

**APPEALS BY TAYLOR WIMPEY UK LIMITED
AND HOMES ENGLAND**

**LAND AT PICKERINGS FARM,
PENWORTHAM**

**PINS REFERENCES:
APP/F2360/W/22/3295498
APP/F2360/W/22/3295502**

**CLOSING SUBMISSIONS ON BEHALF OF
THE LOCAL PLANNING AUTHORITY**

1. The allocated site at Pickering’s Farm, Penwortham (“the Pickering’s Farm Allocation”) is the largest of only 3 major residential-led sites in the South Ribble Local Plan (“the Local Plan”¹). The Local Plan recognises that;

“Due to the size and importance of these sites a comprehensive approach will be adopted that sets out the infrastructure needs and delivery mechanisms for the whole site and considers the relationship to existing communities.”²

¹ CD5.2. In addition to the 3 major residential-led development sites, there are 2 major employment-led development sites.

² §6.4 of the Local Plan.

2. It is abundantly clear from the Local Plan that any development proposal for the Pickering's Farm Allocation (whatever the size of the particular application site) must address;
- (i) the comprehensive development of the whole Pickering's Farm Allocation (through an agreed masterplan), and,
 - (ii) the delivery of infrastructure required to serve the whole Pickering's Farm Allocation (through an agreed masterplan and a phasing and infrastructure delivery schedule secure by legal agreement).
3. The Council's position is that the Appeal Schemes fundamentally fail to achieve those ends. In particular, and by reference to the main issues identified for determination at these appeals;
- the masterplanning and infrastructure delivery proposals associated with the appeal schemes are inadequate,
 - the Appellants' assessment of impacts on the local highway network under-state effects, and there is a risk that those effects will be severe, with no solutions advanced to address them,
 - similarly, there remain concerns about the safety of pedestrians and cyclists crossing Bee Lane Bridge. Proposals to address those concerns have continually evolved but remain inadequate, and,
 - in contrast to the clearly-stated position previously advanced by the Appellants in an effort to achieve an allocation in the Development Plan³, the commitment to deliver the remaining section of the Cross Borough Link Road in conjunction with development of the Pickering's Farm Allocation has been unceremoniously dropped, and its delivery put at risk⁴.

³ Both the Central Lancashire Core Strategy (CD5.1, "the Core Strategy") and the Local Plan.

⁴ The last 2 main issues (in respect of sports provision and mitigation of air quality impacts) have now been satisfactorily addressed.

4. As set out below, each of those failures is harmful and generates breaches of policy. Of course, the Appeal Schemes comprise a substantial quantum of development, including much needed affordable housing. It is acknowledged that they will deliver substantial benefits, but those should not be at the cost of achieving a proper, comprehensive development of the Pickering's Farm Allocation that delivers important infrastructure and meets the expectations and requirements of the Local Plan.

(A) Masterplanning and Infrastructure Delivery Failings

5. The central failing of the Masterplan and Infrastructure Delivery Schedule prepared by the Appellants is the failure to provide for acceptable east/west connections across the Pickering's Farm Allocation, including the lack of any commitment to the completion of the Cross Borough Link Road.
6. For understandable reasons, the Appellants are keen to dismiss their earlier approaches to the development of the Pickering's Farm Allocation, and their understanding of the policy position, as an irrelevance⁵. That would be a mistake.
7. Those earlier approaches demonstrate that both the Appellants and the Council (and the Local Plan Inspector) were on the same page when it came to an understanding of the Development Plan. Accordingly, the Appellants' previous approach to policy requirements is directly relevant in addressing the merits of the revised position that they now advance.
8. The Appellants' initial efforts at masterplanning for the Pickering's Farm Allocation (and the land extending down to Coote Lane) were made in support of representations to the Core Strategy examination, and were contained in their "Development Statement"⁶. That masterplan (2011) unequivocally included a primary vehicular and bus route through the Pickering's Farm Allocation from Penwortham Way to Leyland Road (crossing the West Coast Main Line, "WCML").

⁵ effectively, the position adopted by Mr Alsbury.

⁶ CD10.79, and also at Mr Thornton's Proof, p11.

9. Amongst other things, that Development Statement confirmed that;

“Development of the Pickerings Farm site will enable the completion of a key highways link connecting Penwortham Way to Leyland Road which is deliverable through the land controlled by TWUK and the HCA”⁷.

10. The Core Strategy was duly adopted in 2012 including land, “south of Penwortham and north of Farington” as a strategic location⁸.

11. Precisely the same approach was advanced by the Appellants during the examination of the Local Plan⁹. The Appellants and the Council all understood that the completion of the Cross Borough Link Road (“CBLR”) would be delivered as part of the proposed development of the Pickering’s Farm Allocation.

12. In her interpretation of the Local Plan’s provisions, the Local Plan Inspector was equally clear;

“The Plan indicates that significant infrastructure improvements will be required to support the development of the site. This would include the Cross Borough Link Road...”¹⁰

13. Having secured the allocation of land at Pickering’s Farm, there was a hiatus (of about 3 years) before the Appellants turned their attention again to masterplanning of the allocated site. In that time, their approach, and understanding of the policy position was unchanged. In both the Appellants’ masterplan from 2019¹¹ and that submitted to the Council for approval in 2020¹², the Appellants stated that;

⁷ at p79. The Development Statement contains a series of other statements to the same effect, e.g. at p70, “Technical assessments have been undertaken and a new road linking Leyland Road and Penwortham Way will be delivered as part of the proposed development.” (emphasis added).

⁸ CD5.1 at p48.

⁹ CD10.26 is the Appellants’ Development Statement dated February 2013 prepared in support of the allocation of the Pickering’s Farm site in the emerging Local Plan.

¹⁰ CD5.5 at §65.

¹¹ CD7.8.

¹² CD7.10.

“The CBLR extension will be a primary route through the site from Penwortham Way linking to the Cawsey to the north east. As part of the development proposals, the CBLR extension will be delivered in phases.”¹³

14. There should be no doubt that;

- (i) prior to the adoption of the Local Plan, the Appellants expressly promoted the allocation of land at Pickering’s farm on the basis that it would deliver the remaining part of the CBLR from Penwortham Way to Leyland Road, and,
- (ii) following adoption of the Local Plan, and until its decision to pursue these Appeal Schemes (in 2021), the Appellants were proceeding on the basis that the Local Plan required delivery of that section of the CBLR, “as part of the development proposals”¹⁴. Until recently, the Appellants’ interpretation of the policy position was entirely consistent with that of the Local Plan Inspector and the Council.

15. Its change in position is stark. In the current masterplan¹⁵ (“the 2021 Masterplan”), reference to the CBLR is almost consigned to a footnote. In the last few lines of page 18 of the 2021 Masterplan, the Appellants merely state that, in accordance with Policy A2(b) of the Local Plan, land is protected from physical development to allow for the delivery of the full CBLR¹⁶.

16. That change of position is not explained anywhere in the document. The suggestion by Mr Alsbury that it did not represent a change (from everything that the Appellants had previously produced in its earlier masterplans) is obviously not credible.

17. Policy A2 of the Local Plan does require land to be protected from physical development for the delivery of the CBLR, but Policy A2 must be read together with Policy C1. Policy C1

¹³ At p45 of CD7.8, and p47 of CD7.10.

¹⁴ *ibid.*

¹⁵ CD1.16.

¹⁶ That statement fails to address the contents of Policy C1 and its supporting text.

contains 3 requirements each of which are to be satisfied in order to allow the grant of planning permission for development at the Pickering's Farm Allocation.

18. The first of those requirements is one that is common to all of the major residential-led development sites allocated in the Local Plan¹⁷, namely, in order for planning permission to be granted for development within the allocation (including any part of it), there must be an agreed masterplan for its comprehensive development¹⁸.
19. The expectation (set out in the Local Plan at §6.1) is that a masterplan would be prepared in advance of the submission of any planning applications. Self-evidently, that approach makes sense and avoids the risk of planning applications being refused because of deficiencies in a masterplan that is only submitted for agreement together with a planning application (as here). However, if an applicant for planning permission chooses to submit its application at the same time as its masterplan (i.e. before the masterplan is agreed) that is its choice. If the masterplan is not agreed by the decision-maker (now the Secretary of State), then, in determining the planning application, the decision-maker would inevitably find a breach of part (a) of Policy C1.
20. Policy C1(a) does not contain an exhaustive list of requirements to be satisfied in order for a masterplan to be found acceptable. 2 features that it must contain, and that are specified in Policy C1(a), are that it extends to Coote Lane¹⁹, and includes a specified range of land uses.
21. Self-evidently, that is not an exhaustive list. Whilst oddly reluctant to give an unequivocal response to the point, both Mr Alsbury and Mr Thornton appeared to accept that a document that did no more than include a plan showing a site extending to Coote Lane, and including the specified range of land uses (in C1(a)) would not be an adequate masterplan for the comprehensive development of the Pickering's Farm Allocation.

¹⁷ The other 2 are addressed at policies C2 and C3.

¹⁸ Policy C1(a), CD5.2 at p25.

¹⁹ taking in the safeguarded land identified as S2 in Policy G3 of the Local Plan, p80 of CD5.2.

22. A whole suite of considerations are relevant to the question of whether or not a submitted masterplan should be agreed, including, in the case of Pickering's Farm;

- the provision of infrastructure in accordance with the Development Plan, and,
- related to that, the adequacy of connections across the Site.

23. It is in respect of those 2 particular issues that the 2021 Masterplan fails.

24. The infrastructure required to be delivered in conjunction with development of the Pickering's Farm Allocation is not listed in Policy C1. Instead, the policy includes requirements for;

- (i) an agreed masterplan (that will necessarily include the provision of infrastructure), and,
- (ii) at part (b), a phasing and infrastructure delivery schedule.

25. Again, that approach is the same as that taken in respect of the other major residential-led allocations in the Local Plan (at policies C2 and C3). The items of infrastructure required to be delivered in conjunction with each of those allocations is set out in the supporting text to each of those policies. For the Pickering's Farm Allocation, they appear at paragraphs 6.11 to 6.13. First in the list (at §6.11) is the remaining section of the CBLR²⁰.

26. The requirement for the development of the Pickering's Farm Allocation to provide, as part of the overall infrastructure package, the remaining section of the CBLR is a requirement of policy (C1) because;

- Policy C1(a) requires a masterplan to be agreed that will necessarily include infrastructure provision, the adequacy of which has to be assessed by the decision-maker,

²⁰ which, it is stated, "...could include a new bridge crossing the West Coast Main Line or improvements to the existing bridge."

- Policy C1(b) requires a phasing and infrastructure delivery schedule that, again, must be acceptable to the decision-maker²¹, and,
- supporting text to Policy C1 expressly lists the infrastructure to be provided, and includes the remaining section of the CBLR.

27. That approach to the Pickering’s Farm Allocation²², does not seek to impose an illegitimate additional ‘policy’ requirement through the medium of supporting text²³. The Policy contains a requirement for infrastructure (through the need for an agreed masterplan and infrastructure delivery schedule), and the supporting text explains what those items of infrastructure comprise²⁴. They unquestionably include the remaining section of the CBLR.

28. Unlike earlier iterations of the masterplan, there is no dispute that the 2021 Masterplan and the accompanying phasing and infrastructure delivery schedule²⁵ do not provide for the delivery of the remaining section of the CBLR.

²¹ §6.10 of the Local Plan, within the supporting text to Policy C1, confirms that the phasing and infrastructure delivery schedule is to be secured through legal agreement. The local planning authority must obviously consider its acceptability before deciding whether or not to enter that agreement.

²² which, as set out above, appears to have been previously accepted by the Appellants and Local Plan Inspector.

²³ It is, of course, well-established that supporting text can do no such thing. As confirmed in **R (Cherkley Campaign Ltd) v Mole Valley DC** [2014] EWCA Civ 567 (per Richards LJ at §16);

“...when determining the conformity of a proposed development with a local plan the correct focus is on the plan’s detailed policies for the development and use of land in the area. The supporting text consists of descriptive and explanatory matter in respect of the policies and/or a reasoned justification of the policies. That text is plainly relevant to the interpretation of a policy to which it relates but it is not itself a policy or part of a policy, it does not have the force of policy and it cannot trump the policy. I do not think that a development that accorded with the policies in the local plan could be said not to conform with the plan because it failed to satisfy an additional criterion referred to only in the supporting text. That applies even where, as here, the local plan states that the supporting text indicates how the polices will be implemented.”

²⁴ as is the case for the other residential-led development sites at Policies C2 and C3.

²⁵ The phasing information that accompanied the 2021 Masterplan was contained within that Masterplan at p37. It did not include provision for the completion of the CBLR (it simply divided the masterplan area into 9 phases, and gave no indication of the order of development beyond suggesting that land under the Appellants’ control would come forward first). The latest phasing and infrastructure information (at Mr Alsbury’s Appendix 2) does not include provision of completion of the CBLR.

29. That failure comprises a breach of the Local Plan (Policy C1).
30. It also undermines a central component of the Local Plan that seeks completion of the CBLR as one of 2 “key pieces of highways infrastructure proposed within the borough”²⁶ (the other being the completion of the Penwortham Bypass). The Local Plan records the CBLR as an important route serving new developments and improving east/west travel across the urban area²⁷.
31. Having recorded completion of the CBLR as one of the items of infrastructure required by Policy C1, paragraph 6.11 of the Local Plan confirms that, “All schemes within the agreed infrastructure delivery schedule will be implemented through the scheme and such contributions could be offset from any CIL monies required.”
32. Accordingly, the Local Plan explains how those items of infrastructure are to be provided, and in respect of the completion of the CBLR it is, “through the scheme”, and not by applying “CIL monies” to that provision²⁸.
33. Quite apart from the fact that the 2021 Masterplan makes no provision for the completion of the CBLR, any other landowner/developer for the Pickering’s Farm Site²⁹ seeking to bring forward a development is highly unlikely³⁰ to have a viable scheme if that responsibility falls solely on their shoulders. That means;
- either the remaining section of the CBLR is not completed through the development of the Pickering’s Farm Site as required by the Local Plan, or,
 - development of other parts of the Pickering’s Farm Site are stymied.

²⁶ §4.16 of the Local Plan.

²⁷ see §’s 4.17 and 4.18 of the Local Plan.

²⁸ although §6.11 recognises that there might be scope for off-setting.

²⁹ i.e. for the remaining third in terms of land area, or about 250 houses on the basis that the entire allocated site yields about 1,350 dwellings in accordance with the expectation at Policy D1 of the Local Plan (CD5.2, p38).

³⁰ see Mr Lloyd’s Proof, and his conclusions at §’s 2.31/2.32.

34. It is no answer to say that the Council can sort out the harmful consequences of the Appellants' approach by completing the CBLR itself (and applying CIL money from the Appeal Schemes to that end)³¹. That suggestion (made during the course of the Inquiry by the Appellants);

- (i) fails to have any regard to the requirements of the Local Plan (as addressed above), and,
- (ii) proceeds on the basis that CIL monies from the Appeal Schemes and other development on the Pickering's Farm Allocation will be both available and sufficient for that project. The Appellant adduces no evidence in support of either proposition.

35. The only evidence in respect of the likely application of CIL monies arising from the Appeal Schemes comes from Mr Wood who confirmed that his instructions were that they were likely to be committed to improvements to be made to the A582³².

36. Even if available, there is a clear risk that CIL monies derived from either the Pickering's Farm Allocation as a whole or the Appeal Schemes will not be sufficient to complete the

³¹ It is equally no answer to state that the Council makes no request for any particular level of contribution from the Appellants in respect of the completion of the CBLR. The Local Plan requires the development of the Pickering's Farm Allocation to deliver that item of infrastructure through a comprehensive Masterplanning and Infrastructure Delivery exercise. As for its cost, that would be borne by various landowners/developers and would be divided by reference to a process of equalisation between them. It is not for the Council to dictate the outcome of that (commercial) process. In the event that the Appellants had undertaken that exercise, and sought to discharge their responsibility by paying a contribution for the completion of the CBLR, then, quite properly, that contribution would have to satisfy the tests at Reg. 122 of the CIL Regulations. In principle, those requirements would have been satisfied (as confirmed by Mr Wood in re-examination). In particular, the contribution would be necessary (to make the development acceptable) because the requirements of the Local Plan for that development (as part of the Pickering's Farm Allocation) include the completion of the CBLR (in the same way, for example, that the provision of affordable housing is necessary in order to satisfy the requirements of the Development Plan).

³² It is noted that that would accord with what the Local Plan states at §6.12;

"To help increase capacity and reduce congestion levels on the local roads CIL contributions will be used to provide further transport infrastructure as set out in the Central Lancashire Highways and Transport Masterplan. This includes proposals to upgrade links and junctions on the A582 which runs adjacent to the site, or for widening parts of this route into a dual carriageway."

CBLR. Estimates for the basic construction costs range from £2M to £12.5M. Notwithstanding Mr Alsbury's speculative suggestions from the witness box, the level of other inevitable costs are simply unknown (such as service diversions, land purchase, Network Rail access costs and so on³³). The Appellant advances no evidence to support a conclusion that those costs can all be covered by CIL monies from the Pickering's Farm Allocation.

37. In short;

- the 2021 Masterplan and its associated Phasing and Infrastructure Delivery Schedule fail to make provision for completion of the CBLR in breach of the Local Plan (Policy C1), and,
- significant harm flows from that breach.

38. One of the consequences of the 2021 Masterplan's failings with regard to the incomplete CBLR is the absence of proper east/west connections and what that means for users of the east/west connections that are provided, and in particular, routes to and from the east that make use of the Lanes.

39. At the heart of the approach to that issue in the 2021 Masterplan is, "...an emphasis on turning the existing lanes into sustainable pedestrian and cycle friendly routes"³⁴. In order to achieve that end, the 2021 Masterplan states that, "the vast majority of new vehicular traffic will be prevented from using the existing lanes."³⁵

40. The 2021 Masterplan contains no explanation as to how that is likely to be achieved. The Design and Access Statement ("DAS") contains a plan showing some bollards placed around a junction³⁶. Mr Axon's evidence has sought to augment that (limited) information by showing another arrangement whereby the carriageway of new development roads

³³ all listed in Mr Lloyd's Appendix 7.

³⁴ CD1.16 at p8.

³⁵ *ibid.*

³⁶ CD1.17 at p44.

are narrowed (to the point of allowing only one-way movements) at the intersections between those roads and the Lanes. None of those solutions are designed to, nor would they prevent vehicles from turning from new roads to the Lanes and vice versa.

41. There is likely to be a real incentive to make that manoeuvre. For example, access to Lostock Hall is obviously much shorter by way of the Lanes as opposed to Penwortham Way³⁷.
42. It is only within Mr Axon's Rebuttal Proof that the Appellants have sought to bolster their position with regard to preventing vehicular access to the Lanes by suggesting (for the first time) that those manoeuvres could be prohibited as a matter of law. That suggestion was advanced without any reference to either body who might be responsible for enforcing such a restriction (the police or the County Council). There is no evidence that either body would be able to enforce it.
43. The Appellants recognise (it is implicit in their 2021 Masterplan) that their vision for the Lanes requires the exclusion of new development traffic from them. However, there is a clear risk that the existing Lanes will be used by not only traffic that currently makes use of the Lanes (including commercial vehicles), but also vehicles from the new development who wish to head east and west by the shortest route³⁸.
44. The 2021 Masterplan (whether or not augmented by Mr Axon's evidence) fails properly to address that risk and is deficient³⁹.
45. The lack of proper connections affects other aspects of the 2021 Masterplan. When addressing the subject of "access and movement"⁴⁰, the 2021 Masterplan states that, "Access can be provided for a new or extended bus service servicing the site accessing via Penwortham Way with an internal loop provided to ensure good penetration...". More

³⁷ Mr Stevens' Proof, p62.

³⁸ An example of a failure to validate the vision.

³⁹ Obviously, the Council's safety concerns about the use of Bee Lane bridge are also relevant in considering the adequacy of the Masterplan in addressing satisfactory east/west connections. We address that specific safety issue below.

⁴⁰ on p22 of CD1.16.

recently⁴¹ it has been suggested that buses might gain access to the Appeal Sites via Bee Lane Bridge and stretch of Bee Lane.

46. No satisfactory solution for the introduction of bus services to the Pickering's Farm Allocation is provided in the 2021 Masterplan (or elsewhere) in the event that the other parts of the allocated site do not come forward (thereby preventing the formation of an internal loop). The proposed planning obligation (providing for the submission of a sustainable public transport scheme to the County Council for its agreement) simply defers the issue. The question now is whether or not the 2021 Masterplan properly addresses the provision of satisfactory public transport for the Allocation Site. It does not, and in that respect, the 2021 Masterplan is deficient.

47. Dr Price identifies a series of other concerns about the level of detail within the 2021 Masterplan concerning accommodation mix within each of the character areas, the relationship between new and existing development, and the way in which local context has informed design decisions. Whilst he accepts that each of those matters can be addressed through reserved matters applications, they should have appeared within the 2021 Masterplan (and/or the accompanying Design Code). Failure to address them in sufficient detail up front just increases the risk of disagreement and delay further down the line.

48. In conclusion, the 2021 Masterplan and the Phasing and Infrastructure Delivery Schedule are not acceptable, and their failings mean that Policy C1 is not met.

(B) Risk of Severe Highways Impacts

49. In accordance with paragraph 111 of the Framework;

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

⁴¹ Mr Axon's Proof, §4.27.

50. Paragraph 110 of the Framework lists matters relevant to that assessment. In accordance with paragraph 110, and when considering applications for development, decision-makers should ensure 4 things (at a-d) including that;

- safe and suitable access to the site can be achieved for all users, and,
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

51. Nothing in national policy suggests that significant impacts on the transport network in terms of capacity and congestion (that are not being mitigated) attract limited weight or any less weight than any of the other matters referred to in paragraph 110 of the Framework. Paragraph 110 requires development proposals to address impacts on the transport network in terms of capacity and congestion, just as it requires them to address impacts on highway safety⁴².

52. The approach adopted by the Appellants in assessing the Appeal Schemes' impacts on the highway network appears in their Transport Assessment prepared by Mr Axon and his colleagues ("the TA")⁴³.

53. It departs from the approach adopted by the Appellants' former highways consultants (Croft) who were engaged in connection with the 2 earlier applications (one for 1,100 dwellings on the Appeal Sites, and the other for the remaining section of the CBLR).

54. The TA is dated July 2021. Mr Axon's team sought to make contact with Lancashire County Council in its role as Local Highway Authority ("the LHA") in June 2021. There was no meaningful engagement with the LHA prior to completion of the TA in an effort to agree

⁴² The appeal decision from 2013 for a site in Hartford, Cheshire is of limited relevance (and doesn't affect the application of §'s 110 and 111 of the Framework in these Appeals). A whole series of site specific factors led the inspector and SoS in that case to conclude that the highway network in Hartford would not suffer a severe impact (see §'s 14.38-14.70 in the inspector's report at CD10.44).

⁴³ CD1.68.

the parameters for assessment. It is the parameters applied by Mr Axon that ultimately mean that his analysis cannot be relied upon in reaching a determination on the severity of impact.

(i) Current flows

55. In understanding how the network might be operating when the Appeal Proposals are completed (and generating traffic), the starting point for the analysis is a clear understanding of how the network currently operates. That understanding is gained from surveys⁴⁴.

56. The Appellants' surveys took place in April 2021, during the third national covid lockdown. They are clearly unrepresentative of current conditions. Mr Stevens presents traffic survey results for May 2019, May 2021, and May 2022. Traffic flows on the A582 in May 2021 are substantially lower than in May 2019⁴⁵. By May 2022, those traffic flows have grown when compared with a year earlier. For the AM peak period in particular, they are almost back to May 2019 levels.

57. The Appellants have conducted no further surveys (e.g. in 2022) to verify their reliance on April 2021 traffic levels in their assessment of impacts on the highway network⁴⁶. On the basis of the only evidence of 2022 surveys (i.e. Mr Stevens'), it is apparent that reliance by the Appellants on their April 2021 surveys means that they measure Appeal Scheme impacts against an unrepresentatively low estimation of current use of the local highway network.

(ii) Design Year

58. Existing levels of traffic will continue to grow between now and the point in time when the Appeal Schemes are complete. We address background traffic growth below. If Mr

⁴⁴ Mr Axon's general point about tolerances in respect of such surveys both by reference to human error in the counts (+/- 10%), and daily variations in traffic flows (+/- 15%) do not advance the dispute between the Appellants and the LHA. Given that the tolerances for each of those factors go in both directions (i.e. plus or minus), the proper approach is to proceed on the basis of the survey results.

⁴⁵ well over 10% lower.

⁴⁶ Instead, Mr Axon advances arguments in support of his April 2021 flows (§'s 1.9 and 1.11 of his Rebuttal Proof). None of those arguments addresses Mr Stevens' survey evidence that shows traffic growth between 2021 and 2022.

Axon is right that the only traffic growth that needs to be accounted for (outside of the development traffic itself) are the 6 committed developments, then he is right, the design year is irrelevant. If, however, background traffic growth beyond that generated from only identified committed developments should be accounted for, then the design year is relevant. Background traffic growth increases over time. It will be at a lower level in 2031 when compared with 2035.

59. Accordingly, if background traffic growth is to be factored into the analysis (as the LHA maintains) then an appropriate “design year” should be selected. Whilst the TA refers to 2031⁴⁷, reference to Mr Alsbury’s latest phasing information⁴⁸ confirms that 2035 would be more appropriate. 2035 is the year adopted in the LHA’s assessment.

(iii) Background Traffic Growth

60. Before addressing information produced by the Department for Transport (“DfT”) on the subject of traffic growth, we make the following points;

- (i) the Appellants accept that some traffic growth is likely between now and the 2030’s on the local highway network,
- (ii) the traffic growth that the Appellants accept is associated with new development in the local area, the 6 committed schemes, that will generate traffic using this part of the highway network, and,
- (iii) self-evidently, those 6 committed schemes are not going to be the only developments that generate traffic using this part of the highway network. There are likely to be other new developments in the local area between now and 2035 that also generate traffic, and there will be other developments in the wider area (including within other local planning authority areas) that generate traffic, some of which will use this part of the local highway network.

⁴⁷ albeit it makes no difference to the TA’s analysis since no background traffic growth (beyond that from the 6 committed schemes) is considered.

⁴⁸ his Appendix 2.

61. As a result, an approach which adopts, as a general principle, the assessment of traffic growth that is 'capped' by reference to only a handful of identified committed development (and excludes any other background growth) is likely to under-estimate usage of the highway network in future years.
62. The growth factors produced by Temprow represent the DfT's attempt to forecast future growth. Those growth factors are produced by reference to a series of demographic, economic, and other factors (including likely levels of development). They are relied upon, including by both the LHA and National Highways ("NH") in this case, to give a robust indication of future levels of traffic. There is no obvious justification for dispensing with their application and assuming traffic growth that arises only from a small number of committed schemes in a particular local area.
63. Accordingly, the failure on the part of the Appellants to account for any background traffic growth (beyond that generated by 6 committed schemes) means that their forecast of future conditions on the network is likely to be unrealistic. It will under-estimate levels of traffic in future years.
64. That failure compounds the deficiency caused by using the unrepresentative April 2021 traffic flows as the starting point for the analysis.
65. The LHA has sought to apply Temprow growth rates, albeit adjusted to account for the 6 committed schemes (to avoid "double-counting"). Whilst those growth rates are not current, they are not dissimilar to the current growth rates. They are accepted by NH as appropriate (in their July 2022 letter). More recently released growth rates (August 2022) are not approved for use. Given that they may be subject to revision (before formal release), they should attract limited weight.

(iv) Trip Generation

66. Not only does the Appellants' assessment of highways impact under-state current and future levels of traffic on the network, it similarly under-estimates the levels of traffic that are likely to be generated by the Appeal Schemes.

67. Mr Axon’s approach to assessing likely trip generation relies on a sample of survey data from TRICS. That survey data is drawn from sites around the country including from areas where car ownership levels are lower than in South Ribble. There are relatively high levels of car ownership in the Borough, and perhaps, more significantly, relatively high levels of commuting by car. That feature of South Ribble is likely to be explained by its proximity and access to the motorway network.
68. Mr Axon has not sought to sense check his trip rates (derived from TRICS) with local survey data taken from residential developments in South Ribble. The LHA has undertaken that task, and found that trip generation is greater than assumed by the Appellants⁴⁹. Mr Stevens acknowledges that his 3 surveyed developments are different to the Appeal Scheme, but each of them is close to local facilities, and each of them (being located in South Ribble) enjoys good motorway access.
69. Having determined a level of trip generation by reference to the TRICS database, the Appellants’ approach is to divide those trips by purpose. 3 purposes are identified (commuting, education, recreation/leisure). The exercise of division by purpose (at table 6.2 on page 43 of the TA) is not performed by reference to any local data. It is conducted in reliance on the National Travel Survey. There is no evidence that supports its application to South Ribble.
70. In any event, for at least one category of trip purpose (recreation/leisure), the Appellants have assumed that half of those journeys will be “internalised” (involving no travel off-site at all). It remains unclear how that judgment has been reached given that little is known about the “recreation/leisure” offer that will be provided, for example, at the proposed local centre.
71. The result of the Appellants’ approach is likely to be a level of trip generation from the Appeal Schemes that is artificially low.

⁴⁹ Those trip rates were accepted and used by Croft in their assessment of the Appellants’ 2019 proposals.

(v) Delays Along Selected Routes

72. The TA considered 7 particular routes and sought to calculate the additional journey time for those routes as a result of the Appeal Schemes (based on all of the assumptions addressed above concerning current and future levels of traffic flow and trip generation).
73. That analysis (in the TA) was conducted by reference to morning and evening peak hours for the 7 defined routes. It is clear why the authors of the TA chose consider peak hours. Whilst the TA did not correctly identify the peak hours⁵⁰, the authors (Mr Axon and his colleagues) were aiming to address the impact on the local highway network during the periods of greatest concern to most users of the network (whether, for example, trying to get to and from work, or to school).
74. It is only in Mr Axon's proof that he extends the analysis to other periods during the day. It is of little comfort to the driver or cyclist trying to get to work or school, that the local highway network is relatively uncongested at 11am or 9pm. The fact that journey times are not materially affected for several hours of the day outside of peak times does not render the impact of the Appeal Schemes acceptable (i.e. not severe).
75. More significantly, the assessment of increases in journey times along particular routes does not give a comprehensive impression of the driver experience even along those routes. The increased journey time caused by the Appeal Schemes is not experienced as a constant throughout the journey. Delays will occur at particular points. Those points will include junctions that are already suffering from congestion. It is delays at those junctions that impact on the driver's (or cyclist's) experience. Even with the Appellants' underestimated inputs to the assessment (in respect of existing, future and development traffic), there is likely to be significant delay at particular junctions.
76. The Appellants' assessment⁵¹ provides no way of assessing those localised effects at particular junctions. The LHA's assessment has at least sought to grapple with that issue. Whilst no particular reliance can be placed on specific queue lengths generated by the

⁵⁰ selecting 8-9am and 5-6pm, instead of 7.30-8.30am and 4.30-5.30pm.

⁵¹ including its various sensitivity tests in Mr Axon's rebuttal evidence.

LHA's individual junction analyses (given the instability of the assessment tools once the junction is over-capacity), the LHA's assessments do, at the very least, flag a serious cause for concern, and in particular, across a series of already problematic junctions along the east/west stretch of the A582.

77. If the dualling of the A582 (that is the subject of a current planning application made by the County Council) proceeds, then that significant intervention is likely to address the LHA's (and Council's) concern. However, there is a real risk that the A582 dualling scheme may be delayed, or worse still, fail to proceed.

78. In those circumstances, the LHA's concern is simply not answered by the Appellants' assessment (save to suggest that overall increases in journey times over the entirety of specified routes are not significant⁵²). It leaves the Council (and, with respect, the Inspector and SoS) in the position of not being able to conclude safely that impacts fall below the threshold of severe.

79. Accordingly, it remains the case that the Appellants have failed to demonstrate that the Appeal Schemes avoid a severe impact (in terms of capacity and congestion) on the local highway network in accordance with paragraph 111 of the Framework.

(C) The Safety of Bee Lane Bridge

80. The Appellants propose, and will encourage, a significant increase in the use of Bee Lane Bridge by pedestrians and cyclists. Current levels of use are low⁵³, and there have been no recorded accidents.

81. Whilst Mr Axon estimates an increase of 15 pedestrians and 10 cyclists per hour, it is clear that there could be many more (and that is what the Appellants are aiming for).

⁵² Additionally, the Appellants contend that when faced with unacceptable levels of congestion some drivers will re-route. 2 points fall to be made; (i) existing levels of congestion show that very many drivers do not re-route but rather sit in long queues, and (ii) significant levels of re-routing may, in itself, just spread an unacceptable highways situation over a wider area (including by causing rat-running). Both effects would underscore the need for intervention.

⁵³ typically 10 pedestrians and 5 cyclists per hour (Mr Axon's proof, §8.33).

82. Vehicular usage (according to the Appellants) is currently 30 vehicles per hour (and will include commercial vehicles serving existing houses and businesses). That will increase by reference to the 40 dwellings proposed to be served by access across the Bee Lane Bridge. However, as has emerged in the Appellants' evidence, buses are also likely to cross Bee Lane Bridge, and if the Council's concerns are realised, there may also be traffic seeking to make use of the Lanes for access to and from the main part of the Appeal Sites.

83. The level of use (vehicular and non-vehicular) of Bee Lane Bridge is obviously relevant to an assessment of its safety⁵⁴, for example, significant numbers of cyclists required to share a narrow 2-way carriageway over the Bridge that gives rise to obvious safety concerns. None of the solutions to those concerns advanced by the Appellants have satisfied the LHA⁵⁵.

84. The Council recognises the fact that the Appellants have commissioned a risk assessment of its proposals, but that assessment appears to have proceeded on the basis of the low forecast increases in use of the Bridge. It does not address the position if usage (whether vehicular or non-vehicular) is significantly greater.

85. Accordingly, it remains the LHA's and Council's view that the Appeal Schemes generate an unacceptable risk to highway safety, and as a result, conflict with national policy (paragraph 111 of the Framework) and Local Plan Policy G17⁵⁶.

(D) Non-Delivery of the CBLR

86. Within our submissions on masterplanning we have addressed both the policy requirements for the delivery of the remaining section of the CBLR, and the risks to its delivery caused by the Appeal Schemes. Those submissions are not repeated.

⁵⁴ It was one of the items of information that Mr Pike was provided with in order to conduct his risk assessment (see CD10.84).

⁵⁵ A solution that has not been advanced by the Appellants is the construction of another bridge for non-vehicular traffic.

⁵⁶ Amongst other things, Policy G17 requires new development to avoid prejudice to highway safety. If the Appeal Schemes generate an unacceptable impact on highway safety (in breach of the Framework's paragraph 111), they will necessarily be in conflict with G17.

Conclusion

87. As set out at the beginning of these submissions, there are undoubted benefits associated with a substantial residential-led development that includes a significant number of affordable houses for which there is a particular need. The parties differ as to the weight attaching to some of the benefits, but in the Council's view, breaches of the Development Plan and national policy are not outweighed by those benefits, and request that the Appeals are dismissed.

Ian Ponter,
8 September 2022