introduction does not change weight.

3.25 The introduction of Grey Belt does not make this policy out of date. Mr Stimpson explained that the Green Belt was a different bar a lower bar. This view has been endorsed by the Secretary of State and High Court on two occasions. The LIFE inspector was explicit that the Strategic Gap was an

⁸⁸ Confirmed by Mr Murphy who had members of his firm assisting with preparation of that NPPF

⁸⁹ See para 12.24

additional policy. It is illogical to suggest as that appellant does that alterations to a different lower bar should make the higher bar out of date.

- 3.26 The Grey Belt is explicit about what changes it makes to development management. It makes some cases appropriate development if they meet the 155 tests. That has been applied in this case. It does not seek retrospectively to alter other policies imposing different tests. We have allowed for the changes it makes in this case by following the NPPF tests in 155 for appropriateness. It does not seek to change other restraint policies.
- 3.27 By lowering the bar for some areas of Green Belt for needed development if there were a need for data centres in the SAZ there are now areas outside of the strategic gap which are easier to develop if they are Grey Belt. It must be remembered that only 3 of the alternative sites were in the Strategic Gap and 15⁹⁰ being in the green belt. The effect of the change is to make it more possible to put data centres if needed in the Green Belt and so less necessary to consider the strategic gap. In any event changes to Grey Belt do not affect this case because this site is not Grey Belt.

Including data centres in the lists in para 86/87 NPPF does not make all local plans out of date.

- 3.28 If it were to be found that putting data centres in a long list of things that the Government say planning policy should have regard to facilitating in paragraph 86 of the NPPF made the CP 2 out of date when it had previously had full weight then this logic would apply all over the country and plan policies would routinely become out of date with such policies which would undermine the plan system.
- 3.29 The Court of Appeal found in *Peel Investments v Secretary of State* [2020] EWCA Civ 1175⁹¹ that similar provisions in fact even more prescriptive and

⁹⁰ See page 23 of the ASA 11.7

⁹¹ CD 7.14

fundamental requirements as to what plans had to provide for in NPPF paragraph 20

*Relate to the preparation of future plans not the question of whether existing policies are out of date.*⁹²

- 3.30 The Secretary of State submitted in this case that when the NPPF imposed new plan requirements this should only apply to future plans and not make existing plan policy out of date. This is of course interesting because the maker of the policies does not want them to have retrospective effect making plan policies out of date because it would “undermine the plan-led system”. The Secretary of State’s submissions were as follows.

58 .The policy provisions on which the appellant relies in chapter 3 of the 2018 NPPF headed plan making including 17 and 20 apply to the making of new plans after the introduction of the NPPF. Mr Honey submitted that it would undermine the plan led system if implementation of a new framework policy about adoption of plans automatically rendered pre-existing plans out of date.

- 3.31 The Court of Appeal found that

In my judgment the arguments advanced on behalf of the Secretary of State and the Council are plainly correct.

- 3.32 They were specific as said above that those provisions applied to future plans and did not render policies out of date in paragraph 68.

- 3.33 So here the plan making provisions cannot make CP2 out of date for the reasons set out by the Court of Appeal because otherwise they would undermine the plan led system. This applies to both 86 and 87 and the plan making provisions.

- 3.34 In any event it is a very arid and unmeritorious criticism in Slough. Slough have even without the requirement in the NPPF permitted more data centres than any other LPA in the country and have an award winning SPZ that has helped facilitate an enormous pipeline of 4.3m sq ft in the STE. In addition, they have permitted the Akzo Nobel site and the large Microsoft data centre at Langley.

- 3.35 It is of course also worthy of note that the words of paragraph 87 want planning policies and decisions to “address the specific locational requirements of the

⁹² CD 7.14 last sentence of para 68

different sectors”. The strategic gap policy has a test of essential which needs proof that is essential to be in the location proposed. The appellant was unable to point to any geographical reason to locate a data centre here. It is in latency terms about as far away from the epicentre of the Cluster at LD4 as it is possible to be in Slough. There was no other geographical reason advanced in cross examination by Mr Murphy to suggest why a data centre should be put on the appeal site.

Development fails to clear very high bar for permitting development in the Strategic Gap

3.36 As the Secretary of State decided and the High Court held the Appellant would need to show:

- i) That the project is essential.
- ii) It is essential to be in this location.⁹³

3.37 The Appellant have failed to show either. It has not been demonstrated that the development itself is essential. The demand case is extremely weak as became apparent in evidence. It is nothing like sufficient to be essential.

3.38 In terms of meeting the “*essential*” test, Mr Stimpson explained that in the Appellant’s rebuttal⁹⁴, the Appellant falls back on the asserted need case. This is nothing like sufficient to pass the essential test for need as set out below.

3.39 On the second element of this test whether is essential to be in this location the appellant had absolutely not geographical case whatsoever. Distinctly, the Strategic Gap only comprises a very small part of the Appellant’s area of search for data centres.⁹⁵ Mr Stimpson explained that there was no geographical reason given by the Appellant to comply with this “essential” test.⁹⁶ The Appellant has not evidence that it is essential for the Appeal Scheme to be in this location

⁹³ See Goodman at cd 7.8 paragraph 51

⁹⁴ CD 11.18, para. 5.89

⁹⁵ CD 11.7, p.17, Fig. 3.

⁹⁶ Mr Stimpson, XIC

within the Strategic Gap between Slough and Greater London. There are no good geographical, operational or planning reasons why it is essential to build the Appeal Scheme in this location. Mr Murphy was unable when looking at the area of search⁹⁷ to name any geographical reason that the data centre should be here.

- 3.40 The very high bar for permitting development in the Strategic Gap is failed. The consequences of this and breach of CP1 is as Mr Paul Stimpson said to make the development contrary to the plan read as a whole. That is dealt with further in the balance section.

Harm to CVP and breach of CVP policy.

- 3.41 The Colne Valley Regional Park (“CVP”) is the first substantial taste of countryside to the west of London. CVP, founded in 1965, stretches from Rickmansworth in the north to Staines and the Thames in the south.⁹⁸
- 3.42 CVP is of regional importance, and the Colne Valley Park Trust have explained six objectives for CVP.⁹⁹ The stringent presumption against development in the CVP (contained in CP2¹⁰⁰) recognises the strategic role Colnbrook and Poyle has in preventing the severance of CVP¹⁰¹, and the fact that CVP is amongst the most pressurised parts of the Green Belt.¹⁰² This policy has been upheld at a number of appeals. For example, in a solar farm appeal, the Secretary of State concluded that the proposed development there (comprising 3-metre-high solar panels) would have an adverse impact on the CVP and Strategic Gap.¹⁰³

⁹⁷ ASA CD 11.7 at page 15 to 17

⁹⁸ CD 11.1, para. 5.2

⁹⁹ CD 10 D.4; CD 11.1 para. 5.3.

¹⁰⁰ And see CP1, and supporting paragraph 7.6, CD 6.11, page 23.

¹⁰¹ CD 11.1, para. 5.9

¹⁰² CD 11.1, para. 5.4

¹⁰³ See CD10 B4

- 3.43 The Appeal Scheme with its 30m high data centre would result in the further urbanisation, loss of countryside recreation opportunities and severance of the CVP. Resultantly, the Appeal Scheme would severely harm the CVP. It would prevent the restoration of the Appeal Site which can happen absent this scheme pursuant to the enforcement notice and condition.¹⁰⁴
- 3.44 As with the Strategic Gap, the Appellant has not demonstrated that it is essential for the Appeal Scheme to be in this location within the CVP.¹⁰⁵
- 3.45 This is all dealt with in the evidence of Mr Paul Stimpson 5.1 -5.23 which is robust dependable evidence on this topic in common with all the other areas.
- 3.46 The only real point that was taken is from the representations on the CVPT. It is unclear to what extent they relied on the errors in the planning statement about Parcel A being PDL which was all wrong. This was a very significant error of the appellant in the application documents as was apparent in cross examination.
- 3.47 In short there are breaches of the CVRP policy, and the appellant has not shown that the development passes the essential test.

4 CONFLICT WITH GOVERNMENT STATEMENTS ON HEATHROW AND ANPS AND PROPOSALS

Government wants Heathrow expansion as a “landmark opportunity... for UK economy”¹⁰⁶

- 4.1 The Government wants Heathrow expansion to unlock growth and deliver wider economic benefits.

¹⁰⁴ CD 11.1, p.145 onwards, para. 5.16 onwards

¹⁰⁵ CD 11.1, para. 5.22

¹⁰⁶ ID 22

- i) That strong desire is golden thread running through the extant Airports National Policy Statement (“ANPS”).¹⁰⁷
- ii) The Government similarly recognises that the scale of that opportunity is arguably unparalleled for UK plc: “[e]xpansion could inject billions into our economy, create over 100,000 extra jobs, strengthen Heathrow’s status as a global passenger and air freight hub, and deliver major benefits for passengers, including lower fares and reduced delays.”¹⁰⁸
- iii) This support was confirmed in the Transport Secretary’s written statement to Parliament in January 2025¹⁰⁹, reiterated in her letter to potential promoters in June 2025¹¹⁰, and emphasised in a very recent oral statement to the House of Commons on 22 October 2025.¹¹¹
- iv) Indeed, by the time that the Secretary of State comes to determine this appeal, plans for Heathrow expansion are likely to have accelerated further.

4.2 The Appeal Scheme cuts through those aspirations.¹¹²

- i) The Appeal Site has long been (and continues to form) part of Heathrow’s plans to expand the UK’s only hub airport through the development of a third runway and associated airport-related development, in particular freight forwarding.
- ii) Mr Brewis, a leading architect from Heathrow Airport Limited (“HAL”), told this inquiry that “[t]he land to the west of Poyle Trading Estate (including the Manor Farm site [i.e., the Appeal Site]) comprises over

¹⁰⁷ CD 14.1

¹⁰⁸ CD 11.2, Appendix A, p.1

¹⁰⁹ CD 11.2 Appendix A.

¹¹⁰ CD 14.4

¹¹¹ ID 22

¹¹² As set out in (i) the Airports National Policy Statement and as updated by other expressions of Government policy, including the written ministerial statement of 29 January 2025; and (ii) Heathrow Airport Limited’s existing expansion masterplan and current working proposals

40% of the freight forwarding land contained in Heathrow’s proposals... it would be a major detriment to Heathrow’s proposals if this land were not able to accommodate the freight forwarding facilities that have long been planned for it.” (emphasis added).¹¹³

4.3 The Appeal Scheme was so important as to be considered necessary for the “*successful operation of the airport*”¹¹⁴ in the masterplan that was consulted on with millions of people in 2019. This was after a very thorough exercise which had shown that this site would pass all elements of the decision tree including being able to show

- i) A compelling case in the public interest for freight
- ii) The very special circumstances test
- iii) Essential need and essential to be in this location.¹¹⁵

4.4 Permitting a data centre on land needed for 40% of the freight requirement, the Appeal Scheme will seriously prejudice the most important infrastructure plan of the Government, which it hopes to consent in what remains of the current Parliament.

4.5 It is essential to consider the policy context first.

4.6 Since 2018, Government policy in the ANPS has emphasised the importance of aviation, including air freight, to the UK economy.¹¹⁶ Capacity constraints in the sector limit economic potential, and the Government’s preferred solution remains expansion at Heathrow^{117 118}, which is regarded as best placed to enhance international connectivity and deliver the greatest economic and

¹¹³ CD 8.18, para. 14(b)

¹¹⁴ CD 14.3, para. 4.9.13

¹¹⁵ See cross examination on CD14.8 with Mr Murphy

¹¹⁶ CD 14.1, p.14, para. 2.7

¹¹⁷ CD 14.1, para. 2.10 onwards.

¹¹⁸ CD 14.1, section 3

freight benefits.¹¹⁹ Although the ANPS includes an illustrative masterplan (based on a much earlier submission by Heathrow), its boundaries are not fixed, and the Secretary of State retains discretion to determine policy compliance of any proposal submitted for consideration.^{120 121 122} Tellingly, HAL’s planning consultants subsequently proceeded on the basis that proposed uses could fall outside the Annex A red line boundary provided that there was a robust justification for its inclusion, and reached the view that this land was essential for the successful operation of the airport expansion.¹²³¹²⁴

- 4.7 Recent Government statements reaffirm strong support for Heathrow expansion. In January 2025 the Chancellor highlighted the scheme’s potential to boost growth, investment, and exports¹²⁵; and the Secretary of State for Transport confirmed to Parliament that proposals for a third runway are being invited, with a review of the ANPS to follow.^{126 127 128 129} Subsequent guidance to promoters reiterated that any expansion scheme should seek to maximise cross-economy growth opportunities and value for money, minimising scheme costs for passengers, customers and government.¹³⁰
- 4.8 Since Mr Brewis’s evidence, on 22 October 2025, the Government confirmed that it is committed to delivering progress swiftly and robustly on what is “*a landmark opportunity – for Heathrow, for the aviation sector, and for the UK economy*”.¹³¹ A review of the ANPS will provide the basis for decisions on any

¹¹⁹ CD 14.1, para. 3.18

¹²⁰ CD 14.1, Annex B, p.91.

¹²¹ CD 14.1, para. 4.3

¹²² CD 14.1, para. 4.11

¹²³ See 14.3 at 4.9.13

¹²⁴ CD 14.8, p.7.55, para. 7.4.44 (1); p.7.17 para. 7.36

¹²⁵ CD 11.2, Appendix D: the Chancellor of the Exchequer told business leaders that she has “*always been clear that a third runway at Heathrow would unlock further growth, boost investment, increase exports, and make the UK more open and connected*”

¹²⁶ CD 11.2, Appendix A, p.1

¹²⁷ CD 11.2, Appendix A, p.1

¹²⁸ CD 11.2, Appendix A, p.1

¹²⁹ CD 11.2, Appendix A, p.1

¹³⁰ CD 14.4.

¹³¹ ID 22, oral ministerial statement dated 22 October 2025, page 2; page 5

future planning applications¹³²; *if* amendments are needed, there will be a further process of consultation.¹³³ The Government has confirmed that HAL's is one of two potential schemes which remains under active consideration.¹³⁴ The Government also told promoters that in the next month, it intends to give a final decision on the single scheme as part of the ANPS review.¹³⁵ Accordingly, HAL will shortly provide information and maps which show the exact land required for delivery, including the land required for compulsory purchase.¹³⁶ The Government is also considering designating Heathrow expansion as Critical National Priority Infrastructure.¹³⁷ The Government is absolutely committed to make a decision on the third runway in this Parliament. They have confirmed and made even clearer that expansion at Heathrow must minimise cost for passengers and customers, and the taxpayer must not be expected to foot the bill.¹³⁸

- 4.9 These policy statements and ministerial pronouncements, alongside the ANPS, are material considerations¹³⁹ for the Secretary of State, who should assess the extent to which the appeal proposal aligns with the Government's current policy direction on Heathrow expansion, and should separately take account of Heathrow's position on how the Appeal Scheme would affect its expansion proposals.¹⁴⁰ Recent announcements have, unsurprisingly, reignited HAL's expansion plans, which are now proceeding "*at pace*".¹⁴¹

¹³² ID 22, page 2

¹³³ ID 22, page 3

¹³⁴ ID 22, page 4

¹³⁵ ID 20, page 3

¹³⁶ ID 20, page 4

¹³⁷ ID 20, page 7

¹³⁸ ID 22, page 2

¹³⁹ CD 11.18, para. 8.3 - the Appellant appears to accept that the ANPS and WMS are "*contextually relevant*"; plainly the decision-maker would not err in law by taking these considerations into account, and in the circumstances these policy statements are obviously material.

¹⁴⁰ NPPF, para. 5: "... National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications."

¹⁴¹ CD 8.05, p.2; CD 11.2, p.12, para. 3.18

HAL requires this site for R3 expansion

- 4.10 It is relevant to consider what the existing operator of Heathrow Airport has to say about how the Appeal Site relates to expansion proposals. Their clear position is to object to the Appeal Scheme, and they identify conflict with plans for a third runway at Heathrow.¹⁴²
- 4.11 Since the adoption of the ANPS in 2018, HAL, as Heathrow Airport's existing operator, carefully planned and prepared a detailed masterplan across several years. Throughout, "*careful consideration*" has been given to the requirements set out in the ANPS, which guided the composition and layout of the Preferred Masterplan.¹⁴³
- 4.12 There was a very thorough process for choosing the Appeal Site for replacement and additional airport supporting development, involving an exhaustive process which sought to direct development to the "*most appropriate locations*".¹⁴⁴ The Appellant's own planning consultant led on a planning strategy for the off-airport masterplan that was intended to withstand scrutiny at a DCO examination.¹⁴⁵ During master-planning, all options identified, including the preferred masterplan itself, put cargo-driven airport-related development on the site.¹⁴⁶ That process resulted in HAL's preferred masterplan, which only included replacement and additional airport-supporting development that is "*essential for the successful operation of the airport*", with regards to site suitability, planning considerations and other factors.¹⁴⁷ The preferred masterplan was consulted upon, and at the end of that period, Mr Murphy's consultancy sought to provide a summary of land use strategy principles, taking an overall approach that "[t]he amount of land required for

¹⁴² See ID 17 HAL closing submissions para. 3

¹⁴³ CD 14.3, p.15 para. 3.2.4; for example, Mr Murphy's land use strategy principles resulted in the Appeal Site being selected as the "most appropriate" location for development, in an approach he then said was consistent with the ANPS: CD 8.20, p.1.

¹⁴⁴ CD 8.20, p.1

¹⁴⁵ CD 14.8, para. 7.4.45

¹⁴⁶ CD 14.8, Fig. 21, Fig. 22, Fig. 23, Fig. 24, Fig. 28

¹⁴⁷ CD 14.3, para. 4.9.13

*expansion has been minimised as far as is practicable and directed to the most appropriate locations”.*¹⁴⁸ Again, the Appeal Site was included as part of that development considered “*essential for the successful operation of the airport.*”¹⁴⁹

- 4.13 For obvious reasons, the masterplan process was initially informed by stringent distribution principles for cargo and freight forwarding.¹⁵⁰ Sites needed to be within or on the customs boundary, or within just 1 mile of the cargo entrance to the airport, with good highway access to trunk roads; swift, unimpeded access to the ITSF¹⁵¹ with low risk of delay, and with sites to the south and west to align with current cargo industry distribution.¹⁵² A process of refinement of search followed. This refinement process included positively demonstrating that very special circumstances existed for use of the Appeal Site; whether any other issues affect the suitability of the site for the nature and scale of development; whether it was appropriate to include the development within the DCO; and whether there was a compelling case in the public interest to justify compulsory purchase.¹⁵³ Only the sites that got through – such as the Appeal Site – were to be included in any DCO.¹⁵⁴ A further refinement process (Assembly Options B) was undertaken to provide a more robust assessment; and every single option identified the site to be used for cargo driven ARD.¹⁵⁵ Following an onerous process of refinement (which the Appeal Site passed¹⁵⁶), even more restrictive principles were settled upon for the preferred

¹⁴⁸ CD 8.20, p.1

¹⁴⁹ CD 8.20, principle 4, p.2; see also p.7 (the Appeal Site identified as one of two principal locations for freight forwarding).

¹⁵⁰ CD 14.8, p.21, Table 7.9 ‘Distribution Principles’.

¹⁵¹ *Internal Temporary Storage Facilities*, as defined at CD 14.8, p.75

¹⁵² See Table 7.9 (referenced above).

¹⁵³ CD 14.8, p.7.55

¹⁵⁴ CD 14.8, para. 7.4.45

¹⁵⁵ CD 14.8, para. 7.4.49 and p.7.57-7.61.

¹⁵⁶ CD 14.8, p.31 (including stakeholder engagement, 7.42; community engagement 7.42. land use strategy working group 7.44, resulting in Assembly Options A 7.44); the scrutiny in Assembly Options A at 7.50; and the land use decision trees stages 1-3 (7.54-7.55, 7.70 for tree).

masterplan.¹⁵⁷ Given all that, the preferred masterplan identified the Appeal Site for cargo-related ARD.¹⁵⁸

- 4.14 HAL has told this inquiry that following “*rigorous and extensive*” selection and testing of the Appeal Site, HAL has not identified a better site for freight forwarding and nor has anyone else; that the Appeal Site is a “*high priority*” having regard to its credentials, and that it would be harmful to HAL’s expansion plans if this site were taken for an alternative use.¹⁵⁹

No evidence to justify why no longer essential for Heathrow

- 4.15 There is no relevant reliable and supportable evidence to support a change from Mr Murphy’s earlier view (as reflected in HAL’s September 2019 position and after his having worked on Heathrow expansion for some two years by that point).
- 4.16 Nothing can be found in the Appellant’s evidence or supporting documentation (and Mr Murphy’s assertion that there are alternative sites exist to accommodate freight forwarding is wholly unsubstantiated by any documentary evidence).¹⁶⁰ After all, this was previously identified as the most appropriate location for freight-forwarding; and any alternative site would need to meet the stringent requirements for evidence-based master-planning, within one of the most constrained localities in the country.
- 4.17 One of the architects leading HAL’s present scheme, Mr Brewis, gave evidence as to how little has changed since earlier master planning. Since 2017, Mr Brewis has not encountered a better site. There are “*very strong locational drivers*” which put the site head and shoulders above any other. First, geography. Not only is the site proximate to Heathrow’s cargo operations, but it offers unparalleled access to the strategic road network, and the wider Poyle

¹⁵⁷ See ‘New and Displaced Freight Forwarding (floorspace, not operator specific) Distribution Principles’, CD 14.8, p.74, Fig. 7.29 and following principles (1)-(6).

¹⁵⁸ CD 14.8, Figure 7.29, G5.

¹⁵⁹ ID 17, para. 15.

¹⁶⁰ Cf. CD 11.18, p.52, para. 8.20

Trading Estate is already alive with activity supporting the operation of the airport (with Mr Brewis noting the “*great advantages to co-locating*”¹⁶¹). Second, the “*scale and amount of floorspace achievable on site is “significantly more than any other site”*”.¹⁶²

- 4.18 As of today, Heathrow “*still intends to include the Manor Farm site as part of its proposals for freight forwarding and electrical infrastructure to support the operation of the airport. This is because of the demonstrable requirement for these facilities, the careful process that was followed to select the site in the first place... and the appropriateness of the site for the proposed use supported by the engagement and consultation undertaken to date.*”¹⁶³
- 4.19 In light of the Government’s aspirations to substantively expand freight forwarding capacity, the Appeal Site continues to play a major role in how HAL proposes to meet those objectives: “[t]he land to the west of Poyle Trading Estate (including the Manor Farm site) comprises over 40% of the freight forwarding land contained in Heathrow’s proposals... it would be a major detriment to Heathrow’s proposals if this land were not able to accommodate the freight forwarding facilities that have long been planned for it.”¹⁶⁴ Were the Appeal Site to be taken for a different use, it would “*significantly impact Heathrow’s ability to deliver the necessary freight forwarding uses in a comprehensive and sustainable way*”.¹⁶⁵
- 4.20 Crucially, given the extensive planning and consultation already undertaken, things are unlikely to change. Mr Brewis considered that site will continue to be a strategically valuable site for expansion.¹⁶⁶ Demand for freight forwarding

¹⁶¹ XIC

¹⁶² XIC

¹⁶³ CD 8.18, p.3, para. 14(a)

¹⁶⁴ CD 8.18, para. 14(b)

¹⁶⁵ CD 8.18, para. 14(c)

¹⁶⁶ XX

is likely to hold, and locational factors will continue to be such that this will remain the most advantageous site “*by some distance*”.¹⁶⁷

4.21 The Transport Secretary described how “*the world has changed*” since 2018.¹⁶⁸ Yet there are some key fundamentals which are unaltered. The geographical and spatial constraints around Heathrow mean that, that HAL considers that the appeal site is by far the best site for delivering the scale of development required is unlikely to change (as Mr Brewis told this inquiry).¹⁶⁹

4.22 Given the very recent announcements, and mindful that the Inspector will duly prepare a report with a recommendation to the ultimate decision-maker, the Secretary of State, it is worth observing that ongoing developments might be material to the exercise of planning judgement by the decision-maker on this issue. In particular, in ascribing weight to (i) the ANPS and (ii) HAL’s stated expansion plans, it may be that one or more of the following matters may be relevant for the decision-maker to take into account¹⁷⁰: whether HAL has been announced as the chosen single scheme to inform the remainder of the ANPS review; whether HAL has provided information and maps which show the exact land required for delivery and whether there is an indication that the Appeal Site requires compulsory purchase; whether the ANPS review has concluded; and whether amendments have resulted in consultation.

The Scheme conflicts with Government policy on Heathrow

4.23 The proposals seek to put a massive data centre on land that has long been planned to contain over 40% of the freight forwarding land contained in HAL’s proposals. The Appeal Site is “*required as part of Heathrow’s expansion*”, as confirmed by HAL at this inquiry. The Appellant’s plans diametrically conflict with HAL’s plans.

¹⁶⁷ XX

¹⁶⁸ ID 22, page 5

¹⁶⁹ CD 8.18, para. 14(c)

¹⁷⁰ It may be that these matters necessitate further written representations in due course.

- 4.24 Heathrow themselves say that the Appeal Scheme would “*conflict with proposals for a third runway at Heathrow*”, and “*strongly object*” to the Appeal Scheme.¹⁷¹¹⁷²
- 4.25 The Appellant has failed to show that the Appeal Scheme aligns with the Government’s expressions of policy relating to Heathrow expansion.
- 4.26 Rather, Mr Ray’s evidence is that the Appeal Scheme conflicts with the proposals for delivering the Government’s preferred scheme, the Government’s statements in support of the third runway and national policy.
- 4.27 By permitting an alternative land use on a site that is “*essential for the successful operation of the airport*”, granting planning permission would operate as an impediment to airport expansion unlocking growth benefits, including through massively expanding freight forwarding capacity.¹⁷³
- 4.28 By saddling HAL with additional costs associated with obtaining compensation for a site that is “*essential for the successful operation of the airport*”, granting permission for the Appeal Scheme would not “*maximise cross-economy growth opportunities and value for money*”.¹⁷⁴
- 4.29 Planning policies and decisions should recognise and address the specific locational requirements of different sectors, and this includes making provision for the expansion or modernisation of other industries of local, regional or national importance to support economic growth and resilience: see para. 87(c) NPPF.
- 4.30 Mr Ray observed that “*there is only one Heathrow, and it can only expand in one area*”; expansion has to be in a location related to the existing airport. Heathrow is a local business, employing a number of Slough residents; as well

¹⁷¹ CD 8.05, p.1

¹⁷² See also ID 17 (HAL closing statement)

¹⁷³ Cf. 11.2 Appendix A

¹⁷⁴ Cf. 14.4, p.1

as being regionally and nationally important (and indeed globally – international connectivity underpins the rationale for expansion).

- 4.31 Mr Ray’s evidence is that permitting the Appeal Scheme would lead to significant cost implications in relation to the cost-effective deliverability of the proposed Heathrow expansion.¹⁷⁵
- 4.32 Obviously, putting a massive data centre on land Heathrow says is required as part of its expansion plans inhibits (i.e., hinders or unduly constrains) this “*landmark opportunity... for the UK economy*”.¹⁷⁶ It is contrary to the Government’s clear support for the expansion proposals¹⁷⁷ because the Government want a successful expansion and not a compromised one without essential freight facilities.
- 4.33 Sites for major freight forwarding operations in the most constrained area of the country do not grow on trees, especially given the stringent requirements necessary to ensure that Heathrow’s expansion can unlock the extent of the economic growth intended by successive Governments. Permitting the Appeal Scheme on land essential for the successful operation of the airport would unduly inhibit Heathrow’s expansion, which the Government ambitiously wants to consent in the remainder of this Parliament. In that regard, such a step would be a plan for failure.
- 4.34 These material considerations weigh substantially against the grant of planning permission and give rise to a stand-alone reason for refusal.¹⁷⁸ It is contrary to Government statements that support this vital project which clearly want it to be successful and cost effective. To deprive the expansion of essential freight facilities and/or to saddle it with enormous unquantified compensation costs as a result of granting this permission is contrary to the clear support for expansion by the Government.

¹⁷⁵ CD 11.2, p.16, para. 3.27

¹⁷⁶ ID 22, page 5

¹⁷⁷ In January and June 2025 and the later statements

¹⁷⁸ CD 11.2, p.16, para. 3.28

5 NO PLANNING NEED CASE FOR MORE DATA CENTRE PERMISSIONS CERTAINLY NOT VSC OR ESSENTIAL.

5.1 Slough is probably the most permissive authority of data centres anywhere in our Country. They are one of the very few authorities in the Country that has used a mechanism of an SPZ [simplified planning zone] which has helped to facilitate “Europe’s largest data centre cluster”.¹⁷⁹ Slough has the largest data centre cluster in the world behind Ashburn, Virginia.¹⁸⁰ Not only have Slough permitted expressly or through the SPZ the largest cluster of data centres in Europe they have also recently permitted some large hyperscale data centres.

- i) On the Akzo Nobel site it has permitted three facilities with a total of 67,337 sqm. Yondr are in buildings a and b. Equinix have building 3.
- ii) At Langley business centre planning permission has been granted for Microsoft for a 96,500 sq m data centre¹⁸¹

SLOUGH TRADING ESTATE WILL MEET THE NEED

5.2 Any case being made for demand has to start with an understanding of the current capacity of data centres and an understanding of how much has been added to data centre capacity in the past.

5.3 The Slough Trading Estate has “Europe’s largest data centre cluster”¹⁸². It is not only the largest cluster numerically it is a major proportion of capacity in the UK. It had in 2024 between a quarter and a fifth of capacity of the UK.¹⁸³

5.4 Slough Borough Council have built on three decades of innovative planning and recently introduced a new SPZ for the Slough Trading Estate which will help to deliver 4.3m square foot of data centres in the next 7 years. [CD10 I1] That is a figure that comes from SEGRO who have built 32 data centres on the

¹⁷⁹ See House of Commons CD 12.6 at page 17

¹⁸⁰ Paul Stimpson at 2.6

¹⁸¹ Paul Stimpson page 16

¹⁸² Cd12.6 at page 16

¹⁸³ ID5 has current figure of 369 MW in SAZ 30 of that may be at Yondr the total size of UK excluding enterprise is 1.6 GW see ID7

Slough Trading estate already. They have delivered already the largest cluster of data centres in Europe. Their figures for what they are able to deliver are worthy of enormous respect because of their track record. They obviously have a power strategy and have more experience at powering data centres in Slough than any other company. The appellant could not sustain any challenge to this pipeline and Mr Powney was clear it should be in the supply. He was right on this point if nothing else. Mr O'Reilly accepted he did not understand SEGRO's power or commercial strategy and was not suggesting that they could not power their pipeline. He just made some observations from information in the public domain that went nowhere.

5.5 If we look at the actual numbers in the Slough Trading Estate to help us with demand and supply, we can see that on the usual way of assessing these things we have enough supply just on the STE for the next 6 years the period over which the appellant wants to look.

5.6 The way the PPG wants to assess future need is

*"Analysis based on the past take up of employment land"*¹⁸⁴

5.7 We now have the accurate figures for past take up of data centres on the STE from the DC Byte live.¹⁸⁵ We also have accurate information from SEGRO of what they have built and operating. SEGRO have set out which was included in Slough's statement of case in July figures for what they have built in the last 5 years. If the appellant could have questioned these, they have had months of opportunity and DC Byte have live supply figures. We can take them as accurate. SEGRO say

*In the last 5 years, 14 data centres have been delivered on/adjacent to Slough Trading Estate, totalling c. 2 million sqft.*¹⁸⁶

5.8 Thus, if you look at past take up in the last 5 years it has been 2million square foot.

¹⁸⁴ ID6 PPG para 27

¹⁸⁵ ID5

¹⁸⁶ Cd 10 ID I.1

- 5.9 SEGRO also then give figures for their development pipeline which they say
*“has the ability to deliver over 4.3m square ft of additional data centre accommodation over the next 7 years”*¹⁸⁷
- 5.10 So on any normal measure the future pipeline is easily sufficient to meet the level of future need forecast from looking at take up.
- 5.11 If one looks at the DC Byte number for past completions, they are 236.¹⁸⁸ However, 30 of that is Yondr.¹⁸⁹ So in the past 6 years 206 has been delivered at the STE. We know that in the next 7 years they have the ability to deliver 559MW.¹⁹⁰ So even if we take the Mr Webster added in the past 6 years it speaks to a need for 206 MW if we look at take up. The pipeline is a vast 559MW.
- 5.12 There can be no doubt that what SEGRO provide will be what they as the most experienced provider of DCs in the UK judge is needed. The beauty of the pioneering SPZ that SBC have granted is that it gives them flexibility as they know that they have a flexible permission to build what is needed by the market. The restrictions on height are more permissive than previously was the case. The ability to develop data centres is easier under the new SPZ even that the previous ones which enabled the largest cluster in the UK to be developed.
- 5.13 The latency at the STE is of course exemplary. They are at the core of the SAZ because they created it. Of course, the data centres they build will be closest to the epicentre of data centres building LD4 because that is in the heart of the trading estate. This is the ultimate location for data centres that need real time latency. It houses the BATS Chi X exchange and one of the few “internet exchange points” in the UK with faster access to the internet.¹⁹¹

¹⁸⁷ Cd 10 II.1

¹⁸⁸ Id 5

¹⁸⁹ See examination in chief of PS

¹⁹⁰ Powney proof para 5.5.6

¹⁹¹ See examination in chief of Paul Stimpson

5.14 The beauty of the flexibility of the SPZ is that SEGRO can provide the size of Data centres that best responds to demand. They are already building on the Bath Road data centres providing 40 and 50 MW data centres which is very comparable to the appeal site albeit much closer to the epicentre of the cluster so preferable in latency terms¹⁹² As the chief executive of SEGRO recently said:

All of our lettings have been to co-locators so far but we are having active conversations with hyperscalers for some of our larger sites¹⁹³

5.15 So when Mr Stimpson said “job done” with the Slough Trading Estate this has not been an easy job but the success of it cannot be underplayed. Slough and SEGRO have set up the largest cluster in Europe of data centres with the best latency for the most demanding of clients the financial sector who need real time. The health and future of that has been secured. It is all set to more than double in size in the next 7 years. The appellant’s own figures are it will add 559MW in the next 7 years from the figure of circa 339¹⁹⁴ MWs in 2024.

5.16 The STE is using exclusively brownfield sites not in the Green Belt and not in the Strategic Gap. Just understanding the position properly at the STE is sufficient to explain why it is not necessary to permit more data centres in the Green Belt still less the strategic gap when there is a supply which will over double the largest cluster in Europe in the next 7 years.

5.17 Unfortunately, the Secretary of State in the Woodlands Park¹⁹⁵ decision did not have any of this explained to them¹⁹⁶.

- i) They did not have the figures for the STE either past or future.
- ii) They did not have figures from DC Byte for the size of the data centre capacity i.e. Live supply in the SAZ.

¹⁹² See page 44 of Powney proof cd 11.3

¹⁹³ See page 12 internal of app L or Stimpson cd11.1L

¹⁹⁴ See ID5 but subtract 30 for Yondr

¹⁹⁵ Cd 7.01

¹⁹⁶ I will use this pronoun particularly as the gender of the Secretary of State has changed but the legal personality is the same

- iii) They did not have DC Byte or any figures for accurate take up of capacity in the previous 6 years.
- iv) Nor did they have the government forecast of need in UK Compute of data centre capacity because it had not been published. This is a seminal document in this.
- v) They did not have any figures for the amount of power available to the SAZ¹⁹⁷ and so they could not have any realistic figure for need in the area. A figure for need that does not take into account electricity supply is unrealistic and will result in sites coming forward that can secure power at the expense of planning priorities. Greenfield could come before brownfield in stark contrast to Government policy. Green Belt and strategic gap could come before much better sites. This is the antithesis of planning.

5.18 In addition it is common ground that the Woodlands 2 decision is under challenge in the High Court. It also proceeded under evidence on power that turned out to fundamentally not represent what happened and so it was permitted on a basis that it would meet a need to 2029 and will not do that.

APPELLANT'S NUMBERS CASE

5.19 The appellant's numbers case takes place over 1 page¹⁹⁸ and is deeply misleading. I do not say that lightly.

5.20 The numbers that he took were all set out in a graph. The headings of his graph were as follows

Figure 5.1 – Data Centre Capacity in the SAZ (MW)

Figure 5.2 Data Centre Annual Deliveries in the SAZ (MW)

¹⁹⁷ The DL and Inspector's report do not deal with at all. CD7.1

¹⁹⁸ Page 38-39 of Powney

5.21 What do those terms mean. How would any normal reader understand those terms?

Data Centre Capacity

5.22 First Data Centre Capacity in the SAZ (MW). That to any normal person would mean the capacity of the SAZ i.e. the compute capacity of the data centres that are operating.

5.23 That is certainly what the Department of Science Innovation & Technology mean when they use that term.

i) Firstly, they use exactly that term in ID 7 where they have a title of the document “Estimate of Data Centre Capacity: Great Britain 2024”. This was published in May 2025. That it was accepted as it had to be by Mr Powney¹⁹⁹.

ii) Secondly in the forecasts of data centre capacity required the same Department with responsibility for the strategy for Data centre provision said the following.

*We forecast that the UK will need at least 6GW of AI capable data centre capacity by 2030 – a threefold increase on the data capacity that is available in the UK today.*²⁰⁰

That is clearly talking about data centre capacity as existing and whirring it could not be talking about anything else on the numbers.²⁰¹

iii) Numerous references in House of Commons research document to “data centre capacity” are all to what exists and is whirring.²⁰²

5.24 So, data centre capacity absolutely means the capacity of existing data bases and is always used in that way.

¹⁹⁹ See cross examination

²⁰⁰ See appendix P of Mr Paul Stimpson proof 11.1P at page 21/33

²⁰¹ Accepted in cross examination

²⁰² See examples on page 16 to 18.

5.25 Extremely oddly having set out this title in Figure 5.1 Mr Powney did not take data centre capacity for the SAZ. This would have been easy to do because it turns out that his chosen data base DC Byte have a data base of exactly what the heading says which they call Total Live Supply MW. However rather than using the data base that corresponded to his heading he chose to mix in consented but not built schemes.²⁰³ However that is not set out in his proof at all. Nor were the numbers that actually corresponded with this heading. The correct numbers were produced from this data base as ID5. Mr Powney accepted in cross examination that the numbers were correct in ID5. He appeared to be cross that the actual numbers of data centres were finally put before the Inquiry. This is a number that he quite plainly should have revealed before and if he did not know should have known. They after all came from the data base that he was using.

Data Centre Annual Deliveries in the SAZ

5.26 This is the second heading that Mr Powney used in his demand analysis. He explained in his text at 5.3.3

According to DC Byte (a market leading data centre analytics platform) over the period 2019-2024 the average annual deliveries of new data centre capacity in the Study area is 208MW.

5.27 To any normal person delivery means “provide” in the sense used here.²⁰⁴ To a postman deliver means “bring and hand over”. A postman who said he delivered a letter because he had permission to deliver it would not last very long in the post office. Mr Powney has used deliveries to mean delivered and permitted to be delivered²⁰⁵ which is entirely misleading and not what someone would have got from his Fig 5.2 heading.

5.28 However exceptionally oddly DC Byte have a data base of precisely what delivered means which is called New Live Supply. Mr Powney chose not to use that but ask them to combine the New Live Supply with permissions. No

²⁰³ See ID8

²⁰⁴ See, if necessary, Oxford concise dictionary.

²⁰⁵ See Id8

where in his proof was this extraordinary meaning of deliveries explained. The reader was told that “over the period 2019-2024 the average annual deliveries of new data centre capacity in the study Area is 208MW”. We now know it was nothing like that because we have the real figures for deliveries in the DC Byte New Live Supply figures.

5.29 The explanation for what he had done only came after SBC had put in the correct numbers. Before he submitted ID 8 it was impossible to work out from his work what he was including in

i) “Data Centre Capacity in the SAZ (MW) Fig 5.1

ii) “Data Centre annual deliveries in the SAZ MW”

Mr Stimpson knew they were not what was in the heading because the numbers were wrong and that was why he put in his rebuttal

The correct figures for Mr Powney tables

5.30 It was only when ID 5 arrived that Mr Paul Stimpson had the correct numbers going back for the headings of Mr Powney’s Figure 5.1 and 5.2. if the correct numbers from ID5 are inserted into Mr Powney's tables they would have looked like this. They would then be accurate and accord with the heading so his table .

Year	Data Centre Capacity in the SAZ (MW)	Data Centre Annual Deliveries in the SAZ (MW)
2019	162	30
2020	177	15
2021	221	44
2022	290	68
2023	293	9
2024	369	70

Total	236
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Source: DC Byte Total Live Supply and New Live Supply ID5

5.31 Those were the figures that were accepted as being correct by Mr Powney in cross examination.

Mr Stimpson's figures

5.32 Having got the correct numbers for data centre capacity and annual deliveries Mr Stimpson could follow the methodology of Mr Powney but use the correct numbers.

5.33 He followed the method from the PPG which is to look at “take up of employment land”²⁰⁶ That is done in the words of the PPG to “forecast future need”.²⁰⁷ The take-up of DC land in the last 6 years which is the period that Mr Powney looked at²⁰⁸ is 236. Thus, if this is used in the way that the PPG say the forecast future need is 236.

5.34 Mr Paul Stimpson was clear that compounding should not be used. In a finite area with finite number of sites and considerable pressure compounding gives absurd results as Mr Powney accepted when he was answering about the local plan exercise. If you used his compound rate over 15 years for a local plan exercise the demand would go up by 29.8 times or 3000%. If you carry on with compound growth after a period there would be no space for homes or anything else. To some people this is obvious. It is illustrated by the apocryphal question

Would you rather have £1 million today or a single penny that doubles every day for 30 days?

5.35 The answer to this illustrates the effect of applying exponential growth or continuing to increase at the same rate every year.

*The answer is the penny, which would be worth over £5.3 million at the end of the month due to compounding, a concept that shows how the value of something can grow exponentially over time.*²⁰⁹

²⁰⁶ See ID6

²⁰⁷ Heading of ID6 in PPG

²⁰⁸ See para 5.3.2 Mr Powney

²⁰⁹ For detail of the answer it is as follows. $£0.01 \times 2^{29} = £5.36m$ or spelt out a bit more as follows.

5.36 It is clear that exponential growth cannot go on for ever in a confined area especially with the all the development pressures that exist. This is why any figure that is generated by this type of approach needs to have a dose of planning judgment applied to the results before deciding it is needed. Mr Powney accepted this in cross examination when asked about the local plan context. The same should apply in the development management context.

5.37 However, even if the compounding approach is applied with the correct numbers this generates a demand figure of 471MW in the next 6 years. The details were accepted by Mr Powney in cross examination. The steps were as follows.

- i) The total actual DC Byte Live supply figure for 2019 was 162 MW.²¹⁰
- ii) The total actual DC Byte Live supply figure for 2024 was 369 MW.²¹¹
- iii) The change between those two numbers was 2.277 times larger in 2024 than in 2019. $[369/162 = 2.277]$
- iv) If that growth rate is used for the next 6 years which takes on board compounding by taking the same rate of increase that would lead to 840.5 MW in 2030 $[2.277 \times 369^{212} = 840.5]$
- v) If this compounding method is used it means that the growth between 2024 and 2030 would be 471 $[840.5 - 369 = 471]$

5.38 Stepping back that is a vast increase over the next 6 years. It would mean that you take the largest cluster in Europe which is 369 MW and more than double

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- **Day 1:** You have one penny (0.01).
 - **Day 10:** You have about 5.12.
 - **Day 20:** You have about 5,242.88.
 - **Day 29:** You have over 2.6 million.
 - **Day 30:** You have over 5.3 million.

²¹⁰ See ID5

²¹¹ See ID5

²¹² Value in 2024 from id5

it in size in just five years. The compounding approach is clearly one that Mr Paul Stimpson did not accept for clear reasons.

- 5.39 However, if you start with the correct figure for DC capacity in 2024 whether you do a straight-line growth rate to replicate what has happened in the past or you do a compounding approach the demand can easily be met by supply.
- 5.40 The supply was accepted by Mr Powney to be 1711 being the sum of his table on page 44 and the amount that is coming forward at the STE of 559 which he accepted in the supply.

WHY IS MR POWNEY'S NUMBER WRONG.

- 5.41 There are a number of reasons why Mr Powney's number of 2970 is wrong.
- i) It used the wrong numbers in Fig 5.1 and 5.2. It did not use the numbers that corresponded to the heading of Data Centre Capacity and Data Centre Deliveries. It in fact used numbers that were over 300% inflated by including permissions.
 - ii) If you include permissions in the demand figures you have the perverse result that the more permissions that were granted last year, the more he would say the demand was. In fact, he had 1181 of permissions in his data centre capacity figures in 2024.
 - iii) His numbers do not survive any sense check by reference to what has really been delivered in data centres. The effect of his numbers is to say that the largest cluster in Europe and the whole of the SAZ - standing at 369MW²¹³ in 2024 - should increase in size by 2970 in the next 5 years. That only needs to be said to see how out of kilter it is. It is no wonder

²¹³ Includes Yondr probably as well so STE may be slightly smaller in capacity terms

that Mr Powney never once gave a figure for actual capacity of Data centres.

Taking each in turn

Powney used the wrong numbers

- 5.42 For all the reasons set out above Mr Powney used the wrong numbers in his Fig 5.1 and Fig 5.2. He said in the headings he was using Data Centre Capacity in the SAZ and Data Centre Annual Deliveries in the SAZ. He did not but used permissions as well in both of those. This inflated the figures spectacularly from what they should have been. Rather than using the correct figure for Data Centre Capacity of the SAZ in Fig 5.1 in 2024 of 369MW of Live Supply²¹⁴ he inflated this without mentioning that he was doing this to 1550 MW. That is over 300% different. We now know that he added permissions to the capacity figures. He added permissions to the deliveries without setting out that is what he did. This changed the deliveries from 236 over 6 years which is 39.3 which is what it should have been for deliveries using the DC Byte New Live supply²¹⁵ to what Mr Powney had of 208 each year or 1248 over 6 years. He used a number that was 500% wrong for deliveries which was used in the heading of the table.

Effect of wrong numbers is to inflate need.

- 5.43 The effect of Mr Powney using the wrong numbers was that it inflated demand in an extraordinary way. All of the permission in his 2024 directly increased demand. The more permissions there were granted in 2024 the higher would have been his demand figure. If there were no permissions in 2024 the figure that he would have put in 2024 would just have been the Total Live Supply figure of 369MW²¹⁶. This is explained in his note ID8 which says that his figures are “live” and “those which were in the pipeline at that time”. He

²¹⁴ Id5 Accepted as correct by Mr Powney

²¹⁵ ID 5

²¹⁶ See ID5

explains that includes “consented schemes”. If there had been no consents in 2024 the number in Fig 5.1 would have shown 369 and accordingly this would have shown that there was no need for data centres on his analysis because the future need is worked out by looking at the difference between 2024 and 2019 and working out the growth rate. That would then have shown a reduction and shrinkage. Of course, granting permissions last year looked as sensibly has not increased demand it has increased supply and tried to address demand. His method makes the cardinal error of an economist of mixing up demand with supply. If you imagine his Fig 5.1 if there had been no permissions in 2024, the number he would have had for 2024 would just have been the live supply of 369 he would then have said that the number had gone down from 2019 and so there would have been no demand. This just shows how absurd it is to put permission in the demand figures. Of course, permitting 1181 in 2024 has not increased demand. The whole point of those permissions is to increase supply.

POWNEY NUMBERS DO NOT SURVIVE A SENSE CHECK OF ANY REAL NUMBERS OF DATA CENTRE CAPACITY.

- 5.44 The other way of seeing that the methodology is flawed is to look at the results and see if they are sensible by comparison with what is happening in the real world.

Powney Total Number completely unrealistic vs 369 built in largest cluster and Yondr

- 5.45 We know that the largest data centre cluster in Europe and Yondr have a current Total Live supply of computing power of 369MW²¹⁷. Those figures were accepted to be accurate by Mr Powney.²¹⁸ They were after all from the same company as he chose to use who he described as “a market leading data centre analytics platform”²¹⁹ Mr Powney’s numbers would meant that in the next 6 years the SAZ would need 8 times the total capacity built up over the last 20 years in the SAZ. An 8-fold increase or 800% increase in what is Europe’s

²¹⁷ ID5

²¹⁸ See cross examination

²¹⁹ See Mr Powney proof at 5.3.3

largest Cluster in 6 years is wholly unrealistic. Mr Powney himself did not do this sense check because he either did not know the current capacity of the area he was studying or ignored it if he did know.

His number of 810 of increased supply in 2030 completely unrealistic over double current SAZ in one year

- 5.46 Similarly, what he was predicting for what was need each year demonstrates that Mr Paul Stimpson is correct when he said Powney's numbers are "extraordinarily high and completely unrealistic"²²⁰. Mr Powney said in his proof that in 2030 the SAZ needs 810MW of data Centres. That in 1 year is 220% of the total capacity built up in the SAZ so far. Again, a real figure demonstrates the future projections of Mr Powney are completely unrealistic. Imagine the Council with the best stock of housing in the whole UK suppose they were told that in one year they had to build twice their existing stock and more we can readily see how ridiculous that is.

Powney number wholly unrealistic by comparison with live in most of South of England

- 5.47 Mr Powney accepted the accuracy of the DC Byte figures for what can be seen on the plan to be as SEGRO say most of South of England.²²¹ Those figures now in 2025 are 1,478MW for all that area. We know that is the vast bulk of the national capacity. Mr Powney number is extraordinarily high and completely unrealistic compared with that. His figure is that in the relatively small SAZ in the next 6 years double the whole capacity in Southern England should be added to this small SAZ.

Powney figures are wholly unrealistic by comparison with the national figures for capacity.

- 5.48 It was very surprising that Mr Powney did not know the total capacity of Data Centres in the UK to 1 significant figure. This is amazing in itself. It is even more surprising bearing in mind that the Government department responsible

²²⁰ See Mr Paul Stimpson CD11.1 at 2.111

²²¹ ID5 and cross examination Mr Powney

for “the government’s plan to put this infrastructure in place”²²² This document was ignored by Mr Powney in coming to his numbers despite it containing a “forecast” of what “the UK will need” and what “the data centre capacity that is available in the UK Today”²²³. It gives the data capacity that is available in the UK today as 2GW.

5.49 Mr Powney is suggesting that in the relatively smaller area of the SAZ what is needed by 2030 in the next years is 1.5 times the whole capacity for the Country.

5.50 Rather than grappling with the substance of the point which one would have expected from someone who knew the size of the market Mr Powney suggested implausibly that the number the same Department for Science Innovation & Technology published in a document called Estimate of “Data Centre Capacity Great Britain 2024”²²⁴ was much less than the total estimated of Data Centre Capacity because it used the word colocation. This is implausible for a number of reasons.

- i) The title of the document is Estimate of Data Centre Capacity. [Not a small subset]
- ii) The question asked by Lord Elliot related to the whole of UK data centre capacity as measured in megawatts by region. The idea that the answer was a small subset would mean it was an answer to a question that was not asked.
- iii) The research done in paragraph 2 was comprehensive and sufficient to look at all data centres apart from Enterprise.
- iv) The only type of data centres that were said to be excluded were Enterprise.

²²² See page 4 of UK compute Roadmap app P of Mr Paul Stimpson appendices 11.1P

²²³ See page 21 app P 11.1 Mr Paul Stimpson

²²⁴ ID7

- v) The numbers agree 1.6GW if that is treated as all data centres are entirely consistent with the DC Byte numbers for southern England which are for all data centres.²²⁵
- vi) The numbers of 1.6 GW if you treat that as all data centres except enterprise agree with Tech UK who give a figure of 1.36GW²²⁶
- vii) When it is referred to by the House of Commons research paper it is sometimes said that it is the whole of the data centre capacity.²²⁷
- viii) Colocation is a term that is often used to mean different things as Mr Paul Stimpson said.
- ix) Furthermore 1.6 GW is consistent with the figure that the Department for Science Innovation and Technology.²²⁸

5.51 If the more accurate figures for capacity in 2024 by the Government Department are used the 1.6GW it shows that Mr Powney's need figure of nearly double that before 2030 in the Slough SAZ is as Mr Stimpson says "extraordinarily high and completely unrealistic"²²⁹ His numbers would mean double total uk capacity in next 5 years in this relatively small area of the country.

NUMBERS IGNORE GOVERNMENT FORECASTS FOR DATA CENTRE

5.52 UK Compute Road Map forecast the need for AI capable data centre by 2030²³⁰. That is 6GW. We currently have 2. The AI growth zones will provide at least 3 GW.²³¹ They are going to be where there is power. 200 have been applied for. They are going to be 500MW and one will be 1GW. There are numerous other

²²⁵ See ID5 accepted in cross examination by Mr Powney

²²⁶ See CD12.8 at page 38

²²⁷ Eg page 5 cd12.6

²²⁸ UK Compute page 22 App P Mr Paul Stimpson 11.1P

²²⁹ 2.111 of Mr Paul Stimpson proof 11.1

²³⁰ Stimpson app P page 21

²³¹ Cross examination Mr Mark Powney

very large data centres with permission.²³² As a result Mr Mark Powney accepted that for AI compatible data centres with the Government plans there would be sufficient without this site.²³³

POWNEY NUMBERS ARE ABSURD WHEN COMPARED WITH POWER AVAILABLE

- 5.53 The appellant's own case is that the Power that will be available when the works are done at Uxbridge Moor will provide 1840MW but may be limited to 1500MW.²³⁴ However he points out that this "has been allocated to customers".
- 5.54 These numbers would give compute power of 1.3 times less which is a range of 1154-1415 MW.
- 5.55 Mr Powney accepted that the supply is 1711 MW in the SAZ so there are already more permissions than could be powered. In this context it seems absurd to be scraping the barrel to permit more sites which are in the most protected designations of Green Belt, Strategic Gap, CVRP and which are essential for the successful operation of the number 1 infrastructure project of the UK Government. It may be that power needs to be transferred from bad sites to good sites but that is something that refusing permission can help with as we will see below.
- 5.56 Mr Powney's numbers suggest that there need to be nearly double as many sites as can be powered which is clearly wholly unrealistic
- 5.57 The effect of having these huge numbers would be to allow power deals to decide where data centres should be built. Those power deals especially historic ones that were negotiated before GATE 2 did not consider need and readiness and certainly not all the planning considerations. To allow power deals to decide which sites came forward and to allow this site would be the opposite of normal criteria to pick the sequentially best site. [see for example Cole's criteria

²³² Cd 12.6 at page 18

²³³ Cross examination Mr Mark Powney

²³⁴ Mr O'Reilly §6.8

in the ASA²³⁵. In terms of those criteria this site performs about as badly as possible being

- i) Green Belt
- ii) Green field not pdl
- iii) No allocations or permissions
- iv) No draft allocations
- v) Plenty of site-specific constraints in Strategic Gap and CVRP
- vi) An important material consideration that the site is needed for the Governments most important infrastructure project.

It would be the antithesis of good planning and indeed what govt reforms in power are about. They are to power needed and ready not to let power deals decide where to put development.

**MR STIMPSON'S NUMBERS BASED ON TAKE UP ARE
CONSISTENT AND REALISTIC WHEN COMPARED WITH ACTUAL
FIGURES**

- 5.58 Mr Stimpson's number of 236MW in the next 6 years of course responds very well to comparison with real numbers because that is what it is based on. It is precisely what has been added to the capacity by take up in the last 6 years so compares very sensibly with that.
- 5.59 Slough AZ has increased massively in the last 6 years as we can see, and it could be said that this cannot continue forever in a constrained area, but Mr Paul Stimpson's numbers robustly build in the same massive expansion for the next 6 years. It compares pretty favourably with analysis by comparison to the Estimate of Data Centre Capacity at autumn 2024 of 1.6GW of IT Power. It is around 15% of the total for the UK being added in the next 6 years.

²³⁵ cD11.7at §2.19

5.60 Not only that it is a number consistent with UK Compute Roadmap which he was well aware of when he suggested the number. In the whole Country DSIT²³⁶ have suggested a need for 4 GW in the next 5 years. The heavy lifting of this will certainly be done by the AI Growth zones where 200 have been applied for and 3 chosen already. This will produce at least 2-3 GW by 2030 as was accepted by Mr Powney. Thus, Slough having a need figure of 236 is completely consistent with these forecasts of UK need for AI compatible data centre capacity. This data centre is AI compatible as Mr Powney said.

Other sources of demand figures even less reliable

5.61 Quite clearly Mr Mark Powney picked what he thought was the most robust method to base his numbers on. When he cross referred to other sources there was no data provided, and those methods could not be scrutinized. It would be entirely wrong to rely on these sources without having tested the methodology.

5.62 He also sought to rely as an indication of urgency on what Mr Paul Stimpson referred to as the estate agent exercise.²³⁷ This was to ask people if they wanted a data centre. We do not know whether all people only required in this SAZ or would have been happy with other locations. We don't know the size they were looking for. We don't know what the rules will be about Chinese cloud providers. We don't know that they would be satisfied with this location with the Heathrow uncertainty. We have not seen any of the material or questions asked or answers given. We do not know if the respondents would have the relevant resources. However, even if all of that is put to one side the number generated is 1700 MW and the supply here is agreed to be 1711. It certainly does not justify a need for this site.

Conclusion on Numeric Need.

5.63 The figures of Mr Stimpson are vastly preferable for the following reasons.

²³⁶ Department for Science Innovation and Technology

²³⁷ See table 5.5

- i) They are based on take up of actual capacity on numbers that are agreed.²³⁸
- ii) That accords with the PPG.²³⁹
- iii) The results are realistic when considered against real numbers in the SAZ, in the south of England and in GB
- iv) His approach accords with the headings of the figures in Mr Powney proof in 5.1 and 5.2 and what he said he was doing.

5.64 Unfortunately, Mr Powney's figures should not be taken.

- i) They were not based on "data centre capacity in the SAZ" nor were they based on "Data Centre Annual Deliveries in the SAZ"²⁴⁰
- ii) They actually used, although this was impossible to see in his proof, inflated figures for capacity that mixed in permissions which had the effect of exaggerating demand. The results that were thrown up by the mixing of supply and demand in a misleading way were extraordinarily high and completely unrealistic²⁴¹ when compared with the actual numbers for the SAZ [8 times 2024 capacity of the largest cluster in Europe], for the South of England [double 2024 capacity in next 6 years] and nearly double the total UK capacity. Mr Powney did not quote any of the real Capacity figures and did not appear during cross examination to be familiar with them even broadly.

5.65 There is no numeric need if you take Mr Paul Stimpson's figures or anything like them. The agreed supply is 1711 and his need figure is 236. Even if one take compound growth at the same rate as has occurred the figure is x. There is

²³⁸ Id5

²³⁹ Id6

²⁴⁰ Fig 5.1 and Fig 5.2 heading on page 39 Mr Powney CD11.3

²⁴¹ §2.111 of Mr Paul Stimpson cd11.1

- 5.66 That really is the end of the case as was accepted in the balance examination in chief by Mr Murphy.

NO OTHER FORM OF NEED.

NO Qualitive need

- 5.67 Mr Paul Stimpson set out why there was no qualitative need in his proof and examination in chief [see 2.86 -2.95]. This site is about as far away from the epicentre of the SAZ building LD4 as you can be in Slough.²⁴² In terms of latency it is thus one of the geographically worst sites. It also clearly needs long cabling to get power.
- 5.68 In fact, there is nothing qualitative about this site that stands out from any of the other 1711 MW of supply it is not said to be better in any way.
- 5.69 In fact, in terms of the sequential criteria for sites set out in the ASA this site performs very poorly.
- 5.70 If there was something that could be done on this site which cannot be done elsewhere one would have expected to see someone from the Data centre sector openly explaining what this was and supporting this site. There is no such thing just a secret person who may enter some sort of agreement to come to the site. We do not know if that person has other irons in the fire.

CNI irrelevant to whether there is a need it is to do with protection of assets.

- 5.71 The developer here has continually relied on the designation of Critical National infrastructure. That is no endorsement as to whether we need more of something especially not whether it is needed in a particular location. It is really to do with protecting them. To illustrate the difference, of course no-one would

²⁴² See area of search page 15ff of ASA

want to have someone interfere or take down important traffic lights at critical roundabouts. However, it does not follow from that they would want lots more traffic lights in inappropriate places. The first ASA²⁴³ was not very good as an ASA but at least was accurate in this regard. It set out what CNI meant, and it was nothing to do with whether more of it is needed.

It means the data housed and processed in UK data centres - from photos taken on smartphones to patients' NHS records and sensitive financial investment information – is less likely to be compromised during outages, cyber-attacks, and adverse weather events. Putting data centres on an equal footing as water, energy and emergency services systems will mean the data centres sector can now expect greater government support in recovering from and anticipating critical incidents, giving the industry greater reassurance when setting up business in UK and helping generate economic growth for all. (Press Release Published 12 September by Department for Science, Innovation and Technology and The Rt Hon Peter Kyle.)

- 5.72 Mr Paul Stimpson was correct that the designation of CNI was not relevant to need.

6 POWER NOT REASON TO GRANT PLANNING PERMISSION

PRIVATE POWER CONNECTION AGREEMENTS NOT REASON TO GRANT PLANNING PERMISSION

- 6.1 It is quite clear that planning decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. They should in this case consider whether there is compliance with Green Belt policy strategic gap policy and CVRP policy. They should consider whether it is in accordance with national policy. The one thing that none of those documents do is say irrespective of how bad your site is in planning terms if you have secured a connection agreement this should be how the decision is taken. In fact, the whole purpose of the power reforms is to ensure that power goes to who has the best case in terms of readiness and need. In other words, power should follow planning decisions taken in the public interest, not dictate the outcome.

²⁴³ Cd 1.30

UNCERTAINTY OVER THE CONNECTION AGREEMENTS

6.2 It is quite clear that there are a considerable number of risks as to whether the contracts on this site will in fact be complied with. None of this appeared in the evidence of Mr O'Reilly. He thought there were documents that set out the risks for the financial people in the Tritax companies, but those risks were not covered in his proof.

6.3 The difficulty with this is that in the last Inquiry where the Secretary of State permitted the scheme based on the evidence before them they were there was an agreement with a global data centre provider to acquire the site and “this operator has a grid connection secured and will be able to bring this to the site if the appeal is allowed”. The evidence of Mr Collins was clear on this point.

“A global data centre provider has an agreement with Greystoke Land to acquire the site upon the grant of planning permission. This operator has a grid connection secured and will be able to bring this to the site if the appeal is allowed.”²⁴⁴

6.4 So, in that case it was presented as even more certain than here because there was actually a contract with the data centre provider whereas here, we are told there is an expectation of a contract.

6.5 The trouble is that even with that evidence to the Secretary of State it turned out according to Mr O'Reilly that Woodlands actually cannot achieve power till 2035 having secured the permission on a different basis. This evidence was relied on by the Inspector in his determination of the EIA issue.²⁴⁵ The Secretary of State permitted Woodlands based on a need figure up to 2029²⁴⁶ but on the evidence here it will not be operational till some 6 years later in 2035.

6.6 It is important not to take contracts as necessarily leading to bringing of power. This must be especially so in this case where Tritax are taking their first step in data centre development.²⁴⁷

²⁴⁴ Cd 12.09 para 6.9

²⁴⁵ See cd 7.1 at §1.12

²⁴⁶ See Collins 12.09 at 5.19

²⁴⁷ Cd 10 k3

6.7 Tritax have considered the risks of the connection agreements and their power strategy for this site²⁴⁸ however that was not covered in his proof. Slough tried to ask about the contracts and what happened if it was able to be delivered when they said the power was coming. Tritax in the application documents were clear that the power was due to be delivered in 2027.

- i) See CD 1.54 page 6 says 57 MW due to be delivered from Iver by 2027 and 50 MW in 2027 from Laleham
- ii) This was repeated in CD 1.30 the first ASA. That was so clear that it was going not be delivered in 2027 that they only looked for other sites that would do the same.^{249 250}

6.8 In this context SBC asked what would happen if power could not be taken up.²⁵¹ They were told the answer was going to be in the proof.²⁵² It turned out not to be in the proof.²⁵³ In the rebuttal there came a different case that the contract actually would not be delivered in 2027 but could be delayed for “construction delays” for 2 years. In cross examination it was revealed there could be even further delays on the Laleham contract 2 years after final delivery of the staged contract which could be 2032.

6.9 It was unclear whether these contracts could be delayed if HAL maintain the position that they require this site for 3R expansion for which the appellant witness though there was a compelling case in the public interest to CPO that in 2018/19.²⁵⁴ Surprisingly Mr O'Reilly disagreed in cross examination with what Mr Paul Stimpson had said in his proof at 2.162 that

One of the most important things that data centres need to be able to do is guarantee a long-term security of service. Any occupier of the appeal site would not be able to do this whilst there is a risk that they may have to move

²⁴⁸ Cross examination of Mr O'Reilly

²⁴⁹ See §1.8.3

²⁵⁰ See also §3.10

²⁵¹ See rebuttal page 5 app 2

²⁵² Ibid page 4

²⁵³ See cross examination Mr O'Reilly

²⁵⁴ See cross examination Mr O'Reilly

6.10 The negotiations that Tritax are having to develop their first data centre have not actually delivered a contract, but it may well be that a data centre operator would actually want to security of service and not want to remove. As a matter of common sense, it seems unlikely that a data centre operator would commit themselves to lease a building that they did not know would ever be built because it could well be on land that is going to be CPOd for ARD that is essential for the successful operation of the airport.

6.11 There are numerous other milestones in these connection agreements which were not covered in the evidence of Mr O'Reilly. It was revealed in answer to Slough that there were milestones in the contracts.²⁵⁵ However it was only in cross examination that it was accepted that the benefit of the contract could be lost if the milestones were not reached. In answer in cross examination, it was accepted that

- i) There was a milestone in the connection agreements for obtaining planning permission. However, the date of that was not disclosed in cross examination even approximately.
- ii) There was a milestone for the final investment decision which has not been taken yet. Again, the date was not disclosed.
- iii) There were numerous other milestones where no real evidence was given.

6.12 So, there are quite clearly risks with the connection contracts which have not been fully considered in evidence by the party who has seen them. We are left in the position that it is difficult to rely on such contracts and whether they are likely to be fulfilled even if they are a powerful material planning consideration which they are not.

²⁵⁵ See page 2 app 2 of SBC rebuttal at cd 11.17

POWER WILL BE LATER IF IT COMES

- 6.13 It is quite clear that the power if it did come to the site sufficient to run a data centre later than was originally claimed. In the Utility report²⁵⁶ and the original ASA²⁵⁷ it was said that power to run the data centre would come in 2027. This was continued in the proof of Mr O'Reilly who said in 9.6.1 that

“if consent is granted: 72 MW of data centre capacity will be available for use from 2027.”

- 6.14 The data centre will on any view, even thinking about power alone and ignoring the likely CPO from HAL, not be able to be powered to run a data centre until the middle of 2028. Two connections are required to run a data centre.²⁵⁸ Laleham will not be available until 2028 at the earliest.²⁵⁹ Of course the connection agreements allow for delay until the end of 2028²⁶⁰ at Iver and 2032 in the case of Laleham²⁶¹. The delays or end of the project because of the appellant taking a site “essential of the successful operation” of the third runway masterplan are even greater.
- 6.15 Thus, one should not approach the position that the electricity connection agreements will be fulfilled, and they certainly will not be fulfilled on the timescale of 2027 as originally claimed.

THE REALITY IS THAT IF THIS APPEAL IS REFUSED SOMEONE ELSE WILL BE ABLE TO TAKE THE POWER.

- 6.16 This can happen by one of two ways
- i) Either by the appellant selling the agreement
 - ii) By it coming to an end for failing to comply with terms or not getting permission in time or by NESO taking away contract for a stalled project.

²⁵⁶ CD 1.54

²⁵⁷ Cd1.30

²⁵⁸ See Mr O'Reilly §7.3

²⁵⁹ See Murphy app 9 at 751/2

²⁶⁰ See appendices to rebuttal of SBC cd 11.17

²⁶¹ See cross examination Mr O'Reilly

Someone can take the power in the secondary market if refused

- 6.17 When the words of Mr O'Reilly are looked at carefully it is clear that that if this development is refused someone else will be able to take the power.²⁶² There is no technical reason why they cannot. Mr O'Reilly said in cross examination that it can be done.
- 6.18 Firstly, there are clearly a lot of people in the area who would like to take the power. This was accepted in cross examination by Mr O'Reilly. It was clear from his proof [§6.8] and the evidence generally. It is what you may think is a seller's market for power connection agreements.
- 6.19 Mr O'Reilly was clear that it is possible to sell connection agreements. This was apparent from what happened at Woodlands and the evidence there.²⁶³
- 6.20 The restrictions on these agreements being sold when thought about in cross examination are not a problem. Two were mentioned in the proof of Mr O'Reilly at §8.1 and 8.2.
- i) Red line parcels
 - ii) Gate 2
- 6.21 So far as the red line parcels are concerned, we know that there are any number of people in the area that have a red line parcel on their land many with permission and would like to get power. So, if the recipient needs a red line that is not a problem. It was said in cross examination by Mr O'Reilly that if planning permission was refused the connection agreements could be "UNSTAPLED" in other words transferred to somewhere else maybe even a better site outside the strategic gap who have permission and maybe even a brownfield site.

²⁶² Para 9.4.1.4 proof and cross examination of Mr O'Reilly

²⁶³ See Cd 7.1 at §1.12 and 5.3 ff

6.22 The second point that was mentioned is the presence of Gate 2 and that the person taking the power agreement would have to navigate that. However, that is an advantage because Gate 2 is a helpful Government reform that ensures projects can demonstrate they are

i) Ready and

ii) Needed.

6.23 That is set out in the House of Commons report and was accepted as a good summary by Mr O'Reilly.²⁶⁴

6.24 So, the Gate 2 reforms can give the Secretary of State comfort that anyone who takes over the connection agreement will be both ready and needed.

The connection agreement can come to an end or be taken by NESO if stalled.

6.25 The connection agreements may well come to an end if planning permission is refused because obtaining planning permission is a milestone would be breached giving the ability to end the agreement²⁶⁵. If there was no planning permission it is difficult to see that many of the other milestones would be achieved and so it could come to an end for numerous reasons. The effect of this was explained quite simply by SEGRO²⁶⁶

...if a connection agreement is unutilised the power reserved become available for other customers and can enable other connections. For transmission customers, this would require entry in the NESO connection process. For distribution customers, this could accelerate or facilitate their ability to connect.

6.26 The NESO processes including Gate 2 will ensure that power goes to those who need it and who are ready. So, the Secretary of State can be assured it will go to a good place.

²⁶⁴ See CD12.6 page 41

²⁶⁵ See cross examination of Mr O'Reilly

²⁶⁶ ID12

6.27 In terms of timescales, they will with a shortage of power in the area and many customers who want it to be under pressure to deliver it to another user as quickly as possible. This again was set out by SEGRO who have unrivalled experience in obtaining powers for data centres in this area.

*The Network Operators will determine who benefits from the released power in line with the industry codes, agreements and license conditions. They will be under considerable pressure from customers to ensure that it is delivered as quickly as possible.*²⁶⁷

6.28 If Tritax having been refused planning permission do not sell the connection agreements to someone who can use it rapidly or have it taken away for failure to meet milestones there is a third option that the new reforms have power to take connection agreements away from stalled projects.

*These reforms would apply to all existing generation connections across transmission as well as demand connections at the transmission level*²⁶⁸

6.29 So, these reforms apply to the appellant's connection agreements as was accepted in cross examination.²⁶⁹

6.30 The effect of these reforms which are now in place having come into force in around June 2025 is to allow NESO to assess and prioritise projects in the queue based on their readiness. They can then remove those that are not suitably progressed from the connections queue.

*"Following this NESO would undertake an assessment to prioritise projects in the existing connection queue based on their readiness to connect. This has the potential to release further capacity on the transmission network by removing more speculative schemes and others that are not suitably progressed or ready from the connections queue"*²⁷⁰

6.31 These reforms appear sufficient to stop the appellant sitting on their connections agreements in the event they get refused and have not transferred to someone who is ready and needed. However, if for any reason they are not sufficient the relevant Government department the DESNZ has made it plain that reducing delays for others are a top priority of the Government and that "stalled projects

²⁶⁷ See ID 12 email from SEGRO

²⁶⁸ See App 2 of Mr O'Reilly at page 9 cd 11.15

²⁶⁹ Mr O'Reilly cross examination

²⁷⁰ See page 9 of GLA document app 2 of Mr O'Reilly cd 11.15

must be removed from the connection queue and the requirements raised for retaining a connection agreement.

Update from Government (DESNZ)

Reducing electricity connection timescales is a top priority for the Government. The departments for Energy Security and Zero is working at pace with Ofgem and with Neso to achieve fundamental reforms of the connection process. Stalled projects must be removed from the connection queue and requirements raised for obtaining and retaining a connection agreement. The released network capacity will then be reallocated to accelerate the connection of viable projects that align with the Government's strategic needs. ²⁷¹

If Grant and project delayed would be the worst of all worlds may be a stalled/zombie project that NESO would find hard to take power away from

- 6.32 The worst situation is that permission is granted for this development, and it is stalled because the site is included in the DCO area by HAL process as originally planned for Heathrow R3. In those circumstances the reality is as Mr Paul Stimpson said the project would be stalled. However, the problem in those circumstances is that there would be a permission for this site so that it would satisfy the “protection criteria” and NESO would find it difficult or perhaps impossible without further reforms to take away the connection agreement. Thus, a drawback of granting permission may well be that this project stalls and neither this project nor anyone else can use this power. This would not be the case with refusal as set out above.

CONCLUSIONS ON POWER NOT A REASON TO GRANT

- 6.33 In conclusion:
- i) The private connection agreements are not a reason to grant planning permission having not considered any planning factors relating to this site.
 - ii) There are considerable risks as to whether this site will get the power under the connection agreements. In Woodlands Park the Secretary of

²⁷¹ See page 11 of app b of Mr O'Reilly at cd 11.15

State was told connections agreements were in place but they have not actually resulted in power to the site before 2035.

- iii) The connections will not be till later than originally claimed the middle of the 2028 at the earliest. There is room for considerable slippage in what has been agreed which has become apparent well after the application documents
- iv) Someone else will be able to take the power if this permission is refused by one of three means.
 - a) By the appellant selling the connection agreement in the secondary market.
 - b) By the termination of the connection agreement because of failure to comply with it and its milestones or giving it up.
 - c) Being removed from the connections queue by NESO either under TMO4+ or further DESNZ reforms.

7 SECTION 106 AND CONDITIONS

- 7.1 The Inspector will have recorded what was said in the round-table sessions on conditions and the s.106 obligation on Day 7 of the Inquiry. One issue that remains unresolved is the position on what has been called “deliverability”.
- 7.2 There are extant enforcement notices²⁷² corresponding with a large proportion of Parcel A of the Appeal Site.²⁷³ The extent of PDL (i.e., lawful development) on Parcel A is very limited.
- 7.3 The Council wants to ensure that there is no situation where there is technical implementation of the planning permission for the Appeal Scheme, but the Appeal Scheme (and the benefits associated with it justifying inappropriate

²⁷² CD 11.1 T4a and CD 11.1 T4b

²⁷³ CD 11.1 T1

development in the Green Belt) do not come forward; and the consent serves to prevent further enforcement to achieve compliance with the requirements in the extant enforcement notices. In other words, the Council is concerned to guard against the grant of planning permission washing away the potential for enforcement on what should be a site that has been largely restored to agriculture.

7.4 The Council is flexible as to the mechanism for addressing this mischief. The Appellant has flatly rejected inclusion of a “*deliverability*” obligation in the s.106 agreement, for the reasons set out by Mr Warren KC yesterday. With a view to securing a bilateral agreement, the Council now pragmatically seek to achieve the same result by condition.

7.5 As indicated at the conditions roundtable session, the Council’s officers have prepared suggested wording for two possible conditions (to be considered in the alternative). It was provided to the Appellant yesterday lunchtime. In summary, the draft conditions would seek to ensure the substantial commencement of the development by a particular fixed date, and failing that, to compel the submission of a scheme for the removal of all material operation and for the restoration of the Appeal Site to agriculture, for the reason provided.²⁷⁴

7.6 Having regard to the tests for a lawful condition²⁷⁵, such a condition:

²⁷⁴ To ensure that the development is commenced and completed in accordance with the very special circumstances justifying its approval in the Green Belt and to secure the restoration of the site should the development not proceed, in accordance with paragraph 143 of the National Planning Policy Framework and Policy CP2 of the Slough Core Strategy (2008). This condition also safeguards and seeks to ensure the ongoing effectiveness of the extant enforcement notice no. 343, dated [CD 11.1 T4b] and enforcement notice no.262 [CD11.1.T4a] which includes the following general requirements, *regrading of the land, removal of structures, foundations etc. and the return of the land to agriculture.*

²⁷⁵ See NPPF para. 57

- i) is necessary. Notwithstanding the Appellant's stated intention to bring forward the Appeal Scheme to meet an asserted urgent need, the Council considers that there is a realistic prospect of the data centre not becoming operational in the next 3 years, especially given the evidence heard as to Heathrow's continued intention to include the Appeal Scheme in its plans for expansion of the airport, and the uncertainty this presents to those considering leasing the premises;
- ii) is relevant to planning and to the development to be permitted. It seeks to avoid permanent substantial harm to the Green Belt absent delivery of the purported benefits associated with Appeal Scheme; and seeks to ensure that the grant of planning consent does not cut across the potential for future enforcement action absent the delivery of the Appeal Scheme;
- iii) is enforceable, with precisely defined "triggers" and clear requirements;
- iv) is precise. It is capable of being limited to requiring restoration as per the lawful position on the Appeal Site (subject to any suggested amendments either by the Appellant or the decision-maker);
- v) is reasonable in all other respects. Given the planning history and ongoing enforcement position at the Appeal Site (i.e., the requirements of extant enforcement notices have not been complied with). Whether or not the imposition of the condition would affect the Appellant's commercial negotiations with potential lessors are principally private law matters.

8 OVERALL BALANCES

THE VSC BALANCE

- 8.1 We arrive at this balance if the Inspector/Secretary of State correctly take the view that the development is inappropriate development and not Grey Belt.

- 8.2 The other way we can arrive at this balance is if it is decided against the Council that this is Grey Belt but 155 b of the NPPF is failed. The Appellant is required to show if they want to rely on this development being appropriate that
- b there is a demonstrable unmet need for the type of development proposed.*
- 8.3 In the footnote it is said that for housing cases this is where there is not a five-year supply. Mr Paul Stimpson was clear that the case for need here is nothing like that. In housing cases the Government set out the standard method to work out the 5-year supply. There is nothing akin to that for data centres. In any event on the case above there is no numeric need, no qualitative need and masses of supply in both the critically important globally renowned cluster as well as the SAZ more generally. There is nothing like a strong enough case to show “a demonstrable unmet need for the type of development proposed.
- 8.4 The nature of the VSC balance is set out in paragraph 132 of the NPPF. Substantial weight must be given to any harm to the Green Belt including harm to its openness. If harm by definition needs to be given substantial weight quite clearly if there is more harm to the Green Belt that has to be given more harm. As Mr Murphy acknowledged in cross-examination, he would recommend giving more weight to the harms if there was harm to openness as well as definitional harm than a case just with definitional harm.
- 8.5 The harm just to the green belt here is absolutely at the top of the order of harms. This is development of this vulnerable and fragmented Green Belt and part of one of the narrowest sections of Green Belt anywhere around London. It was originally envisaged to have to be many miles wide to fulfil its function.²⁷⁶ The fact that in this area it is so much narrower shows how much more important it is that it is retained.

²⁷⁶ Cd 7.10 §8.7

8.6 The harm is at the top of the scale of Green Belt harm. We know that the appellant rightly accepts that there is substantial harm to openness which is after all the fundamental aim.

- i) **Harm by definition - substantial weight:** The Appeal Scheme is inappropriate development in the Green Belt and should not be approved except in very special circumstances.
- ii) **Harm to openness – substantial weight:** Even by the Appellant’s own case, there is substantial harm to spatial openness, which as the fundamental aim of the Green Belt must be given substantial weight. Mr Stimpson’s clear and unsurprising view that this massive data centre and associated development will cause substantial harm not only spatially but also visually; the Appellant accepts harm to visual openness and impact on it.
- iii) **Harm to Purpose (a) – substantial weight:** There is severe harm to Green Belt purpose (a) which must be given substantial weight. The Council’s case is that the land contributes strongly to this function. The appellant’s witness said moderate.
- iv) **Harm to Purpose (b) – substantial weight:** There is significant harm to Green Belt purpose (b) which must be given substantial weight.
- v) **Harm to Purpose (c) – substantial weight:** There is significant harm to Green Belt purpose (c) which must be given substantial weight.

8.7 Of course, the Inspector will also have to consider the other harms including conflict with the development plan, conflict with policy promoting the third runway as well the green belt harm and other harm.

- 8.8 So VSC “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 ²⁷⁷by other considerations”

Other considerations

- 8.9 If the Inspector/Secretary of State find that there is not a strong numeric needs case that is really the end of this matter. None of the other considerations individually or cumulative are anything like strong enough to be sufficient to outweigh all the harm above. Mr Murphy acknowledged in examination in chief and cross examination that if the figures were as Mr Paul Stimpson said that he would not allege very special circumstances existed. He was clearly right to say that.
- 8.10 In fact, if the supply numbers are bigger than the demand/need forecast the same must be true. So, if you reach a conclusion that the demand/need is less than the supply of 1711 MW that Mr Mark Powney accepted then there could not be very special circumstances case. This is what Mr Paul Stimpson said in the end of his evidence on green belt that if there is not a need for data centres it could not possibly outweigh the Green Belt and other harms. That is a sound and experienced judgment which can be followed.
- 8.11 If the position is that there is a numeric need for data centres. We do not see how that can be the case if you have the correct figure for capacity of data centres and use that as a means of protecting forward. In fact, the appellant has not done any forecast of the need that starts with the accurate current capacity of the data centres which was 369 MW of capacity in 2024²⁷⁸ and shows there to be a need that outstrips supply. However, I assume against the evidence that the view is reached that there is some numeric case of demand being more than supply.

²⁷⁷ My emphasis

²⁷⁸ ID5

8.12 In those circumstances if there were a numeric case Mr J Holgate has given guidance as to what to do. In his judgment in SIFE²⁷⁹ he said

“The nps does not suggest that the need for a network of SFRIs or any particular SFRI is a need to be met come what may irrespective of the degree of harm which may be caused”²⁸⁰

8.13 It was accepted by Mr Murphy that for data centres there was no document that came close to suggesting it was a need to be met come what may. Thus, we are in the same situation as SIFE where Holgate J said

“Thus the need relied upon by Goodman is a relative rather than an absolute concept”²⁸¹

8.14 In that case where the need is relative not absolute a planning judgment needs to be reached.

“Where the relative need for a particular proposal together with any other factors telling in favour of the grant of permission (including the absence of any alternative site) are insufficient to outweigh the overall harm then the obvious consequence is that planning permission will not be granted and the need will not be met.”²⁸²

8.15 Here that is precisely the case here even if there is a numeric need which seems extraordinarily unlikely on the real number it is insufficient to outweigh the harms.

8.16 Mr Paul Stimpson went through the claimed benefits in a section between 3.152 to 3.163. Essentially most of the benefits claimed cannot be anything like sufficient without a need case. To pick out some.

- i) On demand need case is very poor for the reasons set out above there is not a numeric or qualitative need and there is masses of supply nationally and in the STE with its large pipeline and in the SAZ.
- ii) The Appellant’s ASA was all contingent on the numeric need case which is deeply flawed. In any event it also failed to consider lots of sites with

²⁷⁹ CD 7.8 para 31

²⁸⁰ Para 31 *ibid*

²⁸¹ Para 32

²⁸² Holgate J at §32

permission that were further ahead. It had criteria to judge whether the site was sequentially preferable²⁸³ however they were never applied to the appeal site. When they were in cross examination it was obvious the site performed badly on each. If the need figures were less than the supply, it was accepted there were alternatives when it was understood.²⁸⁴

- iii) Deliverability. As above the deliverability on power has not been properly addressed and there are real risks. It must be remembered that the Secretary of State had evidence at Woodlands Park which did not come about. The biggest factor here though is that this site is “essential for the successful operation of the airport” and “required” in the language of HAL. That is bound to create at the very least a real deliverability issue when the appellant’s own witness was clear that HAL could meet a CPO test to acquire it in 2019 and could point could no evidence of a change of circumstances.
- iv) Economic Impact. The appellant here is trying to put this data centre on a site necessary for the 3R proposal which has a beneficial economic impact that dwarfs this. They have not assessed that impact on the Heathrow R3 proposal and the affect on hindering the freight arrangements for the largest port in the UK by value. As a result, they have not and remotely justified why in net terms there is any net economic value. As a comparison of the value of the project the 3R in the views of the Government would “inject billions into our economy create over 100,000 extra jobs strengthen Heathrow’s status as a global passenger and air freight hub ...”²⁸⁵ By comparison this project would bring 65 FTE jobs as well 490 construction jobs for a temporary period²⁸⁶.

²⁸³ See 2.19 of ASA cd 11.7

²⁸⁴ See cross examination Cole and Inspector question

²⁸⁵ In WMS evidence of Dan Ray at cd 11.2 appendix A

²⁸⁶ Page 63 Mr Murphy

- v) The employment figures are clearly not in the context of this case able to really add much to the other considerations.
- vi) BNG the appellant did not want to commit beyond the standard figure in conditions. Whilst a benefit not one of any real weight in this case. They cannot claim much if any benefit for exceeding this figure if it is not secured.
- vii) Climate change. This site is clearly going to use a lot of power of the order of £220m per year.²⁸⁷ There is no mechanism to secure that this will be from zero carbon sources and any data centre operator may want to have regard to costs. When nothing is secured on this it is difficult to give unsecured aspirations any real weight.
- viii) Reduction in vehicle trips is largely a bad point relying on unauthorised uses going on at the moment. [see 3.158 of Mr Paul Stimpson]
- ix) Consequences of not providing. The consequence of not providing is that the world-renowned largest cluster in Europe will expand at the rate that SEGRO have said. The next 7 years are a bright future. They have twice as much in the pipeline as even they have delivered in the last 5 years²⁸⁸. It will continue to expand and serve the market with its 4.3m square foot of capacity increase in the next 7 years. In the next 7 years it will provide an extra 559MW which is nearly double the whole capacity of the SAZ in 2024 which was 369MW.²⁸⁹ The rest of the SAZ has a supply of 1711MW permitted which is extremely healthy when considered against the current 369 which includes the biggest cluster in Europe. The national picture is similarly rosy because of the Government Plan to deal with data centres in UK Compute. Even Mr Mark Powney accepted that our Country will have easily sufficient AI capacity without this site. The overall position is

²⁸⁷ See HoC doc CD 12.6 that is for 100MW this data centre is 72 MW of IT power which is similar in power if you take the 1.3 factor. See cross examination of Mr O'Reilly

²⁸⁸ CD 10 I1

²⁸⁹ See ID5

that this site is not needed for the data centre strategy of the Government.

No wonder Mr Mark Powney ignored UK Compute.

- 8.17 This development is not appropriate and cannot show very special circumstances. It is substantially harmful in the Green Belt and should be refused on that basis.

9 DEVELOPMENT PLAN BALANCE.

- 9.1 Mr Paul Stimpson was clear that this development is contrary to the development plan read as a whole. His analysis of the policies was compelling as you would expect from the author of them. He explained that CP1 was the most important policy. That was one that was found by the Secretary of State post the NPPF to be “firmly based on the principles of sustainable development”. Policy CP2 is an essential element of the Core Strategy. In that he is in full agreement with the Inspector at SIFE and the Secretary of State.²⁹⁰ He set out that they should be given full weight and are consistent with the NPPF. Breaches of these 2 fundamental policies in themselves he said was sufficient to make the development contrary to the plan read as a whole. The law is clear that as a matter of judgment breach of 1 policy can be sufficient to make the development contrary to the plan read as a whole.²⁹¹
- 9.2 Applying section 38(6) Planning and Compulsory Purchase Act 2004 this should lead to the refusal of this development. Paragraph 12 of the NPPF is clear that where a planning application conflicts with an up-to-date development plan permission should not normally be granted. These policies are up to date as the Secretary of State found twice post NPPF and Mr Paul Stimpson explained. The main argument is on need and since the development already considers this issue and sets out the essential test it would undermine that to grant permission for a development that breaches the development plan on the basis of a lesser test of need. This development cannot show either an

²⁹⁰ See 12.23 of cd 7.10

²⁹¹ Cornwall Council v Corbett [2020] EWCA civ 508 para 42 Lindblom LJ

essential need in this location or such a strong need case that it is essential. If it was genuinely essential for the data centre world to have this site for a data centre one would have had a raft of letter from the data centre industry and there has been a deafening silence on that front.

- 9.3 In terms of the NPPF the case of the SBC is that this development is all on greenfield Green Belt land and it fails to show very special circumstances. It is not appropriate development because it is not Grey Belt because it contributes strongly to purpose a and b. It is not appropriate because there is not a demonstrable unmet need for the type of development proposed. In terms of paragraph 11 the “most important policies for determining this application” CP 1 and CP2 are not out of date as the Secretary of State has found on 2 occasions but rather should be given full and substantial weight. Even were it sensible to go further than that paragraph 11 d (i) applies because there is a strong reason to refuse the development on green belt terms.²⁹² In the further and even hypothetical alternative a place which should never be reached the tilted balance does not apply to this case. However, even if it did the adverse impacts would significantly and demonstrably outweigh the benefits.
- 9.4 The Appeal Site is required as part of Heathrow’s expansion plans, and the Appellant has not shown that its proposals comply with the Government’s policy on Heathrow expansion. Rather, HAL (i.e., those in the best position to know) suggest that the Appeal Scheme actively conflicts with those plans.
- 9.5 This development:
- i) Is contrary to the development plan read as whole being contrary to the most important policies within that of preserving the strategic gap.
 - ii) It causes substantial harm to numerous aspects of the Green Belt which the Government attaches great importance to and there are no very special circumstances.

- iii) It takes a site which is essential for the successful operation of the airport and is required for the largest infrastructure supported by our Government of R3.
- iv) There is not a demonstrated need in the context where there is a massive pipeline of sites coming forward at Europe's largest cluster of data centres and a huge supply in the SAZ and a strategy nationally for ensuring that AI capable data centres are in place by 2030 which does not need this site.

9.6 For the above reasons, the Inspector is invited to recommend the refusal of planning permission, and in due course the Secretary of State is invited to dismiss the appeal.

Richard Ground KC

Jack Barber

24 October 2025

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