SRBC02

PICKERINGS FARM SITE, FLAG LANE, PENWORTHAM, LANCASHIRE, PR1 9TQ

Planning Application Ref: 07/2021/00886/ORM
& 07/2021/00887/ORM
Planning Inspectorate Ref: APP/F2360/W/22/3295498

REBUTTAL EVIDENCE OF
Neil James Stevens

TRANSPORT

LANCASHIRE COUNTY COUNCIL

Lancashire County Council

1 Background

1.1 Mike Axon, Global Director for Transport at Vectos SLR Consulting Ltd has presented evidence on behalf of Taylor Wimpey and Homes England. Mr Axon presents evidence on highways and transportation elements of the appeals.

1.2 For ease of reference, the rebuttal evidence I present below will follow Mr Axon's PoE (Proof of Evidence) paragraph numbering. The fact that I do not respond to any specific paragraph in Mr Axon's evidence should not be taken to mean that I agree with that paragraph. This rebuttal proof has identified particular paragraphs that I consider merit comment by way of rebuttal evidence.

3 Planning Policy and Guidance

3.23 In Paragraph 3.23 Mr Axon suggests that *'The first priority is given to pedestrian and cycle movement, both within the scheme and with neighbouring areas'*.

Rebuttal of Paragraph 3.23:

It is my opinion that limited schemes for pedestrian and cycle movements are promoted, within and beyond the development site. The signalised junction at Bee Lane / Leyland Road / The Cawsey proposes new crossings for pedestrians while the bridge over Bee Lane proposes to separate pedestrians from cyclists but sharing the same space with motorised vehicles within the constrained width of the bridge.

Regarding the lanes within the site, pedestrians and cyclists are not prioritised as they are sharing space with vehicles. Segregated lanes are not proposed within the site. Those with young children or disabilities may not be able to safely traverse the lanes, especially visually impaired users who use kerbs and tactile paving to navigate streets.

3.26 In Paragraph 3.26 Mr Axon refers to The Department for Transport's Circular 02/2013 'The Strategic Road Network and the Delivery of Sustainable Development' (CD10.49). Mr Axon suggests that *'There is no definition of what 'capacity' means, and indeed the common acceptance*

of what this means has evolved, with the Vision & Validate approach in guidance, including guidance from the Department for Transport (DfT).'

Rebuttal of Paragraph 3.26

Mr Axon's PoE refers to the 'Vision and validate' approach, within (amongst other things) the draft replacement for DfT Circular 02/2013, which is currently under consultation by DfT. While his PoE seems to imply that this forms a part of DfT policy, it does not. Limited weight should attach to the draft Circular.

Circular 02/2013 states that *'Development proposals are likely to be acceptable if they can be accommodated within the existing capacity of a section (link or junction) of the strategic road network, or they do not increase demand for use of a section that is already operating at over-capacity levels, taking account of any travel plan, traffic management and/or capacity enhancement measures that may be agreed'*.

Therefore an assessment of 'capacity' of a section (link or junction) is contained in adopted policy.

3.49 In Paragraph 3.49 Mr Axon suggests that *'The Pickering's Farm scheme, by design, provides an environment that localises trips (avoids trips), and maximises the relative attractiveness of active travel and public transport (shifts modes).'*

Rebuttal of Paragraph 3.49

It is unclear how the trips will be localised and the attractiveness of active travel will be maximised. Active travel is not attractive when limited infrastructure is provided and there is scope for conflict between users on the highway. If users do not feel safe, they will use the private vehicle for local trips.

3.49 In Paragraph 3.59 Mr Axon suggests that *'If you want more vehicles then build more capacity, if you want less vehicles then reduce road space.'*

Rebuttal of Paragraph 3.49

I disagree with this statement and believe a balanced approach is required (by contrast, Mr Axon appears to suggest that there is a binary choice between approaches). I consider the correct approach should be evidence based, that appreciates and understands the needs of the highway and what changes will influence an individual travel choice. The approach needs to ensure that decisions made are realistic having regard to the likely success of increased active travel. This approach is often supported with the use of carefully designed surveys and travel diaries to understand the reasons behind travel behaviour and what would be required to influence the choice of transport mode.

In some circumstances, to support active travel, additional capacity is required, for example, to the A582 corridor, Leyland Road corridor or on Bee Lane/at Bee Lane Bridge, to satisfy users' needs whilst promoting sustainability for these corridors. Consequently, a reduction in road space often has a negative impact on buses and their reliability as well as operational matters for both cyclists using the carriageway and pedestrians crossing roads at both formal and informal crossings. I would note that neither more capacity nor less capacity is proposed on the Bee Lane bridge, what is proposed is a 'do minimum' approach. Active travel capacity, for example, can be improved by having cyclist infrastructure and pedestrian infrastructure separate from vehicle road space.

3.67 In Paragraph 3.67 Mr Axon explains the 'Vision & Validate' approach.

'(iii) Plan for the whole day, not just peak hours. We should take a longer view of movement, ending our obsession with optimising transport between 08:30 and 09:30'.

Rebuttal of Paragraph 3.67 iii)

Focusing on peak hours allows us to understand the operation of the network during its busiest periods. From this we all can understand impacts on safety (in terms of risks of collisions and

driver behaviour) and on other infrastructure (crossing point, bus stops and servicing) as well as providing a reliable network for both motorised and non-motorised users. I must also highlight the network AM peak is not 8:30-9:30 as referenced.

3.67 v) *'Count people not cars. The metric used in transport models should be updated from asking for vehicle movements per hour to asking for people movements per hour'*.

Rebuttal of Paragraph 3.67 v)

For reasons I have set out in my PoE, I do not believe that movements (of people) have been fully assessed and catered for within the applications/appeals (both within the site or external on the existing network).

Mr Axon's PoE only provides appeal site numbers per mode per hour but does not then distribute to the wider network to understand impact and whether there are deficiencies that need to be addressed by the Appellants (i.e. a balanced approach). For example, paragraph 3.67 and subsequent paragraphs do not establish the quantum of available capacity on existing Public Transport services and whether this is sufficient to satisfy the number of 'people' from this site as calculated. Nor does Mr Axon determine what is required on the highway/transport network to satisfy the number of people who walk, cycle or those who are mobility impaired or use buggies or prams. There is limited promotion of active travel in line with the people that are counted (calculated).

3.100 In Paragraph 3.100 Mr Axon states that *'I understand that LCC prefers the historic approach to traffic assessment.'*

Rebuttal of Paragraph 3.100

This statement is incorrect (I return to this issue below, e.g. at paragraph 6.51).

3.111 In Paragraphs 3.111 – 3.117, Mr Axon describes a Planning Inquiry from 2012 into two housing applications (totalling 650 homes) in Hartford, where *'There was no proposal from either application to increase traffic capacity on the highway network'*.

Rebuttal of Paragraphs 3.111 – 3.117

Mr Axon's PoE only states the outcome of the inquiry, with no evidence that highlights modal shift and how this compared against that considered at the inquiry. The PoE also fails to identify the specifics of the Hartford site in terms of its location, policies, and the position of sustainable infrastructure. Without this, it is difficult to compare the Hartford application and this application site.

4 The Scheme

4.10 In Paragraph 4.10, Mr Axon suggests that the scheme will include *'a Flexible Transport Fund of £1m'*.

Rebuttal of Paragraph 4.10

There appears no detail regarding the proposed funding and whether it is sufficient (e.g., in terms what is to be delivered from it and for how long). The proposed fund (in terms of principle, not value) is not really any different to what I would expect from a travel plan for any other development of this scale. It would be typical that a developer provides a financial commitment to have sufficient funding available for the duration of the travel plan to fund measures required to achieve and maintain travel plan targets. Measures committed by other developers includes vouchers for households to purchase bicycles (with safety equipment) and public transport travel passes that provides free travel for 1-3months.

4.11 In Paragraph 4.11, Mr Axon summarises the mobility related elements of the S106 document. The proposals include *'Delivery of a Primary Mobility Hub'* and *'Provision of the Community Concierge team presence on the site'*.

Rebuttal of Paragraph 4.11

There is a lack of detail (or evidence) on how the mobility hub will work (and therefore what weight it should attract). In some respects, the proposed mobility hub includes an element that is inferior to a traditional travel plan, in that users must travel to the hub to access bicycles/electric bicycles rather than having them available at their homes.

4.14 In Paragraph 4.14, Mr Axon states that there are multiple access points to the sites and these are shown in Figure MA4-2.

Rebuttal of Paragraph 4.14

The land for the bridge and link road, shown on Figure MA4-2 is not fixed, and no detailed designed has been undertaken.

4.15 In Paragraph 4.15, Mr Axon states that the existing lanes are used by cyclists, walkers and equestrians and the existing roads and routes in the vicinity of the site are shown in Figure MA4-3.

Rebuttal of Paragraph 4.15

There is no detail regarding access across A582 because of increased uses from this site. No further improvements/provisions are proposed for other leisure activities (dog walking etc.), to and from the PRoWs, or across the A582. Some improvement is supported by the Appellant via a S106 on PRoW but excludes specific reference to provision adjacent and across the A582. This will be an issue and a barrier to pedestrians in a scenario where the LCC scheme is not delivered or not delivered as anticipated.

4.17 In Paragraph 4.17, Mr Axon states that *'There will be no vehicular access to the sites along these lanes, except for Bee Lane west of the Bee Lane bridge for access to part of Application A, and for bus (shared travel) movement.*'

Rebuttal of Paragraph 4.17

Paragraph 5.32 of the Transport Assessment states that *'Indicative bus routes within the site have been considered allowing for access via Penwortham Way heading towards the new local centre and mobility hub. Space will be provided for buses to turn and exit via Penwortham Way for the initial 1,100 dwellings, but it should be noted that there is flexibility for the route to be extended thereby providing an internal loop around the wider masterplan area in due course'*. The TA did not suggest a through route, via Bee Lane, which is now proposed in the PoE. The existing lanes and Bee Lane bridge are not suitable for public transport and would result in conflict as highlighted in my evidence.

4.18 In Paragraph 4.18 Mr Axon suggests that '*Network Rail did comment on the Application, raising a concern that additional active travel and vehicular movement over the Bee Lane bridge may increase the risk of vehicles swerving to avoid pedestrians and colliding with the bridge parapet, although they recognise that the risk level is low.'*

Rebuttal of Paragraph 4.18

Mr Axon states that Network Rail recognise the risk level is low, but I cannot locate where Network Rail suggest this. The Network Rail comments state:

'While the probability of an accident occurring on the bridge might be considered low, the subsequent disruption to all users could be significant.'

Risk is a measure of probability and consequence. Network Rail reference probability and also note that the consequences could be significant.

4.19 In Paragraph 4.19 Mr Axon states that Vectos *'commissioned the safety risk assessor to quantify this risk should the carriageway remain a shared surface, as it is at the moment. The assessor rated this as 'low risk', which carries the safety risk assessment label 'acceptable'.*'

Rebuttal of Paragraph 4.19

My PoE highlights my position with regard to the issues at Bee Lane bridge. Mr Axon's PoE does not include any detail or evidence regarding the number of sustainable movements assessed by the safety assessor or that regard was had to the safeguarded circular route for cyclists, as highlighted in Mr Axons PoE in paragraph 5.10. In addition, if the movements considered by the safety assessor were those presented in Paragraph 8.33, they do appear extremely low, given the scale of development and the aspirations for active travel movements.

4.24 In Paragraph 4.24 Mr Axon suggests that he has communicated with two bus operators and that they have *'expressed particular enthusiasm for operating services connecting this site with neighbouring communities and Preston city centre'*.

Rebuttal of Paragraph 4.24

The PoE does not include any further details on the discussions, whether the proposals are viable, at what stage and the duration of the service. It is also unclear as to whether this service would be a new service or a diversion.

Paragraph 4.24 also suggest the use of 'demand responsive bus services', which I consider are not appropriate for a site that will form part of the built environment where journey time reliability, service regularity and certainty are important aspects to maximise public transport use. Demand response is typical in rural locations where need is limited, and users book a service in advance. For a site in this location and of this scale, a regular high frequency bus service is expected. This should be pump primed until it becomes self-funding.

Without a clear Public Transport long term evidence-based strategy for the Appeals sites there is a high risk that the sites will have greater car dependency than that assessed.

4.27 In Paragraph 4.27 Mr Axon states that *'Shared travel, in the form of buses, are provided for via either or both the Penwortham Way access and the Bee Lane access. It will be possible for buses and active travel users, but not private cars, to connect the Application site A, and the A582, in the west with Leyland Road and beyond in the east using largely the spine road for the schemes (the line of the CBLR) and the existing lanes. Connectivity for buses, where private vehicles cannot, will be controlled with a bus gate'*.

Rebuttal of Paragraph 4.27

As I have highlighted under Paragraph 4.17, the route through the site via both accesses was not presented in the Transport Assessment. Mr Axon's PoE, does not provide any evidence (including a layout) that indicates how the proposal will be delivered, or operate safely. The maintenance of the system is also unclear.

5 Local Transport Network Context

5.7 In Figures MA 5-4, MA 5-5 and MA 5-6, 2km active travel catchments are shown from Moss Lane, Bee Lane and Flag Lane. In Paragraph 5.7, Mr Axon states that *'The active travel routes into and through the neighbouring areas are attractive and of good quality '*.

Rebuttal of Paragraph 5.7

Of the nine bus stops shown in Figures MA 5-4, MA 5-5 and MA 5-6, only five include shelters while only 4 have DDA compliant kerbs. Leyland Road, Kingsfold Drive and Pope Lane (which provides seven of the bus stops) are subject to on street parking. I would not describe the active travel routes or infrastructure through the neighbouring areas as attractive. This application does not propose to improve these facilities in line with their vision.

This Appeals site do not propose segregated lanes for active travel users into and through the neighbouring areas. As I have highlighted above, under paragraph 3.49, active travel is not attractive when limited infrastructure is provided and there is scope for conflict between users on the highway. I would not describe the active travel routes into the neighbouring areas as attractive or of good quality.

5.10 Mr Axon references the Neighbourhood Plan safeguarded cycle route which traverses the site and uses Bee Lane bridge. Figure MA 5-9 provides a plan.

Rebuttal of Paragraph 5.10 and Figure MA 5-9

Figure MA5-9 shows that the Bee Lane bridge forms part of a Safeguarded Circular Route for Cyclists and Walkers. I do not consider that the proposals for the Bee Lane bridge, as part of this application, provide an adequate safe and attractive provision for cyclists or walkers.

5.24 In Paragraphs 5.16 – 5.21 Mr Axon provides descriptions of the local highway networks and Paragraph 5.24 concludes that *'there is no unreasonable transport safety consequence either within the site, or on the highway networks'*.

Rebuttal of Paragraph 5.24

I do not agree with Mr Axon's conclusion. His description of the local highway network is limited (geographically)and fails to highlight any existing congestion or network operation issues.

6 Assessment of the Effects of Development

6.9 In Paragraph 6.9, Mr Axon describes the approaches that the Transport Assessment took to forecast movements.

6.9 ii) *'An assumption about journey purpose proportion by time of day based on the industry standard NTS (National Travel Survey) database*.

6.9 v) *'Pre Covid, about 15% of people nationally were working from home at any single point in time in the working week. The expectation is that, nationally, this will settle down to about 25% post Covid'*.

6.9 vi) *'There is a tool that enables judgements to be made about the proportion of people working from home by UK area, based on the demographics and type of jobs. Running this for the South Ribble area suggests that 24% of people will be working from home or a Third Place in the near future, up from 15% pre Covid, a difference of 9%'*.

6.9 ix) *'A consequence of the assumptions that we have made is that 58% of trips are contained within 5km of the site'*.

6.9 x) *'A consequence of the assumptions that we have made is that 37% of trips are by sustainable modes (not single car occupancy)'*.

Rebuttal of Paragraph 6.9

I have been unable to replicate Mr Axon's values using the National Travel Survey. The National Travel Survey covers a national scope, which omits many local variations.

Regarding home-working assumptions, there is a lack of evidence to justify the claims and they do not consider local employment sites where home working is not possible.

I cannot agree with the percentages or assumptions presented, as Mr Axon has not provided an audit trail to the percentages stated.

6.11 In Paragraph 6.11 Mr Axon states that *'the road network in the immediate area is relatively high capacity, and convenient'*. Mr Axon attempts to justify this statement by comparing journey times from April 2019 and April 2021.

Rebuttal of Paragraph 6.11

I do not agree with Mr Axon's statement as the journey times presented in Figure MA6-1b do not accord with what have been observed on site or on Google Maps. Journey times for specific corridors, whilst useful, do not highlight locations where issues arise and their consequences on intersecting corridors or other transport modes, such as junctions where greatest delays occur. However, they are useful to supplement other information such as junction performance using standard proprietary software.

6.37 In Paragraph 6.37 Mr Axon states that *'As it is not the aim of planning policy to protect the convenience of the car commuter, I looked instead at the potential effects on a local route most likely to be affected by the developments, and which might be one of the more important when it comes to providing for business travel'*.

Rebuttal of Paragraph 6.37

While it is not the aim of planning policy to protect the convenience of the car commuter, it must ensure that the highway hierarchy maintains reliability but also allows the LHA to meet its statutory responsibilities, including the requirement for the LHA:

- to secure the expeditious movement of traffic on the authority's road network; and
- the more efficient use of their road network; or the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority
  (See Appendix 1 for Traffic Management Act 2004 extract)

6.51 In Paragraph 6.51 Mr Axon states *'It is for the Highway Authorities to decide what it wants this wider road network to achieve. If it chooses to build bigger to attract traffic and to maximise convenience for through traffic, that is a strategic decision that is beyond the scope of these Applications. I understand that this may be LCC's intention given its as yet undetermined planning*

application for dualling of Penwortham Way between Golden Way to the north, Longmeanygate to the south and Leyland Road to the east.'

Rebuttal of Paragraph 6.51

A theme within Mr Axon's PoE is that the County Council (as LHA) pursue a 'predict and provide' model of assessment. In the paragraph above, the suggestion is that the provision of further highways improvements, for example on the A582, is to attract traffic and maximise the convenience for motorised vehicles. This statement highlights a lack of understanding of the approach that the LHA has taken to manage the local highway network for many years. Over 20 years ago, The '*New Deal for Transport*' White Paper (1998) abandoned 'predict and provide' as unsustainable.

I have been highway development control manager for the authority for circa 10 years and since my appointment at that level neither I nor my team have followed a predict and provide approach. The approach that is followed seeks to deliver improvements to all users, with high priority given to securing improvements for public transport, pedestrians and cyclists (where the development has impact). In regard to the A582 it is important to clarify that the purpose of the proposed scheme is not to attract new traffic onto the network or maximise the convenience for motorised traffic.

The A582 is part of the Government's 'Major Road Network' (the MRN) in Central Lancashire and its improvement is a scheme included in Transport for the North's investment programme as a specific intervention before 2027. In 2020, the Government announced the scheme's inclusion in the national Major Road Network/Large Local Majors funding programme and as highlighted in my PoE is currently the subject of a business case process under this programme.

The purpose of the A582 scheme is to provide improvement that will support redistribution of traffic currently using local roads for non-local purposes onto the more appropriate road type. This supports appropriate use of the road hierarchy and maximises the efficient use of the transport network.

This redistribution of traffic from Leyland Rd, which is a key public transport corridor, will lead to an improved environment that will allow improvements to be promoted for public transport, cyclists and pedestrians. The current levels of congestion on Leyland Road are not attractive to pedestrians or cyclists. Mr Axon's approach appears to rely on increased congestion across the network as the central catalyst to drive mode change. This approach is flawed.

The LHA's approach is clearly not one of "predict and provide". It is a balanced approach that allows the LHA to prioritise active travel and other sustainable means of transport, as well as meet its statutory responsibilities under the Traffic Management Act 2004, as highlighted in paragraph 6.37 above.

6.60 In Paragraph 6.60 Mr Axon states that *'I do not consider the upgrade of these junctions necessary in order to make this development acceptable, or as necessary mitigation in order to avoid a severe adverse impact on the local highway network. However, if for other reasons the Councils consider this upgrade desirable and a high priority then the Council can spend some of the CIL contribution on it, and in this respect the proposal facilitates the delivery of it'*.

Rebuttal of Paragraph 6.60

I consider that the junctions on the A582 are key pinch points that need to be mitigated against, whether as part of the LCC scheme or under S278 agreements.

7 Overview of Case

7.25 In Paragraph 7.25 Mr Axon states that *'Maintaining a P&P approach to local traffic, as I understand LCC to be doing, is inconsistent with this because it attracts, rather than dissuades, movement by private car'*.

Rebuttal of Paragraph 7.25

I have addressed the suggestion that LHA adopts a predict and provide approach under 6.51 above.

7.54 In Paragraph 7.54 Mr Axon suggests using information from the A582 dualling application that *'by LCC's own measure it is showing that the Pickering's Farm allocation is deliverable with or without the addition of the Dualling Scheme with no 'severe adverse impact'*.

Rebuttal of Paragraph 7.54

The A582 Dualling application is a strategic scheme that includes a strategic assessment. I would not advocate or accept the use of strategic models, or rely on them, to justify local sites.

The A582 Dualling application is a live planning application that has not been determined, and I have not yet provided supporting comments on the application. I am not fully satisfied with the current modelling within the application and have requested further information. LCC Highways use the same level of rigour for internal and external applications.

7.71 In Paragraph 7.71 Mr Axon states that *'TRICS does not have a good database of sites similar to this one, or what this is designed to be like'*.

Rebuttal of Paragraph 7.71

TRICS is the standard propriety software that is widely accepted and used in the industry. The use of TRICS is based on the parameters that are entered to reasonably reflect a proposed site. Mr Axon's approach makes use of the National Travel Survey that presents a national picture (not local).

8.32 In paragraph 8.32 Mr Axon states that *'Bee Lane Bridge is a shared space, where vehicles, pedestrians, cyclists and equestrians exist together. The space typically accommodates in the order of 30 vehicles, 10 pedestrians and up to 5 cyclists per hour.'*

Rebuttal of Paragraph 8.32

Whilst these figures may be correct, I have seen no multimodal survey data from the Appellants.

8.33 In paragraph 8.33 Mr Axon states *'The consequence of the development will be to intensify the use of that space. We expect movement to increase as a result of the proposal by in the order of 15 vehicles, 15 pedestrians and 10 cyclists per hour. We will be encouraging active travel use across the bridge and so we would like the active travel flow to be higher.*

Rebuttal of Paragraph 8.33

I would question the pedestrian and cycle numbers quoted in paragraph 8.33. They do not appear to represent the expected movements of a highly sustainable 1100 dwelling development or the 'Vision' that Mr Axon is seeking to promote.

In my own evidence, I use Mr Axon's own Transport Assessment analysis to estimate pedestrian and cycle numbers and this would suggest much higher sustainable movements than those presented in paragraph 8.33 above.

Appendices

1 Traffic Management Act (TMA) 2004 extract

Traffic Management Act 2004

Previous: Part Next: Part

PART 2

NETWORK MANAGEMENT BY LOCAL TRAFFIC AUTHORITIES [F1 AND STRATEGIC HIGHWAYS COMPANIES]

Textual Amendments

F1 Words in Pt. 2 inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), **Sch. 1 para. 134**; S.I. 2015/481, reg. 2(a)

General duties relating to network management

16 The network management duty

(1) It is the duty of a local traffic authority [F2 or a strategic highways company ("the network management authority")] to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives—

(a) securing the expeditious movement of traffic on the authority's road network; and

(b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(2) The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing—

(a) the more efficient use of their road network; or

(b) the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority;

and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority).

(3) In this Part "network management duty", in relation to a [F3 network management] authority, means their duty under this section.

Textual Amendments

F2 Words in s. 16(1) inserted (5.3.2015) by virtue of Infrastructure Act 2015 (c. 7), s. 57(1), **Sch. 1 para. 135(2)**; S.I. 2015/481, reg. 2(a)

F3 Words in s. 16(3) substituted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), **Sch. 1 para. 135(3)**; S.I. 2015/481, reg. 2(a)

Commencement Information

I1 S. 16 in force at 4.1.2005 for E. by S.I. 2004/3110, **art. 2(a)**

I2 S. 16 in force at 26.10.2006 for W. by S.I. 2006/2826, **art. 2(1)**(2)(b)