



Ministry of Housing,
Communities &
Local Government

Mr Terry Rogan
Rosedene
Grimsditch Lane
Lower Whitley
Cheshire
WA4 4JB

Our ref: APP/D0650/V/24/3352472
Your ref: 22/00569/OUT

9 March 2026

Sent by email only

Dear Terry Rogan

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY SOG LTD
HEATH BUSINESS AND TECHNICAL PARK, HEATH ROAD SOUTH, RUNCORN,
CHESHIRE, WA7 4QX
APPLICATION REF: 22/00569/OUT**

This decision was made by Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of OS Woodward's MRTPI, who held a public local inquiry between 30 September and 21 October 2025 into your client's outline application (with all matters reserved) for planning permission for:
 - i. up to 545 residential units including dwellinghouses (use class C3) and senior living and extra care (use class C2) with ancillary car and cycle parking;
 - ii. ancillary floorspace for flexible E use classes (including office, conference centre, retail, leisure [including food and beverage]), F2 use classes (including meeting places for the local community), and a hotel (use class C1);
 - iii. sui generis use classes including STEAM spaces, a drinking establishment and a vertical farm;
 - iv. the principle of highways access and servicing arrangements; and,
 - v. infrastructure provision, inclusive of a new living machine (emerging wastewater treatment technology), and all other associated works including re-configuration of existing building on site, landscaping, public realm, and biodiversity improvements,

in accordance with application Ref. 22/00569/OUT, dated 23 March 2024.

2. On 19 September 2024, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act (TCPA) 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application be refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. Following a request by the Health and Safety Executive (HSE) on 23 October 2024, the Secretary of State made a direction under section 321(3) of the TCPA 1990 ('the s.321 direction') that the giving of evidence of a particular description or making it available for inspection would be likely to result in the disclosure of information as to matters of national security or the measures taken or to be taken to ensure the security of premises or property; and that the public disclosure of that information would be contrary to the national interest.¹ Accordingly the proofs of evidence, summaries, appendices and written submissions that relate to public safety for this application and application 17/00468/FUL² were only heard and open to inspection by persons listed in Schedule 2 of the s.321 direction. The Inspector's Report and this decision letter will be issued publicly with redactions. The unredacted version will be sent only to parties listed in Schedule 2 to the s.321 direction and must not be shared beyond those persons.

Matters arising since the close of the inquiry

6. A list of representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.
7. An application for a full and partial award of costs was made by SOG Ltd against the HSE (IR1.7). This application is the subject of a separate decision letter.
8. An application for a partial award of costs was made by Halton Borough Council against the HSE (IR1.7). This application is the subject of a separate decision letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be

¹ Issued on 27/01/2025, updated twice on 27/01/2025, and updated on 30/01/2025, 31/01/2025, 07/02/2025, 14/07/2025, 08/01/2026 and 06/03/2026.

² 17/00468/FUL (Demolition of Pavilions clubhouse followed by development comprising 139 dwellings with associated ancillary development at The Pavilions, Sandy Lane, Runcorn, WA7 4EX), also located in the HSE Inner Consultation Zone of Runcorn Chemicals Complex.

determined in accordance with the development plan unless material considerations indicate otherwise.

10. In this case the development plan consists of Halton Delivery and Allocations Local Plan (LP) (adopted March 2022), and the Joint Merseyside and Halton Waste Local Plan (adopted 2013). The Secretary of State considers that relevant development plan policies include those set out at IR5.1-5.20.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance ('the Guidance'), as well as the Planning for Risk Supplementary Planning Document (Risk SPD) (adopted October 2009) (IR5.21-5.25).

Main issues

12. For the reasons given at IR12.1, the Secretary of State agrees with the Inspector at IR12.2 that the main consideration is the extent to which the proposed development raises issues of risk to public safety and the extent to which it is consistent with the Framework and development plan for the area.

Risk to public safety

13. The Secretary of State has carefully considered the Inspector's analysis of risk to public safety at IR12.3-12.77 and IR12.170-12.171, and agrees with the Inspector's approach to this matter. He agrees with the Inspector that there are serious limitations to the quantitative evidence from all sides (IR12.70). He agrees that the HSE's Consultation Zones (CZs) is discredited and the Local Plan CZ is similarly discredited and that there is therefore no 'baseline' of risk (IR12.74). He notes that despite the real world reduction in on-site inventory on the Runcorn Chemicals Complex there have been no material changes or revocations to the Hazardous Substances Consents by the Council (IR12.74), and that the Computational Fluid Dynamics (CFD) model has not been validated (IR12.75). The Secretary of State agrees that there is not a full Quantitative Risk Assessment (QRA) by the applicant considering various scenarios to fully reflect the extent of risk, or explicitly assessing against Dangerous Dose rather than death, and further agrees that there is therefore no fully substantiated evidence before him from either the applicant or the Council that the level of risk would be so low so as to move the application site out of the 'inner zone' of risk, or even the 'middle zone' of risk, as set out in the HSE's methodology. The Secretary of State has taken into account that even within the 'middle zone', the HSE's standard advice is to advise against residential development of the scale proposed (IR12.75). The Secretary of State agrees that the very high societal risk generated by the proposed development is an important consideration but like the Inspector acknowledges that it is not a bar to development on its own (IR12.36).
14. Overall, he agrees with the Inspector that it has not been satisfactorily demonstrated that the potential risks to the future occupants of the proposed development would not be significant, including for death and serious injury (IR12.76 and 12.165). He agrees that in particular, it has not been satisfactorily demonstrated that a [REDACTED] would not cause multiple deaths and injury to the future occupants and users of the application site, at least in certain accident scenarios and prevailing weather conditions. He further agrees that there are also likely further material risks from [REDACTED]. The Secretary of State considers that collectively these matters carry very substantial weight against the

proposal (IR12.165). He agrees with the Inspector that the failure to adequately demonstrate public safety amounts to a conflict with the Framework (IR12.77).

15. The Secretary of State agrees that although the proposal complies with Policy C23 of the LP with regard to public safety, the wider public safety considerations are important material considerations. He also agrees it is material that the relevant Development Plan policy with regard to public safety was likely adopted following misconceptions about its compatibility with HSE methodology, and that its assessment of risk is based on a QRA which lacks credibility (IR12.171).

Principle, brownfield land and accessibility

16. For the reasons given in IR12.78-12.83 and IR12.154, the Secretary of State agrees with the Inspector that the proposed development is supported in principle by the spatial strategy for Halton, which prioritises urban regeneration with a focus on the re-use of brownfield land (IR12.78). He further agrees that the quality and attractiveness of bus and cycle provision from the site to the nearby centres would be improved (IR12.83). The Secretary of State considers that the value of using mostly brownfield land and accessibility improvements together carry substantial weight.

Employment

17. For the reasons given in IR12.84-12.87 and IR12.155, the Secretary of State agrees with the Inspector in his assessment of the economic benefits (IR12.155). The Secretary of State agrees that the proposal complies with Policies CS(R)4 and ED2 of the LP (IR12.87). He further agrees with the Inspector that the economic benefits carry substantial weight, particularly given the deprived nature of some parts of the wider area (IR12.155).

Ancillary facilities

18. For the reasons given at IR12.88- 12.91 and IR12.161 the Secretary of State agrees that the proposed town centre uses would not materially harm existing town centres. He agrees that the provision of retail, leisure and community facilities is also part of the ethos of the proposal, and they would be complementary to the residential and commercial floorspace (IR12.161). He further agrees that the proposal complies with Policies HC1, HC5, HC8 and ED3 of the LP.

Housing

19. For the reasons given in IR12.92-12.94 and IR12.156, the Secretary of State agrees with the Inspector notwithstanding that the application site is not allocated for housing, the provision of the proposed residential part of the development is acceptable (IR12.92). He further agrees that the provision of 25% affordable housing is in excess of the local plan requirement, which does not require affordable housing on brownfield land, i.e. the large parcel (IR12.156). The Secretary of State agrees that the proposal complies with Policies CS(R)12 and CS(R)13 of the LP (IR12.94). Like the Inspector, the Secretary of State places substantial combined weight on the provision of all the types of proposed housing (IR12.156).

Ecology

20. For the reasons given in IR12.95-12.104, IR12.157, IR12.162, and 12.167, the Secretary of State agrees that there would be harm to existing biodiversity (IR12.167), albeit he considers that the proposal would have an acceptable effect on biodiversity, both with

regard to harm to existing biodiversity and the enhancement of biodiversity through the proposal (IR12.103). Like the Inspector, because of the small amount of harm, moderate existing value and proposed mitigation measures he agrees that the harm to existing biodiversity carries limited weight against the proposal.

21. The Secretary of State agrees that there would be extensive new tree and other planting, which offers opportunities to enhance the biodiversity value of the site (IR12.97), and further agrees that the proposal complies with Policies CS(R)20, HE1, HE4, and HE5 of the LP (IR12.104). Like the Inspector, the Secretary of State considers the Biodiversity Net Gain (BNG) of 31.76% carries significant weight in favour of the proposal (IR12.157).

Highways

22. For the reasons given in IR12.105-12.112 and IR12.168, the Secretary of State agrees with the Inspector that the proposal would not have a severe impact on the road network (IR12.112). He agrees there would be an increase in traffic generated by the proposal, which would result in the worsening of congestion, particularly at the Moughland Lane/Heath Road South/Clifton Road junction. He further agrees that mitigation works would respond to this harm, but that there would still be some residual harm from the increase in traffic (IR12.168). The Secretary of State agrees that the proposal complies with Policies C1, C2, HC5, ED2, HE5 and GR2 and Appendix D of the LP (IR12.112). Like the Inspector, the Secretary of State considers that the residual harm from increased traffic carries limited weight (IR12.168).

Green infrastructure

23. For the reasons given in IR12.113-12.117, IR12.158, IR12.169 and IR12.170, the Secretary of State agrees with the Inspector that the proposal would significantly improve public access to greenspace and that it would also improve linkages between greenspace across both the application sites, and towards the existing surrounding greenspaces (IR12.158). The Secretary of State agrees that this carries moderate weight in favour of the proposal.
24. The Secretary of State agrees that the overall provision would meet the required standards for parks and gardens, and that there would also be more natural and semi-natural greenspace, amenity greenspace and children's playspace than currently. However, he further agrees that this would be below the required standards to support the proposed development (IR12.115). The Secretary of State agrees that the proposal complies with Policies CS(R)21 and HE4 of the LP but would not, however, comply with policy RD4 (IR12.117). The Secretary of State agrees with the Inspector that the conflict is minor (IR12.170) and that this should be seen in the context of an existing surplus of provision of such space in Runcorn including the nearby large areas of greenspace at Runcorn Hill Park and the Heath Park playing fields, and children's playground near to both parcels within the playing fields (IR12.115 and IR12.169). Therefore, like the Inspector, he considers the underprovision of natural and semi-natural greenspace, amenity greenspace and children's playspace carries limited weight against the proposal.

Character and appearance

25. For the reasons given in IR12.118-12.127, IR12.159, IR12.166 and IR12.170, the Secretary of State agrees with the Inspector that there would be harm from the loss of several existing Category A and B trees of high amenity value and that there would also be intrinsic harm from the development of green space on the small parcel in a manner

which conflicts with a key characteristic of the Landscape Character Area (IR12.166). The Secretary of State considers there would therefore be conflict with Policies CS(R)18, GR1, CS(R)20, and HE5 of the LP but agrees that these conflicts are minor (IR12.170). Like the Inspector, the Secretary of State considers the impact on views to and from Runcorn Hill would be limited (IR12.166) and agrees the harm to character and appearance carries limited weight.

26. The Secretary of State also agrees that the large parcel would retain its character as a visually cohesive development that nevertheless is compatible with its surroundings (IR12.123) and that the proposal would result in an enhancement of the character and appearance of the large parcel, including with regard to trees and landscape character (IR12.159). While detailed design is a matter for reserved matters stage, the Secretary of State considers that enhancement of the character and appearance of the large parcel carries moderate weight in favour of the development.

Heritage

27. For the reasons given in IR12.128-12.134 and IR12.162, the Secretary of State agrees with the Inspector that the proposal would not harm the significance of designated heritage assets, and that while it would involve the demolition of some 1950s and 60s buildings of moderate local historic and architectural interest, this would be acceptable subject to a record being made of the buildings prior to demolition. The Secretary of State agrees that the proposal complies with Policies CS(R)20 and HE2 of the LP (IR12.134).

Living conditions

28. For the reasons given in IR12.135-12.141, IR12.153 and IR12.163, the Secretary of State agrees with the Inspector that subject to the imposition of condition(s) and the consideration of the detailed design at reserved matters, the proposal would have an acceptable effect on the living conditions of neighbouring residents, and would create acceptable living conditions for the future occupiers (IR12.141). He further agrees it would not unacceptably interfere with the person's right to the peaceful enjoyment of their property (IR12.153). The Secretary of State agrees that the proposal complies with Policies ED2, HC8, HE5, HE7, GR2 of the LP (IR12.141).

Other matters

29. For the reasons given in IR12.142, the Secretary of State agrees with the Inspector that there is no concern with regard to the 'agent of change' principle.
30. For the reasons given in IR12.143-12.153, the Secretary of State agrees with the Inspector's conclusions at IR12.163 that various technical matters with regard to the existing electricity pylons, land contamination, flooding, a hydrogen pipeline and Liverpool Airport could all be dealt with satisfactorily at the condition discharge and reserved matters stages.
31. For the reasons given in IR12.160, the Secretary of State considers, like the Inspector, that renewable energy generation and factors relating to low carbon carry limited weight in favour of the development.

Planning conditions

32. The Secretary of State had regard to the Inspector's analysis at IR11.1-11.13, the recommended conditions set out at the end of the IR and the reasons for them, and to

national policy in paragraph 57 of the Framework and the relevant Guidance. The Secretary of State considers that the Land Use Composition and Coverage Plan (Ref ATC.22.1229.124.r1) should be removed from condition 4 as it relates to the current rather than proposed use of the site. He is otherwise satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing planning permission.

Planning obligations

33. The Secretary of State has had regard to the Inspector's analysis at IR11.14-11.15, the planning obligation dated 3 November 2025, paragraph 58 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR11.14-11.15, he agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 58 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for refusing planning permission.

Planning balance and overall conclusion

34. For the reasons given above, the Secretary of State considers that the application is in minor conflict with Policies CS(R)18, CS(R)20, GR1, RD4 and HE5 of the development plan, but is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

35. Weighing in favour of the proposal is the value of using mostly brownfield land and accessibility improvements which together carry substantial weight; economic benefits and provision of housing which each carry substantial weight; BNG of 31.76% which carries significant weight; improved public access to greenspace and linkages between greenspaces, and enhancement of the character and appearance of the large parcel which each carry moderate weight; and renewable energy generation and factors relating to low carbon which carries limited weight.

36. Weighing against the proposal is the potential risk to the safety of the future occupants of the proposed development in conflict with paragraph 102 of the Framework which carries very substantial weight; and harm to character and appearance, harm to existing biodiversity, residual harm from increased traffic, and underprovision of natural and semi-natural greenspace, amenity greenspace and children's playspace, which each carry limited weight.

37. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the accordance with the development plan, the material considerations in this case indicate that permission should be refused.

38. The Secretary of State therefore concludes that the application be refused.

Formal decision

39. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses planning permission for outline application (with all matters reserved) for planning permission for:

- i. up to 545 residential units including dwellinghouses (use class C3) and senior living and extra care (use class C2) with ancillary car and cycle parking;
- ii. ancillary floorspace for flexible E use classes (including office, conference centre, retail, leisure [including food and beverage]), F2 use classes (including meeting places for the local community), and a hotel (use class C1);
- iii. sui generis use classes including STEAM spaces, a drinking establishment and a vertical farm;
- iv. the principle of highways access and servicing arrangements; and,
- v. infrastructure provision, inclusive of a new living machine (emerging wastewater treatment technology), and all other associated works including re-configuration of existing building on site, landscaping, public realm, and biodiversity improvements,

in accordance with application Ref. 22/00569/OUT, dated 23 March 2024.

Right to challenge the decision

40. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

41. A copy of this letter has been sent to Halton Borough Council and the HSE, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Emma Hopkins

Decision officer

This decision was made by Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State, and signed on his behalf

Annex A - Schedule of representations

General representations

Party	Date
Deborah Groome	8 October 2025
Councillor Margaret Ratcliffe	16 October 2025
Matthew Morris - Heath and Weston Community Voice	16 October 2025
Halton Borough Council	5 December 2025

Richborough



Planning Inspectorate

Report to the Secretary of State

by OS Woodward MRTPI

Inspector appointed by the Secretary of State

Date: 8 December 2025

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION BY

SOG Ltd

HEATH BUSINESS AND TECHNICAL PARK, HEATH ROAD SOUTH,
RUNCORN, CHESHIRE, WA7 4QX



Inquiry opened on 30 September 2025. Site visit on 17 October 2025.

File Ref: APP/D0650/V/24/3352472

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LIST OF ABBREVIATIONS

TERM	DEFINITION/DESCRIPTION
ABL	Atmospheric boundary layer
AH	affordable housing
AIA	Arboricultural Impact Assessment
BNG	Biodiversity Net Gain
BREEAM	Building Research Establishment Environmental Assessment Method
CA	Competent Authority
CBA	Core Biodiversity Area
CEMP	Construction Environmental Management Plan
CFD	Computational Fluid Dynamics
CIL Regs	Community Infrastructure Levy Regulations 2010 (as amended)
COMAH	Control of Major Accident Hazards
cpm	chances per million
CZ	Consultation Zones
D/CR	DENZ and CRUNCH
DD	dangerous dose
DLL	District Level Licensing
DNV	Det Norske Veritas Limited
dpa	dwellings per annum
DRIFT3	Dispersion of Releases Involving Flammables or Toxics v3
EA	Environment Agency
EiP	Examination in Public
FWG	French Working Group
GCN	Great Crested Newts
GMP	Greenspace Management Plan
ha	hectares
HSA	Hazardous Substances Authority
HSC	Hazardous Substances Consent
HSE	The Health and Safety Executive
JR11	Jack Rabbit 11
km	kilometres
LCA	Landscape Character Area
LEMP	Landscape Ecological Management Plan
LNR	Local Nature Reserves
LUP	Land Use Planning
LWS	Local Wildlife Site
m	metres
MEAS	Merseyside Environmental Advisory Service
NE	Natural England
pa	per annum
PEA	Primarily Employment Area

PPG	Planning Practice Guidance
PSZ	Public Safety Zone
QRA	Quantitative Risk Assessment
RCC	Runcorn Chemicals Complex
RA	Risk Assessment
SLOD	Significant Likelihood of Death
SLOT	Specified Level of Toxicity
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SPD	Supplementary Planning Document
SPEN	SP Energy Networks Holdings Ltd
sq m	square metres
SRI	Scale Risk Integral
SSSI	Site of Special Scientific Interest
STEAM	Science Technology Engineering Art and architecture Mathematics
SuDS	Sustainable Drainage Systems
TA	Transport Assessment
TPO	Tree Preservation Order
UDP	Unitary Development Plan
WMP	Waste Management Plan

File Ref: APP/D0650/V/24/3352472

Heath Business and Technical Park, Heath Road South, Runcorn, Cheshire, WA7 4QX

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 19 September 2024.
- The application is made by SOG Ltd to Halton Borough Council.
- The application Ref 22/00569/OUT is dated 23 March 2024.
- The development proposed is for:
 - i. up to 545 residential units including dwellinghouses (use class C3) and senior living and extra care (use class C2) with ancillary car and cycle parking;
 - ii. ancillary floorspace for flexible E use classes (including office, conference centre, retail, leisure [including food and beverage]), F2 use classes (including meeting places for the local community), and a hotel (use class C1);
 - iii. sui generis use classes including STEAM spaces, a drinking establishment and a vertical farm;
 - iv. the principle of highways access and servicing arrangements; and,
 - v. infrastructure provision, inclusive of a new living machine (emerging wastewater treatment technology), and all other associated works including re-configuration of existing building on site, landscaping, public realm, and biodiversity improvements.

Summary of Recommendation: The application be refused

1. PROCEDURAL MATTERS

Call-in

- 1.1 The Inquiry is in relation to planning application Ref 22/00569/OUT that was called-in by the Secretary of State (SoS) for determination on 19 September 2024, using the powers at s77 of the Town and Country Planning Act 1990 (as amended). The SoS is particularly interested in the extent to which the proposed development raises issues of risk to public safety and its consistency with the National Planning Policy Framework (the Framework) and the Development Plan.

S321 Direction

- 1.2 A s321 Direction, dated 27 January 2025, has been made in relation to the application. The Direction concluded that the SoS is satisfied that making public the evidence in relation to public safety would be likely to result in the disclosure of information as to matters of national security or the measures taken or to be taken to ensure the security of premises or property, and that the public disclosure of that information would be contrary to the national interest. The Inquiry was therefore largely held behind closed doors. However, there was one day open to the public which also included a round-table session on all matters not related to matters of national security. I have also provided a redacted version of my Recommendation which can be made public.

Site Visit

- 1.3 The Inquiry was held between 30 September and 21 October 2025. I made an accompanied site visit on 17 October 2025 during which I was driven around the Runcorn Chemicals Complex (the RCC) and after which I undertook an unaccompanied site visit around the application site and surrounding area. The visits included all areas as set out on the agreed site visit route¹ and as discussed during the General Round Table Session at the Inquiry.

Inquiry Documents

- 1.4 A series of documents were submitted during and after the Inquiry, as can be accessed from the links provided at [Annex B](#). I am satisfied that in all cases the material was directly relevant to, and necessary for, my Recommendation. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. My Recommendation is therefore made on the basis of the revised and additional documents.

Environmental Impact Assessment

- 1.5 The application has been screened by the SoS, under Regulation 5(6)(a) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017². It was concluded that considering the nature, scale and location of the proposed development and nature of the receiving environment, whilst there may be some impact on the surrounding area as a result of this development, it would not be of a scale and nature likely to result in significant environmental effects. The SoS thereby directed that this development is not Environmental Impact Assessment development.

Rule 6

- 1.6 The Health and Safety Executive (the HSE) was represented at the Inquiry, with Rule 6 status. Its primary interest and area of evidence was in relation to public safety with regard to the risks to the future occupants of the proposal from the RCC. The HSE is also the statutory consultee³ for the purposes of providing public safety advice in relation to proposals in the vicinity of major hazard sites with Hazardous Substances Consent(s) (HSCs).

Costs Applications

- 1.7 Two applications for costs have been made. The first by the applicant to the HSE. The second by the Council to the HSE. These applications are the subject of separate Recommendations. I particularly note that the applicant has made several claims against the credibility of the HSE⁴. I respond to these within this Recommendation where they relate to the material considerations for the

¹ [ID26](#)

² [ID23](#)

³ Schedule 4, The Town and Country Planning (Development Management Procedure) (England) Order 2015

⁴ See in particular paragraph 38, [ID19.1](#)

application. However, some are more properly considered with regard to the costs regime, and I turn to them in my relevant costs recommendation.

2. THE SITE AND SURROUNDINGS

The Site

- 2.1 The application site consists of two parcels of land. The large parcel comprises the Heath Business and Technical Park (Heath Park) and is 18.51 hectares (ha). There is vehicular access to Heath Park from Weston Point Expressway to the south and Heath Road South to the north. There are also various pedestrian access points along Heath Road South and Lambsickle Lane.
- 2.2 Heath Park is a business, science and technology park. It predominantly comprises long, thin three-storey concrete and brick commercial buildings. There is also a more modern glass and metal two-storey building to the north west corner and some further one and two storey buildings throughout the site, particularly a large 'hub' building to the centre. It has a campus feel and is largely self-contained. However, there is some visual and physical permeability to surrounding areas, in particular along Heath Road South. It is low density with large areas of incidental greenspace and several surface level car parks dotted throughout. Electricity pylons run diagonally north west to south east across the site.
- 2.3 The small parcel is directly adjacent to Runcorn Hill Park and is 4.82 ha. It also sits adjacent to the playing fields on the opposite side of Heath Road South from the large parcel. It is currently grassed open space, albeit privately owned, and there is a continuation of the electricity pylons diagonally through the site.



⁵ Page 6, [SDL01](#)

The Surroundings

- 2.4 To the east of Heath Park is a golf course. To the south west is the predominantly residential area of Weston Village. In this direction there is also a medium sized commercial building directly adjacent to the main access road to Heath Park, and feeling part of the Heath Park campus when experienced on the ground, but outside of the red line. Immediately to the north are residential properties on Heath Drive. Beyond this, and also on the opposite side of Heath Road South to the north west, are playing fields. Beyond the playing fields are the predominantly residential suburbs of Runcorn. The large Runcorn Hill Park adjoins the playing fields slightly further afield to the west and north.
- 2.5 Further to the south and west, on the opposite side of the expressway, are industrial areas, including the large RCC. The RCC is a heavy industry complex including the storage and processing of dangerous chemicals, and is a designated hazardous installation. The RCC is set down steep slopes at a much lower level than the application site, flanked by the Mersey estuary, the River Weaver and a large canal. The relationship of RCC to the application site is one of the key considerations of the application, and I return to this throughout my Recommendation.

Planning Policy Designations⁶

- 2.6 The large parcel is mostly a Primarily Employment Area (PEA), apart from the southernmost part of the access road from the expressway. There are also small areas of Core Biodiversity Areas (CBAs) and designated Greenspaces within the parcel. The green area to the west of the access road from the expressway is partly a designated Greenspace Natural and Semi-natural area and partly a Greenspace Amenity area.
- 2.7 The small parcel is a designated Greenspace Natural and Semi-natural area and Nature Improvement Area. The north west corner is also a CBA and Local Wildlife Site (LWS). A Greenway runs along the eastern boundary of the small parcel and also along Heath Road South to the north west of the large parcel.
- 2.8 The playing fields outside the site to the north and west are designated Greenspace Playing Fields. All the residential areas near to the site are designated Primarily Residential areas.

3. RELEVANT PLANNING HISTORY

- 3.1 Although there is an extensive planning history at Heath Park, none of the previous permissions or applications are particularly relevant to the main considerations for this case. The application and associated appeal in relation to *Pavilions*⁷ has a bearing on my considerations of the credibility of the HSE, as raised by the applicant, and I turn to this as appropriate in my relevant costs recommendation.

⁶ Extract from the policies map is at page 3, [CRM01](#)

⁷ Ref APP/D0650/V/21/3274427

4. THE PROPOSAL

- 4.1 The application is for outline planning permission with all matters reserved. It has been agreed that the following drawings are the formal drawing set for the application:
- Location Plan - Ref 02_001 Rev A⁸;
 - Scale Parameters Plan - Ref 19-02 app 112 G⁹;
 - Overall Planting Scheme - Ref ATC.22.1229.109.r4¹⁰;
 - Proposed Green Infrastructure & Greenspace Plan - Ref ATC.22.1229.121.r8¹¹;
 - Circulation & Connectivity Plan - Ref ATC.22.1229.122.r4¹²;
 - Pylon Meadow – Multi Functional, Green Infrastructure Corridor Plan - Ref ATC.22.1229.123.r5¹³; and,
 - Land Use Composition and Coverage Plan - Ref ATC.22.1229.124.r1¹⁴.
- 4.2 The proposal is for the comprehensive redevelopment of Heath Park on the large parcel to create a residential-led mixed use scheme including commercial, retail and leisure floorspace. Residential development is also proposed on the small parcel, to the north of the electricity pylons.
- 4.3 The total amount of dwellings would be limited by the description of development to 545. The total amount of the combined commercial floorspace could be limited by a condition, as suggested and agreed by the applicant and the Council, to 30,396 square metres (sq m). The proposal is in outline and limited information regarding the layout, design and distribution of the floorspace has been submitted. However, a parameters plan confirms the buildings would be between one and four-storeys on the large parcel, and two-storeys on the small parcel.
- 4.4 Although only illustrative, a drawing¹⁵ has also been submitted which shows that the current intention is that the more modern office building to the north west corner, the large facilities building to the centre of the site, and several ancillary and incidental buildings would be demolished. The long, thin three-storey brick and concrete commercial buildings would be retained and would remain in commercial use, albeit refurbished. A large proportion of the rest of the large parcel would be redeveloped into residential buildings. There would also be retail and leisure buildings each side of a new access road to be created from Heath Road South. Car parking would largely be consolidated into one area to the south east corner of the parcel.
- 4.5 Detailed planting and green infrastructure drawings have been submitted. These show retained and new areas of open space, tree planting, landscaping and water features in the large parcel. This is particularly to the western and eastern boundaries and alongside the access road from the expressway. The area of the

⁸ [PL01](#)

⁹ [PL03](#)

¹⁰ [PL04](#)

¹¹ [PL15](#)

¹² [PL16](#)

¹³ [PL17](#)

¹⁴ [PL18](#)

¹⁵ Illustrative Site Layout Ref 19-02 app 110 F, [PL02](#)

small parcel to the south of the pylons would be retained and landscaped as open space.

- 4.6 For the large parcel, vehicular access would be retained from the south along the existing road from the expressway. Vehicular access would also be maintained to Heath Road South, albeit from a new junction and road alignment. Several pedestrian and cycle access points would be created along Heath Road South, Heath Drive and Clifton Drive. For the small parcel, vehicular access would be provided from Heath Road South. Pedestrian and cycle access would be provided from the existing footpath to the east and from the retained areas of open space to the south of the pylons.



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5. POLICY AND GUIDANCE

The Development Plan

The Halton Delivery and Allocations Local Plan 2022

- 5.1 The Development Plan includes the Halton Delivery and Allocations Local Plan, adopted March 2022¹⁷ (the LP). I set out below my analysis of the policies relevant to my Recommendation. These are the policies considered by the Council and the applicant to be those most relevant for the determination of the application¹⁸ and in addition Policy C4, which is relied upon in the evidence of the HSE.

¹⁶ Page 20, [SDL01](#)

¹⁷ [POL03](#)

¹⁸ Paragraph 8.1, [SOG02](#)

- 5.2 Policy CS(R)1¹⁹ sets out the spatial strategy for the Borough. Five regeneration areas are listed in Part 1 of the policy. One of these is called 'West Runcorn' where the regeneration of brownfield land is encouraged. This area is not defined in the LP so it is unclear whether or not this applies to the application site, however, Part 2 of the policy sets out that the regeneration of brownfield land outside the regeneration areas will also be supported. Part 2 also protects important green infrastructure from detrimental development.
- 5.3 Policy CS(R)3²⁰ sets out a housing need for 350 dwellings per annum (dpa) in the period 2014 to 2037. The delivery is to be from a mixture of completions of pre-existing permissions, allocated sites, and windfall development. At least 30% of residential development should be on brownfield land. Policy CS(R)12²¹ requires a suitable mix of housing. Part 2 of the policy encourages specialist housing for the elderly, including extra care accommodation, in suitable locations. It is confirmed that the affordable housing (AH) requirements will apply for such accommodation where it is for self-contained dwellings. Policy CS(R)13²² requires 25% AH on greenfield developments, at a mixture of 74% social rent and 26% intermediate housing unless otherwise justified. It does not require AH on brownfield sites.
- 5.4 Policy CS(R)4²³ states that the aim is to provide 180 ha of land for employment purposes in the period 2014 to 2037. This includes specific support for science, advanced manufacturing and high tech industries. The delivery is to include land identified as PEAs, which includes the majority of the large parcel of the application site. Part 2 of the policy protects existing employment floorspace within the PEAs unless an alternative use can be proven to be of greater benefit to the Borough. This is to include an assessment of the wider employment land situation in the Borough.
- 5.5 Policy ED2²⁴ finds that within PEAs, development for office and research and development will normally be acceptable. Redevelopment of existing employment areas will be supported where it makes an improvement to the existing employment offer in terms of the quality and type of employment floorspace provided, the quality and type of jobs to be accommodated and the environmental quality of the site. Obligations will be encouraged for the training and recruitment of local people. Part 6 of the policy resists the loss of existing employment floorspace unless demonstrated to be unviable. Policy ED3²⁵ supports small scale complementary services and facilities in PEAs.
- 5.6 Policy HC5²⁶ supports the retention and enhancement of community facilities. It also supports new community facilities in designated centres or the enhancement or extension of existing community facilities as long as they are accessible, would not give rise to highway safety or free-flow of traffic concerns, and are of high

¹⁹ [POL04](#)

²⁰ [POL05](#)

²¹ [POL09](#)

²² [POL10](#)

²³ [POL06](#)

²⁴ [POL19](#)

²⁵ [POL20](#)

²⁶ [POL25](#)

- quality design. Otherwise, new community facilities will be supported where also accompanied by a supporting statement demonstrating the suitability of the proposed location, and that a sequential approach to site selection has been undertaken. Policy HC8²⁷ states food and drink uses will be acceptable provided they do not harm the character of the area, living conditions or public safety.
- 5.7 Policy CS(R)5²⁸ sets out the hierarchy of centres in the Borough. The application site is not within a designated centre. Policy HC1²⁹ states that retail uses should be located in defined centres as set out at Policy CS(R)5. Retail uses in out of centre locations will only be permitted subject to a sequential test to see if there are more appropriate sites in a Primary Shopping Area, and an impact assessment if more than 500 sq m gross floorspace is proposed to find if demonstrable harm to the centres would arise.
- 5.8 Policy CS(R)15³⁰ supports the reduction in the need to travel by car and encourages walking, cycling and public transport, including by ensuring new developments are accessible by such modes of transport. Policy CS(R)22³¹ states that new community facilities should be in accessible locations. Large scale developments should be supported by a Health Impact Assessment. New cultural, sport, recreation and leisure facilities are supported. Policy C1³² states that walking, cycling and public transport should be prioritised where appropriate. The use of Ultra Low Emission Vehicles should be promoted. Proposals must not have an unacceptable impact on highway safety and the residual cumulative impacts on the highway network must not be severe. Appropriate provision for car and cycle parking must be made. Policy C2³³ and associated Appendix D³⁴ set out the car parking standards for the Borough.
- 5.9 Policy CS(R)18³⁵ states that high quality design is a priority for all development. Policy GR1³⁶ also expects high quality design. Policy HE2³⁷ relates to heritage assets. Development in the setting of conservation areas must be based on an analysis of their significance, and must conserve and where possible enhance their setting. Where harm to the setting cannot be avoided, proposals must mitigate the extent of harm to the significance of the heritage asset. The policy also cross-refers to the 'heritage balance' as set out in the Framework.
- 5.10 Policy CS(R)7³⁸ requires development to adequately mitigate or compensate for any deficiencies in infrastructure which it creates. Part 2 of the policy states that all developments will be required to maximise in-situ pollutant attenuation through measures such as Sustainable Drainage Systems (SuDS). Policy HE9³⁹ states

²⁷ [POL26](#)

²⁸ [POL07](#)

²⁹ [POL24](#)

³⁰ [POL11](#)

³¹ [POL16](#)

³² [POL22](#)

³³ [POL23](#)

³⁴ Page 251, [POL03](#)

³⁵ [POL12](#)

³⁶ [POL34](#)

³⁷ [POL28](#)

³⁸ [POL08](#)

³⁹ [POL33](#)

that development will only be permitted where it would not be subject to unacceptable risk of flooding from all sources.

- 5.11 Policy CS(R)19⁴⁰ states that all development should be designed to have regard to the predicted effects of climate change and that it should also reduce carbon dioxide emissions. Building Research Establishment Environmental Assessment Method (BREEAM) 'Very Good' is encouraged for non-residential development.
- 5.12 Policy CS(R)20⁴¹ sets out a hierarchical approach to the protection and enhancement of biodiversity. The hierarchy starts with the Special Protection Area (SPA) and Ramsar sites, then Site of Special Scientific Interest (SSSIs), then Local Nature Reserves (LNRs) and LWSs. Part 2 states that opportunities should be taken to enhance the value of the Borough's natural assets. Part 3 seeks to conserve and enhance the setting of heritage assets. Part 4 states that landscape character will be promoted and sustained.
- 5.13 Policy CS(R)21⁴² relates to the green infrastructure network in the Borough. The network will be protected and enhanced. New development should maximise opportunities to create new green infrastructure and to take account of existing deficiencies of green infrastructure provision and the standards for greenspace provision. The loss of green infrastructure will be resisted where there are identified deficiencies in provision. Part C seeks to protect, enhance and where possible create linkages between natural habitats and landscape features. Policy RD4⁴³ sets out standards for the provision of greenspace to accompany residential development where it is not served by existing accessible greenspace. This includes amenity greenspace, children's space, parks and gardens, natural and semi-natural space, and allotments and community gardens. Any space provided on-site is to be maintained by the developer.
- 5.14 Policy HE1⁴⁴ states that any development that may affect a designated natural asset will be considered in line with the mitigation hierarchy of: avoidance; minimisation; mitigation; and, compensation. It also finds that any development that may cause significant harm to LNRs or LWSs will only be permitted where the benefits of the development clearly outweigh the impact on the nature conservation value of the site and its broader contribution to the ecological network. It must also be demonstrated that no significant harm will be caused to priority and protected species. If significant harm cannot be avoided then appropriate mitigation, replacement and compensatory measures will be required. Development will also only be permitted if it would not have a detrimental impact on non-designated sites and habitats of ecological value, long term management of landscaping is secured, and it would not result in the loss of important features.
- 5.15 Policy HE4⁴⁵ states that all development will be expected to incorporate high quality green infrastructure. This should enhance and link green infrastructure networks, use SuDS, protect and enhance biodiversity, and improve access for

⁴⁰ [POL13](#)

⁴¹ [POL14](#)

⁴² [POL15](#)

⁴³ [POL21](#)

⁴⁴ [POL27](#)

⁴⁵ [POL29](#)

walking and cycling, amongst other factors. Proposals for green infrastructure where there is identified need in the area will be supported. Development that would result in the loss of existing green infrastructure and greenspace will only be permitted where it is demonstrated that it is surplus to requirements in accordance with Policies RD4 and CS(R)21, or if replacement green infrastructure and greenspace is provided of equivalent or better provision.

- 5.16 Policy HE5⁴⁶ finds that permission will not normally be permitted where the proposal would adversely affect trees and woodlands protected by a Tree Preservation Order (TPO) or are within a LNR, LWS or CBA. There is a presumption in favour of retaining all trees and woodlands of visual and landscape value. Where there would be loss, this must be satisfactorily addressed through appropriate mitigation, compensation or offsetting. All proposals must conserve and enhance the local landscape.
- 5.17 Policy CS23⁴⁷ states that pollution should be controlled and minimised, particularly with regard to odour, water, noise and light pollution. Development on potentially contaminated land should ascertain the extent of contamination and development will only be permitted where the land has or will be made suitable for the proposed uses. Policy CS24⁴⁸ encourages good design in new developments to minimise waste and to promote recycling. Policy HE7⁴⁹ states that proposals must adequately mitigate air, noise, odour, light, and water pollution. This includes the effect on living conditions and also on designated nature sites. Land and soil contamination must also be assessed and mitigated. Policy HE8⁵⁰ states that any potential land contamination should be assessed and then remediated as appropriate. Policy GR2⁵¹ states that proposals must protect the living conditions of existing and future occupants.
- 5.18 Part B of Policy CS23 establishes the principle that within identified areas of risk surrounding existing hazardous installations the maximum level of acceptable individual risk should not exceed 10 chances per million (cpm) per annum (pa), and that the population exposed to risk is not increased. The reasoned justification, at paragraph 7.156, confirms that a hazardous installation is as identified under the Control of Major Accident Hazards (Planning) Regulations 1999 (as amended) (COMAH). This includes the RCC.
- 5.19 Policy C4⁵² relates to the operation of Liverpool John Lennon Airport. It states that developments in the vicinity of the airport which increase risk to airport safety will be resisted and that development that would lead to more people living, working or congregating in the Public Safety Zone (PSZ) will not be permitted. The reasoned justification for the policy confirms that the PSZ is based on a risk profile of 10 cpm pa⁵³.

⁴⁶ [POL30](#)

⁴⁷ [POL17](#)

⁴⁸ [POL18](#)

⁴⁹ [POL31](#)

⁵⁰ [POL32](#)

⁵¹ [POL35](#)

⁵² Page 139, [POL03](#)

⁵³ Paragraph 10.33, and expressed as 1 in 100,000

Waste Local Plan

- 5.20 The Joint Waste Local Plan 2013⁵⁴ contains two policies relevant to the application. Policy WM8⁵⁵ states that any development involving demolition and/or construction must minimise waste production and encourage re-use and recycling of materials. Policy WM9⁵⁶ states that the design and layout of new developments must facilitate the collection and storage of waste including recycling.

Supplementary Policy

- 5.21 The Planning for Risk Supplementary Planning Document 2009⁵⁷ (the Risk SPD) says that hazardous installations include COMAH sites and/or those sites with HSCs⁵⁸. The Risk SPD confirms that the advice of the HSE that planning permission be refused should only be overridden after the most careful consideration.
- 5.22 The policies in the LP differ from national advice given by the HSE to planning authorities. The SPD and LP policy are based on a risk of fatality approach. The guiding principles in the SPD⁵⁹ include that 10 cpm pa risk of fatality is where off site risk becomes significant in relation to the potential accident effects from hazardous installations. Also, that appropriate constraints should be imposed on developments near to hazardous installations.
- 5.23 Paragraph 4.11 states that new hazardous installations proposals will be permitted where it can be demonstrated that it would impose no significant development restrictions in terms of off-site accident risk and it has been demonstrated that there is no reasonable alternative. Paragraph 4.16 says that sites which have HSCs and which are inactive will be revoked.
- 5.24 Paragraph 5.7 states that development on land where there is a 10 cpm pa risk or greater from hazardous installations will not normally be permitted. Conversely, Paragraph 5.17 says that development on land where the risk is lower than 10 cpm pa will normally be permitted, from the perspective of planning for risk. Neither societal risk nor dangerous dose (DD) to individuals are explicitly taken into account in the SPD⁶⁰.
- 5.25 Appendix 10 sets out the 10 cpm pa contours around the hazardous installations. The contours are based on HSE consultation zones, work by Det Norske Veritas Limited (DNV), and evidence from several individual planning applications and the relevant supporting material. The zone created by the RCC is set out at page 38. The SPD says that these zones will be updated and revised based on more detailed information on accidental risk, approval of any new HSCs, revocation of existing HSCs, or the modification of any existing HSCs.

⁵⁴ [POL36](#)

⁵⁵ [POL37](#)

⁵⁶ Page 64, Ibid

⁵⁷ [POL38](#)

⁵⁸ Paragraph 2.3, Ibid

⁵⁹ Paragraph 3.1, Ibid

⁶⁰ Paragraph 31, Ibid

National Planning Policy Framework

- 5.26 The Framework is an important material consideration. Paragraph 102 and Chapter 8 are particularly relevant and I refer to them, and other parts of the Framework, as appropriate throughout my Recommendation.

Planning Practice Guidance

- 5.27 Several paragraphs in Planning Practice Guidance (PPG) are important material considerations, in particular within the Hazardous Substances chapter. I turn to specific and relevant paragraphs as appropriate throughout my Recommendation.

6. AGREED MATTERS

Between the Council and the applicant

- 6.1 This section is largely based on the General Statement of Common Ground (SoCG) dated 3 February 2025⁶¹, and the Demographic Change SoCG dated 6 February 2025⁶², both between the applicant and the Council. It is written from the perspective of those two parties.

General

Allocation

- 6.2 The large parcel was put forward as part of the Examination in Public (EiP) of the LP as a mixed-use development site, Draft Policy H9. The small parcel was put forward for residential development, Draft Policy MU10. Neither allocation was included in the adopted LP following advice from the HSE with regard to health and safety.

Principle

- 6.3 The principle of the development is supported. The large parcel is brownfield land and the redevelopment of such land is supported by Policy CS(R)1 of the LP. The small parcel is greenfield land but Policy CS(R)1, whilst prioritising brownfield development, doesn't preclude greenfield.

Proposed uses

- 6.4 The proposed residential dwellings are supported and would contribute towards the Council's housing need.
- 6.5 The proposal would result in an overall increase in employment floorspace on Heath Park. It would also result in the better use of currently under-utilised land, retention of existing science uses, upgrade dated existing floorspace, and the creation of more jobs than as existing. This is in accordance with Policy CS(R)1. Policy ED2 of the LP also supports the specific employment uses proposed, including office, conference centre, Science Technology Engineering Art and architecture Mathematics (STEAM) spaces, and the vertical farm. The proposed

⁶¹ [SOG02](#)

⁶² [RD202](#)

remodelling of the commercial floorspace is therefore supported, despite the proposed reduction in employment land in a PEA.

- 6.6 The proposed retail floorspace would be in an out-of-centre location. A sequential assessment has been undertaken which adequately demonstrates that there are no suitable alternative locations in the centres of Halton Lea or Runcorn Old Town. An impact assessment has been submitted which demonstrates that there would be no significant harm to the centres. The floorspace would also be within walking distance for the future occupiers and users on the site. This floorspace is therefore in accordance with Policy HC1 of the LP and is supported. The retention and enhancement of existing community facilities is also demonstrated.

Green infrastructure

- 6.7 The small parcel is designated natural and semi-natural greenspace that provides a visual and landscape buffer adjacent to the existing residential development. The proposal would result in the loss of a significant proportion of this space. Based on the Illustrative Site Layout⁶³, the loss would be 2.33 ha⁶⁴. There would also be the loss of CBAs on the large parcel, which are also green infrastructure.
- 6.8 The proposed residential development would create a requirement for greenspace provision, as set out at Policy RD4 of the LP. This is for 2.15 ha of parks and gardens, 4.73 ha of natural and semi-natural greenspace, 1.72 ha of amenity greenspace, 0.34 ha children's playspace, and 0.15 ha of allotments⁶⁵.
- 6.9 The proposal includes greenspaces to the south of the pylons on the small parcel, and also within the large parcel to the western part and also along the eastern boundary. This would provide 2.24 ha of parks and gardens, 6.31 ha of natural and semi-natural greenspace including 1.14 ha of new provision and the rest retained, 0.67 ha of amenity greenspace, 0.072 ha of children's playspace, and 0.98 ha allotments and community gardens. Therefore, in quantitative terms, there would be more parks and gardens than as existing and as required, more natural and semi-natural than as existing, and more allotments and community gardens than as existing and as required. However, there would be less natural and semi-natural greenspace, amenity greenspace, and children's playspace than as required.
- 6.10 Nevertheless, there is a surplus of parks and gardens, natural and semi-natural greenspace, and amenity greenspace in Runcorn. In particular, the area around the application site provides significant areas of open space, such as the playing fields and Runcorn Hill Park to the north and west. In addition, qualitatively there would be an improvement the quality and useability of the greenspace, the creation of a direct link between the two parcels and on towards Runcorn Hill Park, and the opening up of 1.7 ha of greenspace land to public use.
- 6.11 As currently set out there would be insufficient children's playspace in an area where there is an existing deficit in such provision. However, the provision of

⁶³ [PL02](#)

⁶⁴ Paragraph 6.114, [CRM01](#)

⁶⁵ Paragraph 6.120, Ibid

such space could be controlled by condition(s) and/or a s106 Planning Agreement.

- 6.12 The proposal would significantly enhance public access to greenspace. As existing, the large parcel is a private area. Significant parts of it would be turned into public open space.
- 6.13 Overall, the proposed development is contrary to the provisions of Policies CS(R)21, HE4 and RD4 of the LP, but the overall principle is acceptable for the reasons set out above.

Biodiversity

- 6.14 The application site includes CBAs and NIAs, in particular on the small parcel. However, the presence of CBAs does not preclude development and can instead provide the opportunity for enhancement.
- 6.15 The proposal is adjacent to the Runcorn Hill Park LWS and LNR. There is the potential for increased recreational pressure on these sites. Funding could be secured through a s106 Planning Agreement for infrastructure at Runcorn Hill Park to manage visitor pressures and maintain the ecological integrity of the sites. A Construction Environmental Management Plan (CEMP) could be secured by condition to manage pollution and disruption risks during construction.
- 6.16 The proposal is likely to lead to the loss of 46 individual trees and 76 groups of trees. Overall, 123 existing trees would be lost, including some under Tree Preservation Orders (TPOs), and 58 retained. By way of compensation, 1.47 ha of new woodland habitat is proposed and the planting of 415 urban trees and 212 fruit trees, totalling 5,855 trees.
- 6.17 There is the potential for loss of habitat for amphibians and harm to Great Crested Newts (GCN) during construction. The applicant has submitted a GCN Impact Assessment, countersigned by Natural England (NE), which confirms that the proposal has been accepted into a District Level Licensing (DLL) scheme ensuring that impacts on GCN would be fully addressed.
- 6.18 The proposal was submitted before the mandatory requirement for 10% Biodiversity Net Gain (BNG) was introduced. The requirement is therefore to achieve 'a' net gain as set out in the Framework. The submitted Biodiversity Metric 4.0 Calculation Tool confirms the proposal would achieve at BNG of 24.28%, rising to 31.76% if including the proposed tree planting, exceeding policy requirements.

Character and appearance

- 6.19 The Greenspace Masterplan Strategy includes enhancement to the landscape and the restoration of key characteristics for the Runcorn Hill and Heath Parkland Landscape Character Area (LCA). For example, through the reinforcement and restoration of hedgerows and tree belts, and creation of new green linkages. The proposed dwellings near to Runcorn Hill would be limited to two storeys, thus not enclosing or restricting key views from Runcorn Hill. There would nevertheless be an incursion into the LCA and there would be conflict with Policy HE5 of the LP.

Access

- 6.20 The proposal has been carefully designed to ensure enhanced accessibility and connectivity with Heath Park, including maintaining and improving connections to the existing greenways. The proposal would therefore encourage walking and cycling, and enhance access to green assets in the locality.

Major accident risk

- 6.21 An independent Risk Assessment (RA) has been undertaken. It concludes that the risks posed to future residents is very low, especially when compared to common everyday risks. The consequence analysis in the RA uses updated data, Computational Fluid Dynamics (CFD) modelling and site-specific context to provide a more precise assessment of risk than that used by the HSEs Land Use Planning Methodology (the LUP Methodology), which has not been updated. The LUP Methodology, for example, does not account for the physical features in the area. The RA is an evidence-based review of the true safety profile of the proposed development.

Technical matters

- 6.22 Land contamination, flood risk, noise, crime reduction, waste management, and air quality are all factors that are suitably responded to by the proposal, or could be adequately controlled by condition(s) and/or a s106 Planning Agreement. A building record report to Level 2 Historic England is required regarding the existing buildings.

Planning balance

- 6.23 There would be conflict with Policy HE4 of the LP because of the loss of the greenspace on the small parcel. There would be conflict with Policy RD4 of the LP because of a shortfall in the provision of natural and semi-natural greenspace and children's playspace. There would be conflict with Policy HE5 due to the loss of protected trees. There would be conflict with Policies CS(R)21 and HE5 of the LP due to loss of strategic greenspace, harm to local landscape, and impact on the NIA.
- 6.24 However, the proposal could be controlled by condition(s) and a s106 Planning Agreement to provide at least partial mitigation to the above harms, for example the provision of children's playspace, compensatory tree planting, and compensatory habitat creation. In addition, there is a healthy surplus of natural and semi-natural greenspace in the Borough, and the application site is easily accessible to existing greenspace.
- 6.25 There are significant benefits arising from the proposal. The creation of a high quality urban village, homes including AH, and commercial floorspace should all be afforded significant weight. The redevelopment of the brownfield large parcel should also be afforded significant weight. The proposal meets, or could be controlled to meet, all technical considerations. There are no concerns regarding living conditions. These should also all be afforded significant weight. The site is in an accessible location and it would meet highways safety considerations. There would be significant economic and regeneration benefits. These are also factors which should be afforded significant weight.

- 6.26 The principle of residential and commercial development has been established through previous permissions, some of which have been implemented. There would be the creation of employment opportunities both during construction and in operation. It would be a low carbon development. There would be a BNG. The development would fall outside the 10 cpm pa risk zone. There are wider socio-economic benefits. The proposal would support healthy environments and have an overall positive effect on health. All these factors should be afforded moderate weight.
- 6.27 Overall, the benefits of the proposal clearly outweigh the harm. It is an exemplar regeneration project that aligns with the strategic objectives of the LP.

Demographic change

- 6.28 The population living within HSE Consultation Zones (CZ) within the Borough has fallen significantly in recent years. This is primarily due to the closure of two chemicals plants in Widnes leading to those CZs being removed. This means that 14,871 people no longer live in a CZ. In addition, there has been a general drop of 2.7% in population in the CZs than remain. The drop was largest in west Runcorn, in the area of the application site. As it stands, 14.4% of the population of Halton live in a CZ. The population in the remaining CZs is likely to continue to decline unless new development is permitted in them.
- 6.29 The falling population is likely to place at risk associated social, economic and community assets. On this basis some new dwellings are necessary to stabilise the local population and promote safe and healthy communities.

Between the HSE and the applicant

- 6.30 This section is largely based on the Use of CFD Modelling Statement of Common and Uncommon Ground (CFD SoCG), dated 15 September 2025 by the HSE and 8 August 2025 by the applicant⁶⁶. It is written from the perspective of those two parties

Basic principles

- 6.31 For all types of modelling, the CFD modeller needs to be qualified, to follow best practices, and to use a validation tool. The French Working Group (FWG) has undertaken extensive work with regard to best practices.

Atmospheric dispersion modelling

Principles

- 6.32 Atmospheric dispersion involves the release of substances into the air and accounts for the way the substances subsequently mix with the air and become distributed in space and time. Two fundamental processes govern the distribution: advection which involves the displacement of the substance by local flow velocity; and, dilution which is controlled by local turbulence and molecular diffusion. Air flow and turbulence are therefore the main engines for distribution of gasses.

⁶⁶ [RD214](#)

- 6.33 Air flow and turbulence are affected by the presence of buildings, terrain features and topography. Air flow can also be modified by the velocity or size of the gas release, gravity, the density of the gas, and the temperature of the gas. The substances themselves can transform between gas and liquid or undergo chemical reactions when in contact with certain surfaces.

Modelling

- 6.34 There are several different modelling approaches to considering atmospheric dispersion. The models relevant to the Inquiry are the integral models DENZ, CRUNCH and Dispersion of Releases Involving Flammables or Toxics v3 (DRIFT3) as used by the HSE, and the Fluidyn-PANACHE CFD model used by the applicant.
- 6.35 Integral models determine plume concentrations by solving equations for the conservation of mass, momentum and energy across the plume cross-section. Atmospheric boundary layer (ABL) profiles consider wind speed, turbulence and temperature, with an assumption that this profile is homogenous in the horizontal direction. Far downwind from the release location, these models transition to Gaussian models. Integral models account for obstacles as an aerodynamic surface roughness that is uniform across the assessed area. They assume the terrain is flat or has a constant slope. They are quick to run but are based on a highly idealised set of assumptions. Features such as obstacles or hills require additional effort to include and the modelling should be tested against experimental data.
- 6.36 CFD models solve equations for conservation of mass, momentum and energy everywhere in the domain of the simulation, breaking the area up into a grid of thousands or millions of individual cells. Velocity, temperature, pressure, turbulence, and mass are calculated for each cell. The models can account for gravity, momentum, heat, topography, obstacles, and chemical reactions. The calculations can change throughout the domain rather than being horizontally homogenous. There are various turbulence models, each with different strengths and weaknesses. The one adopted by Fluidyn is widely used in environmental applications. The advantages of CFD modelling include the ability to consider obstacles and terrain. The disadvantages are that they are expensive, the results are sensitive to the inputs and therefore require skill and experience for the model to be set up correctly, and the validation exercise is labour intensive.

Validation

- 6.37 Validation is critical to demonstrate that a model is fit for purpose. Validation involves identifying the flow physics and then comparing the model to experimental data to test the performance of the model in simulating the flow physics. The standard approach to validation compares model predictions to maximum measured concentrations at given distances downwind from the release point, and to the measured cross-wind plume widths. Measured quantities are taken from dispersion experiments, either outdoor tests or indoors using a wind tunnel.
- 6.38 A statistical approach is taken to assessing performance of the models, considering the overall level of agreement between the models and the experimental data, whether there are tendencies to under or over predict

concentrations, and the degree of consistency of the results. All these factors are important. This is known as Statistical Performance Measurement.

- 6.39 The most important experimental data available for the application modelling are the Jack Rabbit II (JR II) trials, which are the largest scale, most comprehensively instrumented, field scale [REDACTED] experiments conducted to-date. [REDACTED]

Between all three main parties

- 6.40 This section is largely based on the Public Safety SoCG, dated 11 July 2025⁶⁷, signed by all three parties. It is written from the perspective of all three.

Definitions

- 6.41 A hazard is something that has the potential to cause harm. The risk is the likelihood that a person(s) could be harmed. The likelihood is a measurement of the expected occurrence of an event. The consequence is the level of harm caused. Residual risk is the risk that remains after all reasonable practical risk control measures have been taken by the operator.

The site

- 6.42 The proposed residential dwellings would be approximately 1,000 metres (m) from the location of [REDACTED]. The vessels are 20 m above sea level and the elevation of Heath Park is 70 m above sea level.

COMAH Regulations

- 6.43 The Regulations place duties on the operator, the Council and the HSE. The Regulations are enforced by the Competent Authority (CA), which is a combination of the HSE and the Environment Agency (EA). The CA has a duty to inspect the RCC and to examine safety reports submitted by upper-tier COMAH establishments. The Council is responsible for preparing external emergency plans specifying the measures to be taken outside the RCC.

Principle

- 6.44 It is agreed that the risk assessed for the purposes of HSE's land use planning advice is residual risk and assumes that hazardous sites are complying with the COMAH Regulations.

HSCs

- 6.45 The Council is the Hazardous Substances Authority (HSA) and therefore holds the register for all HSCs at the RCC. The HSCs control what hazardous substances the operators on the RCC can store and handle.
- 6.46 The HSA may, by order, revoke or modify HSCs. If this occurs, it must be confirmed by the SoS and compensation may be payable to the operator under

⁶⁷ [RD038](#)

the HSC. PPG states⁶⁸ that the HSA should be pro-active in revoking HSCs that are no longer required, otherwise consultation zones are still likely to apply.

- 6.47 The RCC has undergone change over the past 30 years, with some plant decommissioned and new plant built and operational. This has been carried out under the original and amended HSCs. The operators at the RCC have not offered to relinquish any of their HSCs.

Consultation zones

- 6.48 The proposed development lies outside the Council's 10 cpm pa risk of death policy contour as defined in the Planning for Risk SPD. [REDACTED]
[REDACTED] The HSEs CZs are based on the deemed HSCs for the RCC as of 1994. It is agreed that the allowance to double the entitlement for [REDACTED] has been given up. PPG states⁶⁹ that changes may sometimes be required to CZs and that the HSE will keep the CZs under review.

RCC

- 6.49 Six operating companies are at the RCC and each hold a HSC. In total, these HSCs are for:

[REDACTED]

- 6.50 The current inventory is less than the entitlements of the HSCs set out above. The inventory is based on recent notifications to the CA from the operators. There is disagreement on the current inventory.

The risk

- 6.51 [REDACTED]

Risk modelling

- 6.52 Toxic gas releases can be modelled using Quantitative Risk Assessment (QRA). The QRAs determine numerical values of risk, the two most common being the risk to a specified individual ('individual risk') and multiple fatalities/injuries to groups of people ('societal risk').

⁶⁸ Paragraph: 074 Reference ID: 39-074-20161209

⁶⁹ Paragraph: 078 Reference ID: 39-078-20161209

- 6.53 The HSE uses its LUP Methodology for its QRA. This is based on DD and is calculated on the product of the failure frequency of the scenario, the weather category probability, stability and direction, the probability of an individual being indoors or outdoors, and the occupancy. The risk calculations for all scenarios are summed to obtain the total individual risk. The toxic risk calculations make use of gas dispersion models to predict downwind extents of toxic gas plumes.
- 6.54 The HSEs QRA, based on the deemed HSCs at RCC, forms the basis of its CZs which then underpins the HSEs advice on proposed developments within the CZs.

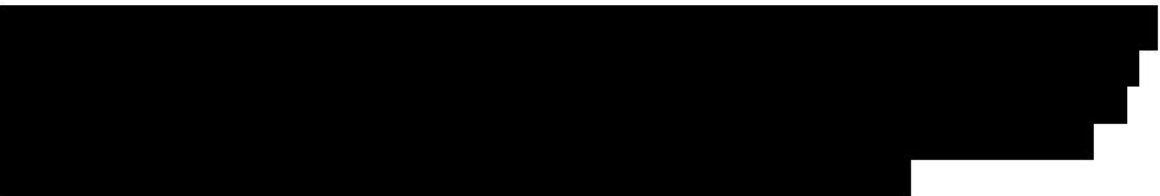
7. THE CASE FOR SOG LTD

- 7.1 This section is written from the perspective of the applicant, and is largely based on its closings⁷⁰, albeit drawing on other evidence as appropriate.

Introduction

- 7.2 The issue before the SoS is whether conflict with the HSEs CZs, which are 30 years old, agreed to be out-of-date, calculated using models that are scientifically unsound, and have been disavowed by the HSE since at least 2004, is a rational basis to refuse planning permission for an application that accords with an up-to-date Development Plan that includes an up-to-date risk policy. The HSE has failed to demonstrate that there are material considerations which justify a decision made otherwise than in accordance with the Development Plan.
- 7.3 The HSEs adherence to the LUP Methodology and reliance on HSCs as opposed to on-site inventory means that its approach is devoid from reality. The HSEs approach of saying that the risk is the same for a fully built out RCC as to a completely cleared site is nonsensical. The HSE accepted⁷¹ that there is no real world risk posed by the RCC.
- 7.4 The HSE has not stated anywhere what evidential basis should be used to conclude that there would be an unacceptable risk to the future occupants of the proposal from the RCC. In the absence of any reliable or up-to-date evidence of the RCC posing an unacceptable risk to future occupiers of the proposal, there is no basis for withholding planning permission. This is the position even before considering our CFD modelling, which only bolsters our case. The CFD work is the only modelling which considers the impact of the slope that creates an over 55 m height difference between the RCC and the application site.

7.5



⁷⁰ [ID19.1](#) and [ID19.2](#)

⁷¹ Under XX

Halton

- 7.6 Halton is the 27th most deprived Borough in the Country. 10 areas within Halton are within the top 3% most deprived areas in England and 26% of Halton's residents live in the top 10% most deprived areas. The decline of manufacturing has left a legacy of obsolete and poor quality land, housing and employment buildings. Transformative development is required to arrest the historic slide of the economic, social and environmental condition of the Borough.

The Proposal

- 7.7 Heath Park has been a great success story and employs over 1,200 people across 120 businesses. However, it is ready for further work to ready itself for the next 30 years. The applicant ran a Royal Institute of British Architects organised International Design Competition. The resulting design has won several awards and accolades, including being one of 35 schemes promoted by the Government's Global Investment Atlas, and the 'Small Masterplans' award at the National Design Awards 2023.
- 7.8 We are in agreement with the Council regarding the benefits of the proposal, and their weightings, which are:
- The diversification of a substantial site into a high quality urban village – significant weight;
 - The effective use of land for a mixed-use proposal that aligns with the character of the surrounding area, and, on the large parcel, use of brownfield land – significant weight;
 - No issues have been raised regarding technical matters such as contaminated land, noise etc, nor has the quality of living conditions for future occupiers – significant weight;
 - The delivery of 545 homes, including AH in excess of policy requirements – significant weight;
 - The reduction in pressure on the release of Green Belt land – significant weight;
 - The application site is in a location accessible by non-car based modes of travel and would ensure connectivity with the wider community – significant weight;
 - Significant regeneration benefits for Runcorn – significant weight;
 - The principle of residential and ancillary commercial development has been established through previous permissions, some of which have been implemented – moderate weight;
 - The creation of employment opportunities both during construction and in operation, in a designated PEA – moderate weight;
 - That it would be a low carbon development – moderate weight;
 - A BNG, which is moderate weight and would be even higher if conditioned so that a 31.67% BNG was secured;
 - That the proposal would be outside the 10 cpm pa contour as set out in the Risk SPD - moderate weight;
 - Socio-economic benefits – moderate weight; and,
 - The support of healthy environments and lifestyles – moderate weight.

- 7.9 The application is a once in a generation opportunity with the potential to bring about meaningful improvements to Runcorn and the lives of its inhabitants. It is a scheme that has the potential to be genuinely transformative for Runcorn. It will deliver something that goes beyond mere policy requirements. It is exactly the type of development that the planning system should be encouraging.

Public Safety

- 7.10 The HSE acknowledges⁷² that the refusal of planning permission could increase the number of people at risk from the RCC. This is because the alternative for the applicant is to increase the occupancy of the existing employment buildings to their maximum levels under the existing planning permissions. This is another example of the HSE not adopting a common sense position. It is also inconsistent by the HSE, because it adopts the 'consent is king' approach to the RCC, but not to Heath Park.

Legal and policy framework

- 7.11 The Development Plan is up-to-date, as agreed by the HSE who did not challenge this position. It includes a policy specifically relating to risk, ie Policy CP23, that underwent the examination process and has been found to accord with all the local and national policy obligations and legal requirements, including Seveso III. There has been no challenge to the lawfulness of the policy. Therefore, the onus is on the HSE to demonstrate why a decision should be made otherwise than in accordance with the Development Plan, ie to demonstrate that there would be an unacceptable risk to public safety.
- 7.12 The Risk SPD is a material consideration, and it sets out the risk contour for 10 cpm pa. A level of individual risk not exceeding 10 cpm pa is therefore an acceptable level of risk for the purposes of determining this application.
- 7.13 Had the Council instead adopted the HSEs CZs for the purposes of its risk policy, that would have been a clear breach of national policy. This is because Paragraph 32 of the Framework requires the preparation and review of all policies to be underpinned by relevant and up-to-date evidence. Even on its own case, the HSEs CZs are out-of-date.
- 7.14 The HSEs LUP Methodology is not a national planning policy. It is the HSEs own internal policy. It also contains a caveat⁷³ that very exceptionally the HSE can depart from the Methodology and can take into account wider factors than a simple strict application of its risk contours. Clearly, there is discretion. However, for this case the HSE has not even considered this and instead has rigidly applied its decision matrix⁷⁴.

Appeal decisions

- 7.15 The previous appeal decisions relied upon by the HSE are distinguishable because none of those situations were dealing with a situation where the HSE had accepted that its CZs were out-of-date and unscientific. In addition, the Heath

⁷² Under XX

⁷³ Paragraph 10, [HSEL14](#)

⁷⁴ Paragraph 35, *Ibid*

Park proposal, similar to The Oval, has an inherent specificity of location because it is a redevelopment project. It cannot take place somewhere else. In any event, the appeal decisions are not binding on the SoS and the decision on our case should be made on the facts before the Inquiry.

What is the risk?

7.16 [REDACTED]. This was stated in the 1993 Dakin Report and a site operator COMAH report from 2020. [REDACTED]

7.17 [REDACTED]

7.18 [REDACTED]

The risk contours/CZs

DENZ and CRUNCH

7.19 The HSE released a report in 2004 which reviewed the models used by the HSE to set CZs. These models are DENZ and CRUNCH (D/CR). The assessment found that D/CR were not scientifically credible, had significant weaknesses, and there was not confidence in their use. 2021 and 2022 reports by HSE confirmed that D/CR had been superseded by DRIFT3. At the Inquiry, the HSE did not positively assert that we should be able to rely upon the D/CR models.

7.20 In addition to general concerns, there is a height difference of over 55 m between RCC and the application site, uphill. The HSE agree that topography will have an impact on how gas is dispersed from the RCC. [REDACTED]. The topography therefore needs to be taken into account when modelling the risks posed by the RCC. D/CR cannot take account of topography. Reference by the HSE to the JR11 trials does not support their use in this regard, because these trials were on flat land. On the other hand, tools such as CFD modelling are capable of accounting for topography. Despite this, the HSE has taken no steps to understand the impact that topography has on risk from the RCC.

⁷⁵ Also referred to as [REDACTED]

⁷⁶ Under XX

Alternatives

- 7.21 DRIFT3 cannot validate D/CR because D/CR are not fit for purpose and because DRIFT3 itself is not yet fully validated. In any event, HSEs own position is that DRIFT3 is not yet ready to replace D/CR. If it were, then it would have done so, and the CZs would have been updated to reflect DRIFT3. In addition, no information is provided regarding this model other than the final outputs, ie the CZ distances it calculates, so we are unable to critique the model. Nor can any reliance be placed on the 2005 HSE review, the Appleton Assessment, because this was not adopted and was not used to change the CZs.

HSCs changes

- 7.22 The HSCs were most recently updated in 2015. [REDACTED]

Overall

- 7.23 The HSE CZs were adopted over 30 years ago, have not been updated since, and have not been kept under regular review. The 2005 review did not result in a change to the CZs. The CZs are not only old but based on the discredited D/CR models and are older than the risk contours set out in the adopted Development Plan that went through public consultation. The CZs are not based on the latest HSCs. We therefore have grave misgivings about relying on the HSEs CZs and it would be irrational to rely upon the HSEs CZs. The HSE has not provided any credible evidence that there is an unacceptable risk to the application site from the RCC.

HSCs versus on-site inventory

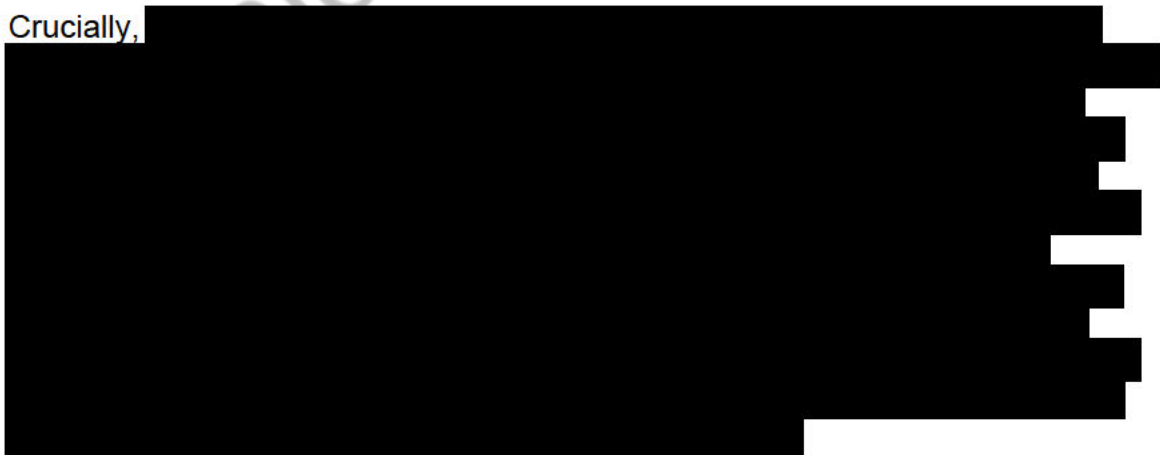
- 7.24 This is not a binary choice between relying on the HSC versus relying on on-site inventory. The correct *approach* is to understand both and then make a judgment on the residual risk posed by the RCC to Heath Park. A different range of scenarios regarding risk need to be considered.
- 7.25 It is impossible to carry out a purely HSC based assessment. For example, [REDACTED]
- 7.26 The 1990s assessments upon which the HSE still rely to determine the CZs do not fully rely upon the HSCs. The Dakin Reports describe the actual process taking place on site, the actual operations and not the maximum amount of substances permitted under the HSCs. They use this actual data to produce risk calculations. The 2005 Appleton Assessment, carried out by the HSE, also made realistic assumptions about how the RCC operates in reality. Therefore, the HSE does not entirely rely on HSCs, and its evidence is contradictory on this point.

- 7.27 The HSE claimed⁷⁷ that its policy has changed and it now relies on the HSCs. However, no evidence has been provided of how or why this policy has changed. This, again, goes to the credibility of the HSEs evidence.

Residual risk

- 7.28 Demolishing or decommissioning plant and equipment is a reasonable practicable risk control measure and a method of eliminating the hazard completely. Such works therefore inform the residual risk.
- 7.29 The HSEs approach is that where there are no real world risks it still considers the risk exists in land use planning terms. The HSEs position is that an area of land where the factory has been demolished, or where it has been actively replaced with a supermarket, poses the same risk as one where the same factory is still operating, as long as they both have the same HSC. This is absurd. It is also not supported by the HSEs own policy. Annex 3 of the LUP Methodology is clear that the HSEs advice should not be based solely on HSCs, and must involve assumptions and site-specific values as necessary. PPG also does not require only consideration of the HSC. It instead says⁷⁸ that HSCs are to be considered but not at the exclusion of all other relevant considerations. PPG also only says⁷⁹ that CZs are likely to still apply where an HSC remains extant, not that it must always be so.

The RCC

- 7.30 The RCC is fundamentally different to as it was at the time of the 1990s assessments which informed the CZs. The one previous operator, ICI, has long since left, to be replaced by several operators. There are a series of 2015 HSCs. There has been extensive decommissioning of plant and equipment. The scale of production has decreased or ceased altogether. The extent of demolition and consolidation is clear. There have been numerous changes, as set out in the COMAH Reports sent to the HSE every five years by the operators.
- 7.31 Crucially, 

⁷⁷ Under XX

⁷⁸ Paragraph: 002 Reference ID: 39-002-20161209

⁷⁹ Paragraph: 074 Reference ID: 39-074-20161209

⁸⁰ Under XX

- 7.32 Despite the risk posed from the RCC to Heath Park being substantially less than when the CZs were drawn, none of these changes have been considered by the HSE.

CFD Modelling

Principle

- 7.33 D/CR and DRIFT3 are all gaussian and integral models which assume that a gas release will follow a standard plume shape. This is impossible at RCC because of the hill between the site and Heath Park. None of these models, therefore, can account for the physical situation at Heath Park and the RCC. The D/CR model relied upon by the HSE produced the CZs that appear to be pencil drawn and are not even depicted over a map of the area given the age of the technology. CFD, however, can model topography. It does so using Navier Stokes equations to solve the physics for gas dispersion, as considered for thousands of different cells across the domain, ie the extent of the model. The difference in quality of the modelling is stark.
- 7.34 We agree with the HSE that the reliability of the outcome of a CFD model is dependent on the experience of the modeller. There is no reason to doubt the experience of Fluidyn. It has extensive experience and works with multiple government organisations around the world. The HSE does not have such experience with CFD modelling, which is unsurprising because the HSE opposes the use of CFD modelling for land use planning purposes in-principle. It is real world experience from Fluidyn versus academic experience from HSE.
- 7.35 Part of this opposition is based on the costs implications to the HSE if CFD were adopted for land use planning. Such costs are not a material consideration for this Inquiry. This position is also not sustainable. It effectively blocks much needed development in Runcorn that could have a genuinely transformative impact on people's lives.
- 7.36 Because of the in-principle opposition to CFD modelling, the HSE did not fully engage with Fluidyn regarding the model in the lead up to the Inquiry, certainly not in a timely manner. The HSE has also not taken advantage of opportunities to fully understand the model, such as the offer of a free six month license to use it.

Areas of dispute

Dry deposition

- 7.37 There is a range of academic opinions on the appropriate dry deposition rate. Fluidyn's assumption of 1 cm/s is conservative and has been validated by the real world Graniteville disaster. The HSE rely upon laboratory work which only considered a small range of plant species and is not reliable for comparison to the real world.

Numerical differencing scheme

- 7.38 Fluidyn use first order for the advection term and second order for the diffusion term. It is widely accepted. It has been validated against Graniteville and JR11. A second order for advection results in instability in the model and would be less reliable, notwithstanding the FWG guidelines.

Grid resolution

- 7.39 The HSE's concerns in this regard are unfounded and were adequately explained under cross-examination. For example, Fluidyn has provided details of the size of the cells used in the mesh.

ABLs

- 7.40 The correct profiles are now provided and fall in the middle of an extreme E and extreme F profile, as has been suggested by Lancome and Truchot⁸¹.

Model variation

- 7.41 The model has been extensively validated. Originally, it was not validated against JR11, because that was held on flat terrain and therefore not particularly relevant. However, Fluidyn has now undertaken this exercise and found the model performed better than DRIFT3.

Experimental data

- 7.42 This is unnecessary and belies HSE's lack of understanding of CFD. The model solves the physics and directly takes into account topography and other modelled obstructions. It does not, therefore, need experimental data in the same way that integral models do.

Best practice guidelines

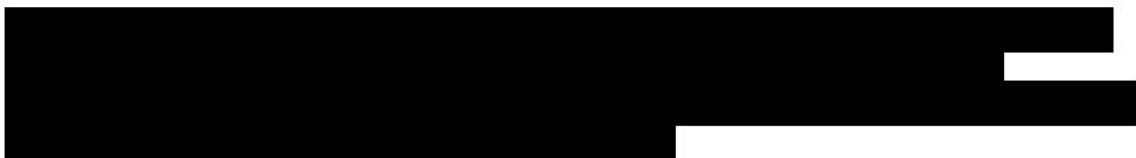
- 7.43 Certain pieces of information were not provided by Fluidyn, and this contravenes some of the FWG guidelines. However, the HSE has said that it would not make agreements in relation to the FWG guidelines because they are from a different country. It is therefore hardly surprising that certain formalities from the guidelines were not provided to the HSE. Our witness is a signatory to the FWG guidelines and there is no doubt that where it actually matters for the purposes of this modelling work, there is compliance with them.

Source data

- 7.44 The HSE's closing make claims regarding the source data and the Blue Book. We reject these claims and the HSE has not provided evidence in support of its position in this regard.

Outcomes of CFD modelling

- 7.45



Alternatives

- 7.46 No alternative CFD models are provided by the HSE. It has simply criticised Fluidyn's work.

⁸¹ [RD390](#)

The Role and Reliability of the HSE

- 7.47 Policy CS23 of the LP is where the Development Plan sets out its assessment of risk. The proposal complies with the policy. The starting point, therefore, is that the level of risk posed to the future occupants of the proposal from the RCC is acceptable.
- 7.48 The HSE do not comment on the planning balance. It is accepted that the HSEs advice can be overridden if it is after the most careful consideration. The HSE wrote to the Council's Planning Committee and this was read out at the Committee, so there can be no doubt that the Council has given the most careful consideration to the HSEs advice.

Credibility of the HSEs position

- 7.49 The HSE has shown itself to be unreliable when considering the level of risk posed by the RCC in relation to both this application and more widely. There are a number of grave inconsistencies which call into question the credibility of the HSE.
- 7.50 The HSEs position at this Inquiry is that since at least 1993 the existing residents living in the inner zone have been at risk of death from the RCC. Yet, from 1993 to 2023 HSE were content that safety cards were issued which only mentioned eye irritation, coughing and breathing difficulty. Even the 2023 revised cards fail to set out the risk the HSE claim exists. This is either a dereliction of the HSEs duty or it has positively sought to mislead the Inquiry about the level of risk.
- 7.51 The HSEs position is that its 2005 review of the CZ was more accurate and found that the CZs should be increased in extent. Therefore, for the past 20 years the HSE has been failing to provide correct advice based on its own LUP Methodology. The RCC HSCs have been revised since 2005 and this has not triggered a review of the CZs, which, as above, is either a dereliction of the HSEs duty or it has positively sought to mislead the Inquiry.
- 7.52 The CZs are based on a methodology, ie D/CR, that since at least 2004 the HSE itself has considered unfit and not fit for purpose. Yet, the HSE is continuing to recommend that the results of the models be relied upon.
- 7.53 The HSE has objected to the Fluidyn CFD Model without taking the necessary steps to understand it. The HSE were offered a six month free license and associated training to learn about and use the software. This was not taken up. It is therefore jarring that the HSE now say that it is unable to recreate the results of the Fluidyn model. The HSE has refused to enter into mediation to discuss this technical issue. It has acted not as a regulator but as an obstructor.

7.54



7.55

[REDACTED] This cannot be explained by probabilities of events, as the HSE has attempted to do so, because they remain the same now as with the Pavilions case.

- 7.56 It is entirely legitimate for the Inspector to question the motives of the HSE for seeking the s321 Direction, with the result being that the public were denied access to the vast bulk of the evidence being presented at the Inquiry. This is particularly so because the HSE raised no objection to several members of the DCBL Stadium team being present at the Inquiry and it allowed for a Councillor to attend the site visit to RCC.

Other Matters

- 7.57 There is extensive existing development surrounding the RCC, some nearer than the application site. If RCC sought planning permission for development that would increase its off-site risk, then it is the existing residential population closer to RCC rather than the proposed development that could restrict it.
- 7.58 There would be no loss of public open space. The greenfield part of the small parcel is privately owned and not open to the public. There would be a loss of natural and semi-natural greenspace, but Runcorn has a healthy surplus of this type of greenspace.
- 7.59 There is no technical evidence to suggest that there is an unacceptable risk from contamination. This matter can be addressed by condition(s).
- 7.60 A range of potential measures are available to mitigate any increases in traffic levels, including signalisation without physical intervention. In addition, the use of the site could be lawfully increase significantly under its existing consent which would also give rise to an increase in traffic levels but with no associated mitigation.
- 7.61 The Merseyside Environmental Advisory Service (MEAS) has confirmed that all ecological surveys are up-to-date, and that an Appropriate Assessment is not required regarding the Mersey Estuary SPA or Ramsar. A BNG of 10% does not apply to the application. Nevertheless, a BNG calculation has been provided, and could be conditioned, proposing a 31.76% BNG.

Conclusion

- 7.62 We have serious concerns about the conduct of HSE both before and during the Inquiry. The regulatory process adopted by the HSE has become divorced from reality. The HSEs position relies on obsolete data, slavish adherence to its LUP Methodology, and is entirely unfit for purpose.
- 7.63 By contrast, our CFD modelling is current, site-specific, and internationally peer respected. It incorporates topography, meteorological data, obstacles, and deposition. The proposed development does not pose an unacceptable risk to public safety. It is the only model before the Inquiry which is capable of describing how an accidental toxic gas release would behave in Runcorn.

- 7.64 The Government's own policy imperative is clear – to build homes, regenerate brownfield sites, and deliver net-zero communities. The proposed development fulfils every one of those aims.

8. THE CASE FOR HALTON BOROUGH COUNCIL

- 8.1 This section is written from the perspective of the Council, and is largely based on its closings⁸², albeit drawing on other evidence as appropriate.

Public Safety

The HSEs CZs

- 8.2 The CZs were drawn over 30 years ago, when RCC was operating in a very different manner to today. The CZs were drawn on the basis of a QRA based on the risks of various accident scenarios based on the information relating to specific facilities present at that time. [REDACTED]

8.3 [REDACTED]

- 8.4 The QRA used dispersion models which the HSE itself has confirmed are 'not scientifically credible' or 'fit for purpose'. The HSE has not sought at the Inquiry to critically assess the models.

- 8.5 The CZs therefore cannot be taken as providing a reliable representation of residual risk. Even if the HSEs position of 10 cpm pa DD were to be adopted as the unacceptable level of risk, it is still not possible to be satisfied that this would affect the proposed development on the basis of the CZs alone.

- 8.6 The HSE states that the CZs might be too conservative on the basis of a review undertaken by the HSE in 2005. However, the 2005 review is clear that the inner zone would not be materially affected. In addition, this review considered the risk from tankers but did not re-visit the validity of the original QRA.

[REDACTED]
8.7 [REDACTED]

In addition, the HSE only considers what would happen if there was an accident, not the probability of the accident occurring in the first place. The evidence is therefore incapable of showing that

⁸² [ID18.1](#) and [ID18.2](#)

there would be an unacceptable level of risk to the future occupants of the proposal.

8.8 In addition,

[REDACTED]

The relevant COMAH Site Safety Report also indicates that the steep hill between RCC and the application site would reduce the impact of an accidental release of this substance.

8.9

[REDACTED]

HSC risk vs actual/inventory risk

8.10 The HSEs position is that the present on-site circumstances are irrelevant because all that matters is what the HSCs permit could be present on the site.

[REDACTED]

8.11 In addition, the HSEs position relies on a misinterpretation of PPG because the guidance only states that the HSEs advice must take account of the HSCs, not that they are the only things that should be taken into account.

[REDACTED] This approach also means that a completely cleared site must be assumed to pose the same risk as a fully operational site.

8.12 The approach conflicts with 'residual risk', which clearly refers to real or actual risk not theoretical risk because it is based on the risk that remains after the operator has done all that is legally required to reduce risk.

8.13 Even if the HSEs interpretation of PPG is correct, this does not prevent the decision taker from taking into account other matters relevant to assessing risk. The real risk is an important material consideration in its own right. At The Oval

⁸³ Ref 14/00449/DEM – Paragraph 56, [RD038](#)

⁸⁴ Ref 18/00574/DEM, Ibid

⁸⁵ Ref 20//00640/DEM, Ibid

⁸⁶ Ref 22/00421/DEM, Ibid

Inquiry, the Inspector considered the likelihood that the level of risk that the HSEs advice was based upon influenced the credibility of that advice, and then used this as a reason to depart from the HSEs advice.

- 8.14 The HSC approach was not adopted when carrying out the QRA which informed the CZs. The assessment was primarily based on matters other than the HSCs, [REDACTED] It is explicitly stated that the CZs are based on an assessment of the site as it currently operates.
- 8.15 The HSEs evidence for this Inquiry is inconsistent on this point. It considers it important to determine credible accident scenarios to model, which could not include a scenario only possible based on the HSC alone and not actual on-site inventory. It also accepted⁸⁷ that it is necessary to consider scenarios that are outwith the HSC, [REDACTED].
- 8.16 The Thornton Park decision does not show whether the Inspector thought planning permission would be required to re-instate the lost storage areas in that case and therefore we do not know if this was part of her considerations.

Policy CS23

- 8.17 The proposal accords with Policy CS23 of the LP because the proposed development is outside the 10 cpm pa risk of death threshold as set out under that policy and the Risk SPD.
- 8.18 This policy, and its predecessor Policy PR12 in the preceding Unitary Development Plan (UDP), was subject to public consultation and independent examination through the Local Plan process. That process necessarily required the Inspectors to be satisfied that the policy met legal requirements, such as the Seveso Directive. The UDP Inspector specifically said that some allowance should be made for housing development on previously developed land in COMAH zones. Although part b) of Policy CS23 is not mentioned in the Core Strategy Inspector's Report, this is just the final stage in the examination process, and it does not mean it wasn't fully considered.
- 8.19 The HSE, although not approving of these policies, also did not sustain its objections, which were withdrawn. The only reasonable conclusion is therefore that the HSE does not think the policies amount to the kind of exceptional concern that it says rises in the current Inquiry.
- 8.20 Part b) of the policy means that there should be no increase in risk to public safety. However, the policy must be read as a whole. It is obvious when having regard to the second bullet point of the policy that part b) cannot mean that no increase in risk at all is acceptable. The policy also says 'minimisation of risk' which is consistent with risk being increased but only to a level consistent with the second bullet point.
- 8.21 The policy does not explicitly state that risk lower than 10 cpm pa risk of death is acceptable but it does describe that threshold as the 'maximum acceptable level of individual risk' which is essentially the same thing.

⁸⁷ Under XX

- 8.22 On a strict reading of the wording of the policy, it relates to proposals in identified areas of risk, which does not apply to the proposed developed part of the application site. However, such an interpretation would be absurd, as it would mean that the policy can only apply to proposals that conflict with it. The 'identified areas of risk' must therefore also include sites outside the 10 cpm pa contour but within the HSEs CZs, such as the application site.
- 8.23 National planning policy and guidance do not identify what constitutes an unacceptable level of risk. The Government expects the HSEs advice to be based on an assessment of 'residual risk' and the most up-to-date information. Whilst the HSEs advice must not be overridden without the most careful consideration, our case is that there is no good reason for determining the application other than in accordance with Policy CS23 on the grounds of public safety.

Risk of fatality versus dangerous dose

- 8.24 There is no reason to doubt that using a risk of fatality measure is incompatible with the Seveso Directive. It is used by Ireland and the Netherlands, both of which are members of the European Union.
- 8.25 It is the HSEs use of risk of DD that is the outlier, as confirmed by the Buncefield Major Incident Investigation Board. The Board says that the use of DD raises several problems, including difficulties in comparing risks, inconsistency of methodology, and integration of societal risk. The Board recommended that the HSE adopt risk of fatality rather than DD. The HSE has not provided any justification for not following this advice.
- 8.26 A 10 cpm pa risk of fatality threshold is entirely consistent with the HSEs Tolerability of Risk framework, which the HSE describe as being 'universally applicable'. The document does state that a stricter approach is justified in the case of new developments around major hazards sites. However, this is a policy judgment that must consider the wider benefits of a proposal. It must therefore be permissible to depart from the stricter approach based on the specific circumstances of the case. 10 cpm pa risk of death is also consistent with the criteria used by the HSE in relation to risk from transportation of hazardous substances, nuclear installations, and around airports.

Societal risk

- 8.27 The Council do not consider it necessary or appropriate to explicitly consider societal risk. Firstly, because it would inevitably consider this as part taking into account HSE advice. Secondly, to do so would make policy unnecessarily complicated and confusing.
- 8.28 The Council is not aware of any incidents of serious injury or deaths beyond the site resulting from the release of toxic gasses at the RCC. There has been only one fatality beyond 350 m as a result of the release of [REDACTED] in the world, and that was in 1939.

The applicant's CFD modelling

- 8.29 Our case does not depend on the SoS placing significant weight on the modelling. However, the modelling provides further reassurance that the risks

posed to the future occupants of the application site would not be unacceptable. This is because the modelling tends to show that, once dry deposition and topography, ie the hill up to the application site from the RCC, are taken into account, the dominant risk scenario [REDACTED]

[REDACTED]

Existing population

- 8.30 The risks that would be faced by the proposed residents and users of the development are the same as those already experienced by existing users of the application site and existing residents in nearby residential streets. The decision at The Oval confirmed that this consideration can be decisive where the risk would otherwise be unacceptable. This is a material consideration for the decision maker but is not taken into account by the LUP Methodology.
- 8.31 It is particularly important to note that the HSE agreed⁸⁸ that the population at the application site at risk could increase if the application is refused.

The LP

- 8.32 The main strategic policy of the LP, Policy CS(R)1, specifically identifies West Runcorn as a key area for the delivery of the LPs regeneration objectives through the redevelopment of previously-developed land – an aim which would be thwarted if the HSE's advice were to be followed here.

Other

- 8.33 The concept of 'agent for change' does not apply because the proposal is not introducing new residential development where none existed before. There are many dwellings much closer to RCC than the application site. Therefore, the extent to which there might be restrictions placed on the operation of the RCC, this arises from the existing residential areas.

Policy

- 8.34 The proposal is consistent with national policy and guidance on public safety. Conversely, the HSEs position is inconsistent with the expectation in Paragraph 102 of the Framework that assessment be based on up-to-date information.
- 8.35 The proposal is generally consistent with the relevant policies of the Framework, in particular the presumption in favour of sustainable development, it will provide more than the minimum of 10% AH required by the Development Plan, it complies with the policies on town centre uses, it accords with the paragraphs on transitioning to a low carbon future, and is a significant development in an accessible location offering a genuine choice of transport modes and avoiding any unacceptable effect on highway safety or severe residual cumulative impact on the road network.

⁸⁸ Under XX

- 8.36 There would be some conflict with policies relating to open space and conserving and enhancing the natural environment. However, set against this is that the s106 Planning Obligation secures a BNG of 31.76%, well in excess of the 'a' gain as required for the proposal.
- 8.37 Overall, the Council considers the proposals compliance with national policy, and in some cases much more than mere compliance, significantly outweighs the limited non-compliance.
- 8.38 Similarly, notwithstanding some areas of non-compliance regarding the impact on open space/recreation and landscape, the proposal is in accordance with the Development Plan when considered as a whole. Moreover, the relevant harms are clearly and demonstrably outweighed by the proposal's very significant benefits.

9. THE CASE FOR THE HEALTH AND SAFETY EXECUTIVE

- 9.1 This section is written from the perspective of the HSE, and is largely based on its closings⁸⁹, albeit drawing on other evidence as appropriate.

The LUP Methodology

- 9.2 HSEs advice is based on its LUP Methodology, as properly applied. This has not been challenged by the applicant or the Council. The LUP Methodology is set out in a number of documents which have been the subject of public review. This approach has been considered at a number of Inquiries and no decisions have been identified where it was suggested that a different approach should be taken. It is recognised in PPG.
- 9.3 The approach was published in 1989 and has been applied consistently since. It is derived from advice from the Royal Society and subsequent HSE documents. There is national and international recognition of the approach, for example the European Union's Joint Research Council, Joint Working Group and the American Institute of Chemical Engineer's Centre for Chemical Process Safety.

Dangerous dose

- 9.4 Society is concerned about the risks of serious injury as well as death. There are also technical difficulties in only using 'death' when taking into account the sensitivity of some of the population to exposure to particular hazards. We therefore adopt the criterion of DD. This approach conforms with PPG to take account the inherent vulnerability of the population at risk and to take account of the risk of serious injury as well as death.
- 9.5 The Buncefield Inquiry's criticism was that it would be easier to compare different criteria of risk if risk of death were adopted rather than DD, it was not a criticism of DD as such. In any event, even if risk of death were adopted this would make little practical difference. For example, the SLOT as modelled by the applicant is effectively DD. Both DD and risk of death can be expressed as a proportion of fatalities. At The Oval case, the Inspector and the SoS found that there were no grounds for dismissing the LUP Methodology or the CZs based upon it.

⁸⁹ [ID17](#)

- 9.6 HSEs approach involves the use of three CZs. This allows for a degree of flexibility as different scales and types of development are acceptable within the different CZs. Our advice is governed by the CZ within which a proposed development is located and the inherent sensitivity of the proposed development. The figure of 1 cpm pa of DD is the lower bound, which is the equivalent of 1 cpm pa risk of fatality for a highly vulnerable person. This aligns with the criteria for generally acceptable everyday risk used by the Royal Society. The upper level of tolerability is set at 10 cpm pa of DD, again equating to 10 cpm pa risk of fatality to a highly vulnerable person. It is important to note that these are boundaries of risk, and the risk profile will vary within each CZ.

Inventory - principle

- 9.7 Demolitions do not affect the HSCs, the entitlements of which remain extant and could be re-instated. The HSCs provide the control over hazardous substances, irrespective of requirements for planning permission. The HSE is unaware of any examples where planning permission has been refused for a proposal that meets the requirements of an HSC on public safety grounds. Demolitions and decommissioning therefore have no effect on the QRA of residual risk.

Risk from RCC

The QRA

- 9.8 The HSE undertook a detailed QRA of the risk arising from the RCC in 1994, which led to the current 3-zone map. The QRA included use of gas dispersion models D/CR, which were developed in the 1970s and 80s. D/CR were appropriate models to use at that time. The models were validated and the validation is available. The HSE acknowledge, however, that they have limitations.
- 9.9 D/CR are being replaced by DRIFT3, which is undergoing extensive validation. The HSE has checked the results of D/CR with DRIFT3 and it found that D/CR tended to underestimate risk. This is not contested by the applicant or the Council. Therefore, the three zones are likely to not be extensive enough and this validates the use of D/CR for the purposes of this Inquiry.
- 9.10 D/CR do not directly take account of topography. There is a hill between RCC and the application site. There is therefore difficulty in assessing the impact with any degree of confidence. Whilst not possible to reach a definitive conclusion, it is likely however that the impact of topography would be limited. [REDACTED]
- 9.11 The HSE considered a wide range of possibilities for each substance, where the HSC allows them to be located, the various mechanisms of failure, and the consequences taking into account weather conditions.

9.12 [REDACTED]

Societal risk

- 9.13 Individual risk only takes account of the likelihood of an individual suffering harm. It does not take account of the potential scale of an event. People are less tolerant of risks which involve multiple casualties. A focus on risk criteria to the individual plays down the scale of potential disasters and the extent of fatalities and harms.
- 9.14 The HSE therefore consider societal risk as well as individual risk, addressed by a Scale Risk Integral (SRI). Addressing societal risk is consistent with PPG and the Council also accept the principle. The SRI for the application is in excess of 500,000, which is a very significant figure. To put this into perspective, the HSE advises against three houses in the inner risk zone and this would have an SRI of 2,500. There is no other location anywhere in Great Britain where a residential development anywhere near the magnitude of that proposed in this case has been approved in an inner zone.

Middle zone

- 9.15 There has been no suggestion by the applicant or the Council that the application site would not sit properly within the middle zone, even if it were not considered to be in the inner zone. The proposal is 20 times larger than the largest development which HSE would not advise against in the middle zone. There has been no suggestion that this is wrong. Therefore, the attempts to argue that the site should not lie in the inner zone do not take the matter further.

The Oval

- 9.16 The Oval case does not help the applicant. It was for the redevelopment of an existing cricket ground not a new development. It was clearly found that if there was not already a cricket ground then it would not have been allowed. There was no option other than to extend the existing ground because it could not be moved elsewhere given its importance as a cricket venue and location in central London. The proposal at Heath Park is not an extension, it is the replacement with a new development which could be placed elsewhere. The Oval is also largely seasonally used, ie in the summer, which did not coincide with the peak hazard, and has a low occupancy which reduced the potential harm overall.
- 9.17 Ram Brewery considered The Oval and, even though they were both relating to gas holders, the Inspector was clear that there was no precedent for development on other instances. The Oval decision concluded that the HSEs expertise is widely acclaimed, and its expertise underlay the evidence of the HSEs witnesses. Therefore, where challenge to the evidence is not well supported by technical evidence or superior expertise, the HSEs evidence should continue to be afforded due weight.

Risk scenarios

- 9.18 Our evidence establishes that the population of the proposed development would be exposed to a high level of residual risk from acute toxic harm. The risks arise from [REDACTED]
- [REDACTED]

9.19

Inventory - principle

- 9.20 As of 1994, the RCC had a deemed HSC. The HSC had a provision to allow doubling of the HSC but it was agreed at the time that arrangements would be put into place to prevent this from occurring. The CZs are therefore based just on the HSC, without doubling. However, the CZs were on the basis of the HSC not what was actually on the site at the time. For example, at Castner Kellner Works the notified levels of substances informed the assessment even though they were much higher than what actually existed on that site at that time.
- 9.21 The Council's position⁹⁰ is that on-site inventory should be what's used to establish risk. PPG is clear that it should instead be the maximum quantity permitted by the HSC. There is no support for an alternative approach. PPG does not direct how the assessment should be undertaken but the principle of using HSC is clear. PPG uses the term residual risk. However, in the context of that paragraph, this is the risk that remains after all legally required measures have been taken to prevent and mitigate the effects of an accident. It does not relate to the on-site inventory.
- 9.22 PPG also addresses how conflicts between HSC and on-site inventory can be approached. It suggests Council's should pro-actively review HSCs to ensure they are still in use and, where redundant, see if they could be given up. PPG also explicitly states that where an HSC is no longer required but still exists whilst this can be a barrier to development, unless it is revoked then the CZs will continue to apply. PPG may only say 'likely to apply' but the overall message is clear that it is the HSCs that establish risk unless and until revoked.
- 9.23 The Council is also the HSA. It has raised the issue of the HSCs with the operators and they have all said they wish to retain the entitlements that they derive from the HSCs. This is so that limitations are not placed on their operations. Nevertheless, it has the power to revoke part or all of HSCs. It could do so and address all the concerns it has with CZs in the Borough. The Council has stated it has not done so because of the fear of paying compensation. However, compensation can only be claimed on a depreciation in value of the land. If there is no scope for operators to increase operations at RCC then there would be no depreciation in value of land and therefore no compensation. Therefore, that the Council has not revoked the HSCs, at least in part, is a clear indication that it does not believe in its own argument.

⁹⁰ Under XX

- 9.24 The Admiral Nelson appeal decision confirmed that the HSC should be used even though one of the four warehouses it was attached to was no longer in use. The Thornton appeal decision specifically concluded that the risk assessment should be made based on the HSC and not on-site inventory. This included in relation to an area where equipment had been removed 14 years ago and the site grassed over. The Council's attempts to distinguish these decisions from the current Inquiry were increasingly desperate.
- 9.25 In addition, the Risk SPD's map of the areas covered by the 10 cpm pa policy are drawn on the basis of the HSC and not on-site inventory. This is clear from the QRA which defined the relevant contour and was confirmed by the Council⁹¹. The Risk SPD also makes it clear that the contour zones should only be revised if there are changes to the HSC. This is consistent with the fact the zones have not been changed by the Council despite the removal of plant and equipment on the RCC.
- 9.26 At the Pavilions Inquiry, the Council withdrew its support for the proposal when its safety witness conceded that if the assessment were to be undertaken using HSC then he would have to advise against allowing the proposal.
- 9.27 The Council stated that there would be a need for planning permission to re-instate the equipment needed to take up the entitlements in the HSC. The Council also stated that it could refuse such applications if they were to give rise to an increase in off-site risk. However, this position is contrary to the Risk SPD, PPG and the previous appeal decisions, all of which would have needed to consider the same proposition. In any event, the Council has not demonstrated that any increase in risk would always require planning permission, eg through permitted development rights. There cannot be certainty that any such permission would be refused which cannot be so, because that would amount to pre-determination of future applications. The Council therefore ultimately conceded⁹² that the requirement for planning permission does not provide grounds for ignoring the HSC.
- 9.28 If the proposal were to be allowed then this might lead to the refusal of planning permissions on the RCC that would otherwise have been approved. This raises serious conflict with the 'agent of change' principle set out in the Framework. Operators at RCC have already communicated their desire to maintain their entitlements. It is also contrary to PPG of the importance to plan strategically for the chemicals industry. RCC is one of only a handful of sites listed as Critical National Infrastructure which makes the need to plan strategically particularly important. The argument that no issue would arise because planning permission would be refused based on existing populations ignores that the issue to be addressed is an increase in risk to Heath Park.
- 9.29 If one were to consider on-site inventory rather than HSCs it would lead to elastic CZs. Stable CZs are advantageous because they avoid placing new development at future risk and protect existing business entitlement.

⁹¹ Under XX

⁹² Under XX

- 9.30 HSCs provide some flexibility. However, if a new toxic substance is introduced into a new location, then an HSC would be required. However, it is not required for minor changes to the amounts and types of substances stored, and nor is it required where a substance ceases to be held in a particular location.
- 9.31 PPG states that CZs might change over time and should be kept under review. However, it does not provide guidance about when CZs should change. The LUP Methodology is clear that it is based on the HSC. The Framework is clear regarding the importance of public safety, as is PPG. There has been no change in Government policy to place less weight on public safety. Paragraph 102 of the Framework provides no advice on how to undertake an assessment of risk.

Revisions to the QRA

- 9.32 In 2005, the HSE reconsidered the three zone map. It was recommended that the CZs be extended to reflect additional hazards. The Council asked HSE to delay revising the map because the Council would resolve the issue with the RCC operators, although it is now unclear that this has been done.
- 9.33 At the Pavilions Inquiry in 2022, further consideration was given to the three zone map, and it was found to remain appropriate. The applicant has not attempted to re-draw the map based on its own evidence and modelling. It has suggested that it expects the inner zone to be drawn tighter, but not precisely where or if this would completely exclude the proposed development. In any event, the applicant has not suggested that the application site would fall outside the middle zone, and the HSE would still advise against development in the middle zone.
- 9.34 The HSE believes, based on COMAH Notifications, that the current inventory at RCC [REDACTED].
- 9.35 There is no alternative three zone map or QRA from the applicant. There is therefore no reason to depart from the HSEs approach.

Accidents

- 9.36 In the past 10 years, there have been two Reporting of Injuries, Diseases and Dangerous Occurrences Regulations [REDACTED] Neither resulted in off-site harm.
- 9.37 [REDACTED] at Aqaba Port in Jordan killed 12 people and injured over 250.

Development Plan

- 9.38 The status of Policy CS23 is uncertain because the main modifications to the LP placed no weight on the policy. The HSE objected to the policy at the examination into the LP⁹³ and to its previous version, Policy PR12 of the UDP which preceded the LP. The objection to Policy PR12 was withdrawn but there is no record as to why. The HSE has in fact consistently raised objections to the Council's approach of deviating from the LUP Methodology.
- 9.39 Policy CS23 was not considered at the examination for the LP because it was a retained policy. It was only into the examination for the UDP that the Inspector(s)

⁹³ Paragraph 61, [RD038](#)

considered the public safety policy. The examination report shows that the Inspector used the lack of HSE objection to support the policy, believing that the policy did not depart from the HSEs approach. It is notable that at the examination into the LP, a proposed allocation for a similar development to that as now proposed was put forward but was removed from the LP because of the public safety risk and the HSE objection.

- 9.40 Policy CS23(b) has two requirements. The first is minimisation of risk to public safety wherever practicable. The proposal would result in more people using the site than as existing and therefore public risk would increase. The second is controlling inappropriate development within identified areas of risk to ensure the maximum level of acceptable risk to the individual does not exceed 10 cpm pa and that the population risk is not increased. The policy applies to identified areas of risk not to areas outside those areas. The identified areas are not set out anywhere in the LP and instead one should use the Risk SPD. The application site falls outside this area and accordingly the policy does not apply to the site. The policy says nothing about what to do outside the areas, so one must fall back on national policy and HSE advice. Policy CS23 and the LP do not, therefore, provide any support for the proposal.
- 9.41 This contrasts with the position at Liverpool Airport where the safety zone is identified and the area covered by the policy is also identified. In addition, the policy does not say 10 cpm pa of what. It does not say that less than 10 cpm pa is acceptable. This is a minimum requirement and differs from the airport policy, Policy PR12, which instead sets out that the Council will not seek a higher level of protection. The second part of the policy must be read in conjunction with the first part regarding risk minimisation and also that the population exposed to risk should not be increased.
- 9.42 The Council has accepted that societal risk is a material consideration. The Council's method for taking this into account is not done with reference to the Development Plan because nowhere in the LP is this covered. It is also not clear on what basis it has undertaken its assessment in this regard. PPG states that particular regard be had to children, older and disabled people. Again, the LP does not consider this. It is therefore necessary to look beyond the Development Plan, which merely sets a minimum requirement.
- 9.43 The Council could not identify any occasion where it had refused permission on public safety grounds on the advice of HSE even though the proposal did not conflict with Policy CS23. This suggests that the Council is misapplying its own policy and confirms that it gives little weight to HSE advice.
- 9.44 Irrespective of the above, the issues raised by the HSE are important material considerations. It is clear that they are of sufficient weight to outweigh any Development Plan support for the proposal.

Other Risks

- 9.45 The nature of the risk, and the public perception of risk, differs greatly from aircraft and airports to major hazards sites. Airports have specific areas of risk control, ie at the ends of runways, rather than omni-directional risks from major hazards sites. The impact of a plane crash is contained to the crash compared to the wider dispersion of toxic gasses. There is no time to escape an aircraft crash

but there is the possibility of emergency action with a gas release. Gas release has a higher risk for vulnerable people compared to the general population. The contribution to national societal risk is smaller from an aircraft crash than the contribution from major hazards sites. Aircraft crashes are conceptually understood by the public along with the wider benefits of air travel.

- 9.46 Transport risks are different from work activity risks. People understand and accept transport risks more than they do risks from major industrial chemical accidents. The magnitude of the potential consequences should a catastrophic event occur at RCC are very large, which also lessens the acceptability of the risk to the public, and makes it inappropriate to make comparison with other types of risk. The Council has received similar advice in the past, when it instructed DNV.

CFD Modelling

- 9.47 The HSE has provided a QRA and one which likely under-estimates risk. It is therefore incumbent upon the applicants to produce compelling evidence that HSE QRA is not to be relied upon. The CFD model provided by the applicant is limited to two scenarios involving [REDACTED] in two different weather conditions. The applicant themselves acknowledges this is not a full QRA that could be used to change CZs. It also accepted⁹⁴ that it cannot demonstrate where the CZs should be.
- 9.48 Validation of the model is not available. This on its own is sufficient to reject this evidence. The FWG guidelines, which the applicant themselves say they were working within, requires validation to be undertaken and then provided to the HSE for review. The validation was provided, by the same modeller, for a previous application at Heath School in 2014. The HSE reviewed that validation and found the model had been conducted in a non-standard manner and that they had been unable to replicate the results. Those criticisms have been accepted by the applicant for the current Inquiry and it has claimed it has been addressed. Nevertheless, in the absence of validation it is not possible to undertake any assessment of the reliability of the CFD model and therefore no weight can properly be put to it.
- 9.49 There are other failures to work within the FWG guidelines. The source conditions are taken from another model, ASSESS_RISK, and a description of the physics of the source model has not been provided. A first order numerical differencing scheme is used, which is well known to cause numerical errors. FWG guidelines allow this, as opposed to second order, but only if proper justification is provided and the impact on the modelling validated. The applicant claims this has been undertaken but it has not been provided to the Inquiry. The ABL profiles needed to be corrected, as acknowledged by the applicant. However, a corrected profile has only been submitted with regard to one of the two weather profiles, and in that case the profile doesn't match the weather condition. In addition, in one set, the inlet and outlet profiles are effectively the same which is unusual in stable conditions and raises questions as to how the profiles were generated.

⁹⁴ Under XX

- 9.50 Whether or not FWG guidelines bind the HSE is not relevant. The applicant claimed its CFD model conformed to the guidelines, but it does not. This brings into question the credibility of the evidence.
- 9.51 There are other concerns with the inputs to the CFD model. The non-physical source conditions could not occur in practice and could artificially dilute the [REDACTED] cloud. The cell sizes are significantly coarser to those used in validation studies, again which will artificially hasten the dilution of the [REDACTED] cloud. The grid sensitivity tests used the same vertical sized cells, whereas this should have been adjusted to measure [REDACTED] nearer the ground. The HSE has no confidence in the outputs of the CFD model.
- 9.52 Dry deposition [REDACTED] needs to be taken into account. However, the ground or surfaces can reach saturation point, particularly where there are very large releases. This makes it difficult to apply results on dry deposition from area to another. The use of a 1 cm/s dry deposition rate by the applicant was based on adjusting inputs in computer modelling to try to determine which rate resulted in the model output best matching observed data. However, this is not a measurement of dry deposition rates and could have reflected other errors in the model. There was also a paucity of data and information about the actual conditions and parameters of the events being simulated.
- 9.53 A more accurate assessment of dry deposition was undertaken by Spicer of the American Government. These experiments actually assessed dry deposition and found the velocity was only one-fifth the lowest figure that is the basis of the applicant's position. In addition, dry deposition is greater on organic surfaces, whereas the applicant's assumed a flat rate across the entire domain.
- 9.54 No-one has suggested there is no risk. The CFD model acknowledges that [REDACTED]

Conclusion

- 9.55 The HSEs position is to strongly advise against the proposed development. This would remain the advice even if it were in the middle zone. As set out in PPG, HSEs advice should not be overridden without the most careful consideration.

10. WRITTEN REPRESENTATIONS

- 10.1 797 objections were made by local residents, including four ward Councillors for Mersey and Weston Ward and Beechwood and Heath Ward, at the planning application stage. Please see the Officer's Report⁹⁵ for a helpful summary of the concerns raised. In short, the principal concerns raised are:
- the proximity of the application site to the RCC and the associated public safety risks;
 - safety risks from the proposed use of a hydrogen power plant;
 - the small parcel is inappropriate for residential development because of contamination, and disturbance of this land could also harm the health of existing local residents;

⁹⁵ Paragraph 5.7, [CRM01](#)

- the application site was not considered appropriate for development in the LP examination, and it is currently allocated for employment use, not mixed-use;
- loss and fragmentation of greenspace, including areas used for grazing horses;
- negative impact on biodiversity and nature;
- harm to the character and appearance of the area, in particular landscape character;
- too high density and insufficient car parking;
- loss of public footpaths;
- loss of protected trees;
- increased air, light, odour and noise pollution and harm to the living conditions of existing residents;
- loss of sunlight, daylight and overshadowing to existing residents;
- disruption during construction;
- increased pressure on local infrastructure such as schools and dentists;
- the risk of increased crime and anti-social behaviour;
- lack of public consultation;
- lack of detail in the supporting drawings and reports; and,
- increase in traffic congestion and reduction in highway safety, including from opening up Heath Drive as a through route.

10.2 Messages of support were also received, welcoming the provision of new housing, the investment in Runcorn, and the associated increases in tax revenue for the Council.

10.3 Several further letters of objection were submitted during the Inquiry process, regarding the same concerns as outlined at the application stage. In addition, Mike Amesbury MP for Runcorn and Helsby County wrote⁹⁶ to support the principle of the proposal but to state that he wishes to see public safety properly explored and wants further information on affordable housing and the approach to the small parcel.

10.4 The operators on the RCC object to the proposal⁹⁷. Their letter states that they operate on an upper-tier COMAH site. They all comply with their obligations to reduce hazards to as low as reasonably practicable. However, this does not equal zero risk and residual risks remain from RCC to the application site. The quantities of hazardous materials that they store on their sites fluctuates, within the parameters of the licenses granted by the HSE. Not all of their sites are fully developed and they are actively looking to implement new developments. They are concerned about any approach which does not take account of the maximum entitlements of their sites, with particular regard to the 'agent of change' principle and the risks to the ability of the companies to diversify and expand. Allowing the planning application has the potential to [REDACTED]

⁹⁶ ID28

⁹⁷ INOVYN Chlorvinyls Limited, Runcorn MCP and Vynova Runcorn Limited – CR44 and ID29

- 10.5 Appearing and speaking at the Inquiry were ward Councillor Margaret Ratcliffe, and local residents as listed at [Annex A](#). The primary concerns raised were public safety with regard to the RCC, the loss of valuable greenspace on Runcorn Hill, potential harm to the living conditions of the existing residents, over-development and design, traffic congestion at the Moughland Road/Heath Road South/Clifton Road/Heath Road junction, contamination on the small parcel, harm to ecology and biodiversity, lack of public consultation, conflict with Article 1 of the Human Rights Act with regard to the right to peaceful enjoyment of property, and lack of confidence that bus routes can be enhanced because they are privately run.

11. CONDITIONS AND PLANNING OBLIGATION

Conditions

- 11.1 In the event that planning permission is granted, the applicant and the Council have agreed a list of conditions which they would wish to see imposed on the planning permission⁹⁸. This was agreed following discussions of a draft conditions schedule at a round-table session at the Inquiry. I have considered the suggested conditions in accordance with Paragraph 57 of the Framework, which states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 11.2 In addition to the standard reserved matters submission condition [\[1\]](#), a condition specifying the relevant drawings provides certainty [\[4\]](#). The time limit for submission of the reserved matters application(s) [\[2\]](#) and for commencement of development [\[3\]](#) conditions are necessary to ensure a reasonable timeline for the completion of the detailed design process and for works to begin on site. Periods of ten and then three years are appropriate because of the large scale, multi-phase nature of the proposal.
- 11.3 The Phasing Strategy condition [\[10\]](#) is necessary to confirm and control the development process for the multi-year, large scale proposal, and to provide a framework for the submission of information under other conditions.
- 11.4 The road layout scheme [\[5\]](#), car parking and visibility splays [\[6\]](#), CEMP [\[11\]](#), Waste Management Plan (WMP) [\[15\]](#), Travel Plan [\[19\]](#), Waste Storage and Collection Plan [\[30\]](#), and commercial floorspace [\[31\]](#) conditions are necessary in the interests of highway safety and the free-flow of traffic.
- 11.5 The Travel Plan [\[19\]](#) condition is necessary to encourage the use of non-car based modes of transport.
- 11.6 The road layout scheme [\[5\]](#), CEMP [\[11\]](#), Remediation Strategy [\[14\]](#), WMP [\[15\]](#), Waste Storage and Collection Plan [\[30\]](#), and commercial floorspace [\[31\]](#) conditions are necessary to suitably protect the living conditions of neighbouring occupiers.
- 11.7 The Noise Assessment [\[7\]](#), dwelling noise mitigation measures [\[27\]](#), WMP [\[15\]](#), Waste Storage and Collection Plan [\[30\]](#), and commercial floorspace [\[31\]](#)

⁹⁸ [ID15](#)

conditions are necessary to suitably protect the living conditions of future occupiers of the proposed development.

- 11.8 The Remediation Strategy [14], CEMP [11], Wetland Infiltration System [13], SUDS [20], Sustainable Development and Climate Change Scheme [22], Health Management Plan [23], Groundwater Risk Assessment [25], Verification Report [28], and unexpected contamination [32] conditions are necessary in the interests of ensuring a satisfactory standard of development with regard to these technical considerations.
- 11.9 The Arboricultural Impact Assessment (AIA) [8], Greenspace Management Plan (GMP) [12], WMP [15], Landscape Ecological Management Plan (LEMP) [21], materials samples [24], Waste Storage and Collection Plan [30], and commercial floorspace [31] conditions are necessary to ensure a high quality of design and to protect and enhance the character and appearance of the area.
- 11.10 The AIA [8], bat [9], CEMP [11], GMP [12], Wetland Infiltration System [13], Site Wide Biodiversity Plan [17], phased BNG [18], LEMP [21], Lighting Scheme [26], scrub/grassland clearance [33], bat license [34] and GCN license [35] conditions are necessary to suitably protect and enhance the biodiversity of the application site.
- 11.11 The Building Record to Level 2 [16] condition is necessary to suitably record the existing heritage significance of the application site.
- 11.12 The SuDS [20] and SuDS Verification Report [29] conditions are necessary to suitably control surface water run-off with regard to surface water flooding.
- 11.13 The road layout scheme, car parking and visibility splays, Noise Assessment, AIA, bat, Phasing Strategy, CEMP, GMP, Wetland Infiltration System, Remediation Strategy, WMP, Building Record to Level 2 and Site Wide Biodiversity Plan [5 to 17] conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Planning Obligation

- 11.14 An engrossed s106 Planning Agreement, dated 3 November 2025 (the s106) and between the Council and the applicant, has been submitted⁹⁹. It secures:
- 25% of the proposed dwellings to be AH, with a split of 50% First Homes, 25% affordable rent and 25% shared ownership. All AH to be practically completed prior to occupation of 50% or more of the market housing;
 - the creation or enhancement of enough habitat on the application site to achieve a BNG of 31.76%;
 - an Employment and Skills Plan;
 - a Highways Contribution of £200,000, to pay towards works to the highway in the vicinity of the application site. In particular:

⁹⁹ [ID24](#)

- o signalised junction improvements and/or physical interventions, eg additional lanes, cycle lanes and pedestrian facilities, at the Moughland Lane/Heath Road South/Clifton Road junction;
 - o new bus stations and access improvements to them;
 - o enhance bus service provision; and,
 - o road crossing improvements;
- a Phasing Plan;
- a Recreation Pressure Mitigation Contribution of £151,652, towards the costs providing, expanding or improving community recreation facilities within five miles of the application site;
- a Transport Contribution of £800,000, towards the costs of off-site transport improvements including busses and cycling upgrades;
- a Tree Replanting Scheme, for the retention of 58 trees, compensatory woodland planting of 1.47 ha, and replacement planting of 415 native urban trees and 212 fruit trees; and,
- the applicant to pay to the Council the Council's proper and reasonable legal costs.

11.15 The Council's CIL Compliance Statement¹⁰⁰ sets out the detailed background and justification for each of the obligations, confirming that it believes them to be compliant with the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regs). I see no reason to disagree and nor does the HSE raise any objection with regard to the s106. I am therefore satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regs and the tests at Paragraph 58 of the Framework, and I have taken them into account.

12. INSPECTOR CONCLUSIONS

Main Consideration

12.1 The Council confirmed at its Development Management Committee in May 2024 that, had it retained the power to do so, it would have approved the planning application¹⁰¹. There are therefore no areas of dispute between the Council and the applicant. However, the HSE objects to the proposal on the grounds of public safety, specifically with regard to the potential risks to future occupiers and users of the proposal from the hazards at the RCC. It is on this basis that the application was called-in by the SoS [[1.1](#), [1.6](#)]

12.2 The main consideration is, therefore, the extent to which the proposed development raises issues of risk to public safety and the extent to which it is consistent with the Framework and the Development Plan for the area.

¹⁰⁰ [ID12](#)

¹⁰¹ Page 4, [CRM02](#)

*What is the risk?*The HSE's QRA [7.16]

12.3 The only QRA that has been undertaken for the RCC is by the HSE. It was based on its published LUP Methodology¹⁰². The QRA was undertaken in 1993 and 1994. Consistent with the LUP Methodology¹⁰³, it sets three CZs around the RCC, depicting different thresholds of risk. The proposed development sits within the 'inner zone' CZ, ie the highest threshold of risk.

12.4 The basis of the QRA are 34 assessments which were undertaken in the early 1990s¹⁰⁴. These are the 1994 Dakin reports¹⁰⁵. The reports considered various scenarios for accidents at the RCC and were based on assumptions including that the RCC had

[REDACTED]

DENZ/CRUNCH [7.19 to 7.20, 7.52, 8.4, 9.8 to 9.12]

12.5 The HSE modelled the outcomes of those accidents using the two integral models D/CR¹⁰⁸.

[REDACTED]

D/CR were both developed in the 1970s and 80s. They have significant weaknesses. Of particular relevance for the application, where there is a steep hill between the RCC and the application site¹⁰⁹, they cannot model for topography¹¹⁰. They can also only account for obstructions on an averaged basis, rather than considering specific obstacles and/or buildings, such as the several large buildings in the vicinity of likely releases of [REDACTED] at the RCC. They do not account for dry deposition, ie the rate at which [REDACTED] would, in effect, stick to the ground or obstacles.

12.6 Computer and modelling technology from the 1970s and 1980s can fairly be considered as archaic. This is illustrated by the plots of the CZs as they were originally drawn¹¹¹ where it appears the technology did not exist to even include an underlying map to the contours, which had to be plotted separately. The HSE themselves no longer consider D/CR to be reliable models. A review of the models¹¹² by the HSE in 2004 found that D/CR perform poorly¹¹³ and in fact were

¹⁰² [HSEL14](#)

¹⁰³ Paragraph 3, Ibid

¹⁰⁴ Paragraph 4, pdf 121 – [RD007](#)

¹⁰⁵ Appendices 03 to 06, Ibid

¹⁰⁶ Summary, Appendix 04, pdf 73 - Ibid

¹⁰⁷ Paragraph 21, pdf 100 - Ibid

¹⁰⁸ Paragraph 7.8, Ibid

¹⁰⁹ Page 8, [RD136](#)

¹¹⁰ There is a basic attempt to account for the hill (see Appendix F, pdf 85 - [RD007](#)) but it is concluded that little confidence can be placed in the results (see F12, pdf 86 - Ibid)

¹¹¹ Appendix 05, pdf page 112 - Ibid

¹¹² Please note that references to TOXIC RISKAT in this document are essentially a proxy to D/CR, as set out at Paragraph 60, [SOGCB03](#) and as confirmed under XX

¹¹³ Paragraph A3-29, Page 23 - Ibid

said to be no longer scientifically credible¹¹⁴ and that there are significant weaknesses in a wider model which uses them¹¹⁵. An HSE report from 2021 confirms that as of then the HSE no longer used D/CR¹¹⁶.

- 12.7 Therefore, the HSEs QRA, which has derived the CZs upon which its advice to this Inquiry rests, is based on modelling which the HSE itself no longer considers to be scientifically credible. This directly informs the HSEs advice, which is based on a decision matrix¹¹⁷ which is itself reliant on a combination of the CZ where the proposed development is located and the sensitivity of the proposal.

DRIFT3 [\[6.34 to 6.35, 7.21, 9.9\]](#)

- 12.8 The LUP Methodology states that CZs should be based on available scientific knowledge updated as new knowledge comes to light¹¹⁸. In this regard, the HSE is in the process of replacing D/CR with the DRIFT3 model. This has not yet taken place and DRIFT3 has not been used to inform a review of the CZs related to RCC. However, an assessment of the RCC using DRIFT3 has been undertaken, although not submitted as evidence to the Inquiry other than the results. DRIFT3 modelling would increase the size of the CZs¹¹⁹. An HSE research paper also finds that DRIFT3 predicts a greater reach [REDACTED] than CRUNCH¹²⁰.
- 12.9 HSE has released several reports assessing DRIFT3. Two general assessments¹²¹ from 2017 and 2022 have concluded that it's predictions generally compared well with experimental data and that it is fit for purpose. Specific assessments, both from 2022, of DRIFT3's ability to model the dispersion of instantaneous release¹²² or continuous releases¹²³ of [REDACTED] both conclude that DRIFT3 is an appropriate tool to model such events. These are the types of events that could occur in the event of a [REDACTED] at the RCC.
- 12.10 DRIFT3 has been validated against the JR11 trials, which were a real-life controlled release of [REDACTED] undertaken in America for the purposes of research. The validation found that DRIFT3 fell within commonly-used dense gas model acceptance criteria¹²⁴. However, there is complexity behind this validation. A detailed review of the JR11 trials found that only one of three different configurations of DRIFT3 modelled within acceptable limits¹²⁵. In addition, and whilst DRIFT3 is an obvious improvement on D/CR, DRIFT3 still does not

¹¹⁴ Page 50, [SOGCB03](#)

¹¹⁵ Page 52, Ibid

¹¹⁶ Paragraph 5.7.13, [RD396](#)

¹¹⁷ Paragraph 39, Ibid

¹¹⁸ Paragraph 3, [HSEL14](#)

¹¹⁹ Under XX

¹²⁰ Paragraph 6.1, page 76 - [HSEL29](#)

¹²¹ [HSEL25](#) and [HSEL27](#)

¹²² Page 7, [HSEL28](#)

¹²³ Page 7, [HSEL29](#)

¹²⁴ Abstract, [HSEL31](#)

¹²⁵ Table 6, pg 63 – [RD394](#). Please note that DRIFT1, 2 and 3 on this table are all different configurations of DRIFT3

account for topography and only uses a uniform surface roughness, two of the key weaknesses of D/CR.

- 12.11 The validation of DRIFT3 is ongoing and it is not a fully validated model. The DRIFT3 modelling has not been presented to the Inquiry. It is not therefore possible to compare in detail to D/CR or to form substantiated conclusions on why DRIFT3 predicts a greater dispersal of chlorine. On the other hand, it is material that a model which has been validated to be fit for purpose, at least in general terms, has made such a prediction.

2005 Appleton Assessment [\[7.21, 7.26, 9.32\]](#)

- 12.12 In 2005, the Appleton Assessment ¹²⁶ was undertaken of the RCC because of changes to the HSCs in 2005. This considered updated HSCs at that time, including additional [REDACTED]. The Assessment concluded that the CZs should be increased in area ¹²⁸, albeit this would merely keep the application site largely in the inner zone. This has not been adopted by the HSE and the CZs remain as they were when first drawn for the original QRA.

The applicant's position

The assessment [\[9.35\]](#)

- 12.13 The planning application was accompanied by a report by Risk and Hazard Management (RAS) ¹²⁹ and as updated in 2024 ¹³⁰. The reports review the major hazard risk information. They are a critique of the HSEs QRA and are not QRAs in their own right. The Dakin reports found that the primary driver of risk was from [REDACTED]. The RAS reports also find that the CZs are too large because they have been based on several areas of conservatism, in particular being unable to account for topography, deposition, obstructions and weather conditions. The more recent report also highlights concerns with the D/CR modelling.
- 12.14 The RAS report therefore recommended that a bespoke CFD model be undertaken to properly assess risk. This has been undertaken by the applicant, in a CFD model by Fluidyn ¹³². The model considers two accident scenarios – [REDACTED]. Both scenarios were considered under two meteorological conditions, both of which were for wind from the south west blowing [REDACTED] from the RCC towards the application site.

¹²⁶ Appendix 7, [RD007](#)

¹²⁷ Paragraph 9, pdf 122 – Ibid

¹²⁸ Paragraph 35, pdf 126, Appendix 7 – Ibid

¹²⁹ [SDL21](#)

¹³⁰ [SDL35](#)

¹³¹ These are referred to as the 4" pipes in most documentation

¹³² [RD212](#)

Condition F2 is for light wind and D5 is for stronger wind. They were also both considered with and without deposition.

12.15 The results¹³³



The CFD model [\[7.33 to 7.45, 9.47 to 9.54\]](#)

- 12.16 The CFD model has several advantages over D/CR modelling, and integral modelling in general. A domain has been created which is split into 852,780 individual cells¹³⁵. It then uses computer software to simulate complex mathematical equations to approximate the dispersion of gasses within each cell throughout the domain. This allows for the model to take account of topography, ie the hill between RCC and the application site. It can model specific obstacles, for example some, but not all, the buildings in the vicinity of the release scenarios¹³⁶. It can better account for deposition.
- 12.17 However, it is this very specificity which also creates weaknesses. For example, specific obstacles, ie buildings, might change over time and if this occurred, the CFD model would not have taken this into account. The model is also sensitive to its inputs. Small changes in the assumptions and parameters used to set-up the scenarios can have big effects on the predicted dispersion of the gasses. The HSE has raised concerns with several elements of the CFD model, which I consider below.
- 12.18 There are a variety of technical inputs for both scenarios, for example chemical temperature on release, pressure of release, length of release etc¹³⁷. However, these do not always correlate with scenarios set out in recent COMAH reports, for example the pressure for Scenario 6 is set at 1.5 bars not 10 bars and the release duration at 60 seconds not five minutes¹³⁸. This immediately lessens confidence in the outputs, ie predictions, of the model.
- 12.19 The CFD model assumes a deposition rate of 1 cm/s¹³⁹. A United States Government review of the Graniteville, South Carolina  accident¹⁴⁰ found that a dry deposition rate close to 1 cm/s was the most

¹³³ Page 32 onwards, [RD212](#)

¹³⁴ Page 38 onwards, *Ibid*

¹³⁵ Table 6, page 20 – *Ibid*

¹³⁶ Figure 5, *Ibid*

¹³⁷ Tables 3 and 4, *Ibid*

¹³⁸ Compare Appendix 3, pdf 207 - [RD170](#) with Tables 3 and 4, [RD212](#)

¹³⁹ Paragraph 46, page 10 – [RD009](#)

¹⁴⁰ [RD208](#)

accurate¹⁴¹. An academic paper in 2008 found¹⁴² that integral models¹⁴³ significantly over-predict deaths and injuries as a result of dense-gas clouds. This is said to be largely due to under-estimating deposition. On the other hand, an academic paper¹⁴⁴ based on a laboratory experiment found that deposition values might generally be too high in models. Given that the real world data from Graniteville is similar to this adopted rate, and that the experiment that found deposition should be lower was only in a laboratory, this is a reasonable assumption, despite the data from the academic paper.

- 12.20 However, the rate assumed is by necessity an approximation, for example there is a different proportion and type of vegetation in Runcorn to South Carolina and at a certain level the surfaces can become saturated thus reducing the rate of deposition. Therefore, a degree of flexibility must be read into the results.
- 12.21 The CFD model uses 1st order numerical differencing. It is common ground that this is less intrinsically accurate than 2nd order numerical differencing. It was explained by the applicant that the use of 1st order differencing was because this provides more stable results. I have no reason to doubt this and the reasoning was confidently explained during cross-examination. However, it adds another layer of uncertainty to the results.
- 12.22 The domain of the CFD model is split into a mesh. The finer the mesh the more accurate the results, and the larger the mesh the more the [REDACTED] will be artificially diluted¹⁴⁵. The mesh varies in size depending on where it is in the domain and what is being measured. It is particularly important to understand the mesh with regard to the accuracy of accounting for topography, ie the hill between the RCC and the application site. It was agreed under cross-examination that the size of the vertical mesh is more important than the horizontal mesh, that it is important to sensitivity test this, and that this has not been done. The applicant's claim¹⁴⁶ the approach of 50 cm high cells is conservative because it allows dispersion more quickly in the model but this statement has not been validated. The HSE claims¹⁴⁷ that the larger cells actually mean that the modelling artificially hastens dilution of the [REDACTED] cloud.
- 12.23 Concerns were also raised by the HSE regarding how the atmospheric boundary layer was modelled, as well as the temperatures assumed for the [REDACTED] amongst other factors. These topics, as with those already considered, are highly technical. Convincing arguments were put forward by the applicant in defence of the CFD model and by the HSE in its criticism. I am not an expert in CFD. Thankfully, though, the precise brush strokes of these considerations are secondary to the bigger picture they paint. The outcomes, ie dispersion distances [REDACTED], of the CFD model are undeniably sensitive to its inputs and assumptions. There is legitimate doubt about many of them, which reduces the weight that can be applied to its results. This weight could be increased in two

¹⁴¹ Pages 2, 21 and 22 - [RD208](#)

¹⁴² Abstract, [RD441](#)

¹⁴³ The paper didn't consider them specifically, but D/CR and DRIFT3 are integral models

¹⁴⁴ [RD086](#)

¹⁴⁵ Under XX

¹⁴⁶ Under XX

¹⁴⁷ Paragraph 100, page 46 - [ID17](#)

specific manners, namely adherence to recognised guidelines for CFD modelling and validation.

Guidelines and validation [[7.36](#), [7.43](#), [9.48 to 9.50](#)]

- 12.24 Fluidyn is a French company and produced its CFD model with regard to the FWG Guidelines 2016, a translated copy of which was provided to the Inquiry¹⁴⁸. The CFD model does not meet all the FWG guidelines. For example, it uses 1st order and not 2nd order numerical differencing¹⁴⁹ without adequately explaining why in the document, and provided no benchmark test for atmospheric boundary layers even though there are potential inconsistencies in the weather profiles. The applicant admitted¹⁵⁰ that it has not fully complied with the FWG guidelines. Reliance on the reputation of the modeller, convincing though the witness was on the stand, isn't sufficient by itself. This places even greater importance on validation of the model.
- 12.25 In this regard, the CFD model has been compared to the JR11 trials. It is shown to be within acceptable criteria and to be more accurate than DRIFT3¹⁵¹. However, the extent of validation is not as comprehensive as that carried out by the HSE with regard to DRIFT3¹⁵². In addition, JR11 was over flat terrain. There is no validation against trials over hills, which would be the most appropriate and useful comparison to the situation between RCC and the application site. Importantly, the HSE has not been provided with the CFD model for validation. I acknowledge that it was offered a six-month trial of the general Fluidyn software, which it did not take-up. However, the most valuable approach would have been to provide the specific CFD model for the application proposal to the HSE.

Overall

- 12.26 The CFD model provided by the applicant to the Inquiry uses up-to-date mathematics and computer simulation, is bespoke and detailed, and considers the actual on-the-ground reality of the topography and buildings at and between the RCC and the application site, as well as a reasonable rate of deposition as validated by a real-life accident. These are significant advantages over integral models, in particular the not fit for purpose D/CR models but also DRIFT3.
- 12.27 However, it is only as accurate as its calibration and inputs. Several important and believable areas of concern have been raised by the HSE in this regard, as set out above. The refusal to allow the HSE to fully validate the model lessens the confidence I can have in its outputs, particularly given the only partial adherence to FWG guidelines. In addition, by being so bespoke, the model is heavily reliant on the selection of the correct accident scenarios to ensure that it can reflect not only possible accidents now, but in the future if the hazardous substances at the RCC change. I therefore only place limited weight on the results of the CFD model.

¹⁴⁸ [RD437](#)

¹⁴⁹ BP15, page 71 – Ibid

¹⁵⁰ Under XX

¹⁵¹ Page 9, [RD130](#)

¹⁵² Under XX

Technical matters

Individual risk [[7.12](#), [8.24 to 8.26](#), [9.4 to 9.6](#)]

- 12.28 There is no nationally set or agreed measurement of risk. It is therefore something to be considered on a case-by-case basis. The Council, through its LP, sets the maximum acceptable level of risk at 10 cpm pa of fatality¹⁵³. It is a binary policy with only one 'threshold' of risk tolerability.
- 12.29 The HSEs policy sets out different tolerability levels to risk. The basis of the HSEs approach stems from a detailed 1983 report into risk by The Royal Society¹⁵⁴, a report¹⁵⁵ by the Advisory Committee on Major Hazards released the following year, and a document¹⁵⁶ considering risk near nuclear power stations. The HSE has set out its own assessments in two reports, in 1989¹⁵⁷ and 2001¹⁵⁸. It is found that the lower limit for what the public would accept as broadly acceptable risk is 1 cpm pa of fatality¹⁵⁹ and that the upper tolerability for risk is 100 cpm pa of fatality¹⁶⁰. The nature of the risk informs where within these upper and lower boundaries is an acceptable risk profile for a given situation.
- 12.30 The HSE has developed its approach to risk following these considerations and it has set three zones which surround all hazardous installations in the country. They are based on thresholds of 10 cpm (inner), 1 cpm (middle) and 0.3 cpm (outer) pa, respectfully. The 10 cpm pa upper boundary of risk acceptance around sites such as the RCC, ie lower than 100 cpm pa, is primarily because the risk is involuntary and because the persons subject to the risk derive no immediate benefit from exposure to the risk. I agree with this approach. In addition, risk is something which varies by precise location, type of person, type of gas release etc. I therefore find the use of three thresholds rather than a binary system is helpful to conceptualise and assess risk.
- 12.31 I acknowledge that the Council's approach is based on the threshold of risk deemed to be acceptable around airports. However, this is not an appropriate comparison to risks from a chemicals plant. The risks from airports are tightly defined to small areas at the end of runways, whereas a toxic gas release from the RCC could be widespread. Unlike with toxic gas poisoning, the likelihood of death or serious injury as a result of an air crash is largely not linked to the vulnerability of the population. A 20 year old would die if a plane hit their house just as much as a 90 year old. There is also a lesser sense of 'dread' to the public from being located near an airport, because the risks from them are easier to understand, and the potential scale of any disaster known to be lesser than from a hazardous installation such as the RCC.

¹⁵³ Policy CS23 and Paragraph 7.157 - [POL17](#)

¹⁵⁴ Appendix 07, [RD008](#)

¹⁵⁵ [HSEL19](#)

¹⁵⁶ Appendix 8, Pdf 346 - [RD008](#)

¹⁵⁷ Risk criteria for land-use planning in the vicinity of major industrial hazards – [HSEL12](#)

¹⁵⁸ Reducing risks, protecting people – [HSEL13](#)

¹⁵⁹ Paragraph 175, Pdf 380 - [RD008](#)

¹⁶⁰ Paragraph 173, Pdf 379 - Ibid

- 12.32 A further consideration is that the HSE uses an assessment against DD rather than fatality. Its upper limit is not, therefore, the same as the Council's¹⁶¹ use of 10 cpm pa of fatality. In this regard, a toxic gas accident would likely harm people on a sliding scale, depending on the vulnerability of the person and the level of toxicity that reached them. The effects of [REDACTED], can be acute causing severe distress even if not fatal. PPG advises that risk should include as to vulnerable members of the population and should take account of the risk of serious injury¹⁶². I am concerned by serious injury as well as death. I therefore agree with the HSEs approach of using DD.
- 12.33 I acknowledge that the report into the Buncefield accident recommended that risk of fatality be adopted by the HSE¹⁶³. This was partly based on the ability to consistently compare between different risk analyses for different hazards. It was also partly for consistency with assessing societal risk. In this case, I do not need to compare to the risks on other sites, rather the risks for the same site set out by the HSE and the applicant. In addition, there is a linear relationship between the two methods which allows for easy comparison¹⁶⁴, and 10 cpm pa DD = 3.3 cpm pa risk of fatality, with regard to [REDACTED]. Therefore, as long as the differences in methodology are properly taken into account, this does not pose problems with regard to my assessment or comparisons of risk.
- Societal risk [5.27, 6.52, 8.25, 8.27 to 8.28, 9.13 to 9.14, 9.42, 9.45]
- 12.34 Consideration of societal risk is required to reflect societies' aversion to events that result in mass casualties and fatalities. It is common ground, and I agree, that it is a material consideration. PPG also confirms that societal risk is a relevant consideration, stating that a general principle is to attach particular weight to a risk where a proposed development might result in a large number of casualties in the event of a major accident¹⁶⁵.
- 12.35 Societal risk is not directly assessed by the HSEs LUP Methodology. As with individual risk, there is no nationally set or agreed measurement of the risk. However, there is the SRI calculation. The inputs to this calculation are the likelihood, proposed population, density and vulnerability¹⁶⁶. By considering both individual risk and the potential for wider, mass casualties, I view this as an acceptable methodology to calculate societal risk.
- 12.36 The SRI for the proposed development is over 500,000¹⁶⁷. This is very high. By way of comparison, the HSE would advise against three houses in the inner zone, and such a proposal would only have an SRI of 2,500. The very high societal risk generated by the proposed development, in other words the possibility that an accident at the RCC could lead to mass deaths and injuries of the occupants and users of the site, is an important consideration. However, I also acknowledge that it is not a bar to development on its own. For example, the

¹⁶¹ Or the various reports referenced in paragraph 12.29

¹⁶² Paragraph: 068 Reference ID: 39-068-20161209

¹⁶³ Recommendation 8, pdf 137 – [HBC09](#)

¹⁶⁴ Abstract, pdf 418 – [RD008](#)

¹⁶⁵ Paragraph: 068 Reference ID: 39-068-20161209

¹⁶⁶ Paragraph 11.3, page 43 – [RD002](#)

¹⁶⁷ Paragraph 11.6, Ibid

application to extend the cricket ground 'The Oval'¹⁶⁸ was granted despite an SRI of 15,000,000¹⁶⁹.

Population at risk [[5.20](#), [6.28 to 6.29](#), [8.30 to 8.31](#), [9.40 to 9.41](#)]

- 12.37 PPG finds that we should take into account the total number of people living in CZs since the HSC was granted¹⁷⁰. The proposed development would create up to 545 new homes and a regenerated commercial offer that would create hundreds more jobs.
- 12.38 The population in all HSEs CZs in Halton has almost certainly fallen significantly in recent years because of the closure of two chemicals plants in Widnes and associated removal of their CZs. However, this is not relevant to the application proposal, rather it is the CZs for RCC alone that need to be considered. In this regard, within the CZs for the RCC several thousand people live and work as existing. Within the inner zone alone lies Weston Village and Heath Park. Precise figures have not been provided but thousands of people live in the village and there may have been a small fall in the population, consistent with wider trends in Runcorn. Nevertheless, it has not been demonstrated that any background fall in population within the CZs is greater than the additional population that would be generated by the proposal.
- 12.39 Making more efficient use of the existing commercial building stock on the application site could be a fallback option for the applicant. This could, in theory, result in occupation levels near to or perhaps even exceeding those as proposed. However, there is no substantiated evidence before me of how that might be achieved. Part of the reason for the proposed development is that the existing Heath Park is becoming out-dated and less attractive to occupiers. I do not, therefore, view this as a realistic fallback position. Even if this were to occur, it would all be for commercial occupancy, which would mean people spending less overall time on the site, ie within the CZs, than as proposed with its residential accommodation.
- 12.40 The risks that would be faced by the proposed residents and users of the proposal would be the same or lesser than those as already experienced by existing residents in nearby residential streets. However, this does not affect how to assess risk to the proposed development. It is an established part of the risk assessment approach that the control of new development should be irrespective of the presence of existing development, so as to reduce the number of people expose to unacceptable risks. I agree with this approach.

HSCs versus on-site inventory

Background [[6.40 to 6.50](#), [9.20](#)]

- 12.41 The original HSC was a claim for deemed consent granted to the then operator, ICI, in 1992. The original quantities were later changed through several revised HSCs, the most recent of which are from 2015¹⁷¹. This has resulted in various

¹⁶⁸ Ref APP/N5660/V/08/1203001 – pdf 550+, [RD008](#)

¹⁶⁹ Paragraph 1.41, pdf 560 - Ibid

¹⁷⁰ Paragraph: 069 Reference ID: 39-069-20161209

¹⁷¹ Refs 15/00077/HSC, 15/00252/HSC, 15/00250/HSC, 15/00251/HSC, 15/00253/HSC and 10/00133/HSC

changes to the permitted hazardous substances on the RCC. Of most importance to the Inquiry, [REDACTED]

- 12.42 What actually exists on the ground is, though, different. Several pieces of equipment and plant have been decommissioned and/or demolished¹⁷⁴. The storage of chlorine has been consolidated and is now further away from the edge [REDACTED]

Principle [6.54, 7.3, 7.24 to 7.27, 8.10 to 8.16, 9.7, 9.21 to 9.31]

- 12.43 However, the HSCs have not changed since 2015. The HSE bases its LUP Methodology and assessment of risk on the HSCs for a hazardous installation, not the on-site inventory. For the avoidance of doubt, a completely cleared site with an extant HSC therefore has the same risk, in LUP Methodology terms, as one with an active [REDACTED] plant. Whilst superficially illogical, this approach has two key advantages. The first is that it avoids the need for elastic CZs which change whenever there are material changes to the hazardous installation. This is particularly important because otherwise there would be the potential for highly inconsistent and contradictory planning decisions in the vicinity of hazardous installations. The second is that it ensures that the hazardous installation retains its capability and capacity in the future, to the full extent of its entitlements under the HSC.
- 12.44 Specifically at RCC, the operators have written to confirm that they do not wish to give up their entitlements¹⁷⁸. In addition, the Council can revoke or modify an HSC, albeit potentially liable to compensation¹⁷⁹. PPG confirms it is good practice for Council's to proactively review HSCs where there is a conflict between them and the Council's planning priorities¹⁸⁰ and encourages the revocation of HSCs where redundant¹⁸¹.
- 12.45 Despite the claims by the Council in relation to this application that the CZs associated with the extant HSCs for the RCC is stymying development, it has not undertaken to revoke or review the HSCs. The Council claims that this is, at least in part, due to the fear of needing to pay compensation to the operators.

¹⁷² Paragraph 5, pdf 73 – [RD007](#)

¹⁷³ Paragraph 7.3, RD012 and by reference to the details of the 2015 HSCs

¹⁷⁴ A helpful list is at page 5, [RD136](#)

¹⁷⁵ Paragraphs A8 and A9, pdf 77 – [RD007](#)

¹⁷⁶ See third row, page 274 - [RD172](#)

¹⁷⁷ A helpful visual comparison of the 1990s position compared to today is at Appendix 2, [ID19.1](#)

¹⁷⁸ [ID29](#)

¹⁷⁹ Paragraph: 059 Reference ID: 39-059-20140306

¹⁸⁰ Paragraph: 073 Reference ID: 2a-073-20161209

¹⁸¹ Paragraph: 074 Reference ID: 39-074-20161209

However, the legislation confirms¹⁸² that such compensation would only be payable if there was a depreciation in the value of the land. Therefore, if the HSCs were truly redundant then the land value would not fall and compensation would not be required. In any event, whatever the reason for it, it is a fact that the HSCs remain extant.

- 12.46 If either the current or future operators at RCC wished to expand their hazardous substances inventory within the limits of the existing HSCs, for example with new [REDACTED], then they would potentially need planning permission. PPG confirms planning permission is sometimes required in addition to an HSC¹⁸³. It would potentially, therefore, be open to the Council to refuse such applications. However, we cannot know at this stage if that would always be the case, as that would be to pre-determine unknown future applications. Importantly, any public safety factors would need to be considered in the context of the extant risk profile, ie the HSCs. This would lessen the ability of the Council to refuse such applications. It is not, therefore, impossible or even improbable that additional on-site inventory of hazardous substances could be constructed on the RCC in the future.
- 12.47 Previous planning appeals have considered this issue. At *Admiral Nelson* it was confirmed that the HSC should be used¹⁸⁴. At *Thornton Science Park* it was also confirmed that the HSC should be used, and that for a site where the hazard had been demolished and the site grassed over for 14 years¹⁸⁵. The decision had full confidence on the CZs but that is not relevant to consideration of the 'HSC vs on-site inventory' principle in isolation.
- 12.48 Overall, therefore, I agree with the principle of the HSEs approach of assessing risk based on the HSC and not the on-site inventory. The Government agrees with this approach, as set out in PPG, which states that the HSE will take account of the maximum quantity of substances permitted by HSCs¹⁸⁶ and that unless the HSC is revoked then CZs are still likely to apply¹⁸⁷.

Implications for assessment

- 12.49 Whilst the principle is clear, the reality for risk assessment is a separate consideration. For example, the HSEs QRA for the original HSC is based on 34 accident scenarios. These were informed by reasonable assumptions on locations of hazards, [REDACTED] which are not specifically covered by the HSC and could go practically anywhere within the RCC¹⁸⁸. [REDACTED]¹⁹⁰. Therefore, the QRA

¹⁸² Clause 16(2), the Planning (Hazardous Substances) Act 1990 – pdf 17, [HSEL05](#)

¹⁸³ Paragraph: 008 Reference ID: 39-008-20161209

¹⁸⁴ DL28, Refs APP/D0840/A/09/2113691 and APP/D0840/E/09/2114964 – pdf 811+, [RD008](#)

¹⁸⁵ DL258, Refs APP/A0665/C/18/3206873, APP/A0665/C/19/3232583, APP/A0665/X/19/3227520 and APP/A0665/W/18/3206746 – pdf 827+, *Ibid*

¹⁸⁶ Paragraph: 068 Reference ID: 39-068-20161209

¹⁸⁷ Paragraph: 074 Reference ID: 39-074-20161209

¹⁸⁸ Agreed under XX

¹⁸⁹ Paragraph 6.7, [RD002](#)

¹⁹⁰ Paragraph A3, pdf 76 – [RD007](#)

is based on realistic assumptions and consideration of on-site inventory, albeit in an attempt to accurately reflect risk as created by the HSC.

12.50 All risk assessments are based on a series of assumptions and simplifications of the reality, in an attempt to establish the key drivers of risk based on a realistic prospect of the accidents occurring. What matters is that appropriate accident scenarios based on realistic circumstances are properly assessed. This should be with regard, though, to the realistic potential for harm from the hazardous installation as based on its HSC. In other words, the HSC should be the basis of a risk assessment, but only considering realistic assessments of scenarios which ultimately rely on an understanding of the on-site inventory.

12.51 With regard to the RCC, the Dakin reports in 1994, the HSEs evidence to this Inquiry¹⁹¹, and the position of the applicant all align – the key driver of risk is

[REDACTED]

12.52 This is consistent with the approach taken in the appeal decision at *Thornton Science Park* where the Inspector found¹⁹² that reality of assessing the complex and multiple risks in a QRA involves some selection and consideration of the range of events that could occur.

Residual risk [6.41, 6.44, 7.28 to 7.29, 8.12, 9.7, 9.21]

12.53 PPG states that residual risk is the risk to be considered, and that this is defined as the risk that unavoidably remains even after all legally required measures have been taken to prevent and mitigate the effects of a major accident¹⁹³. However, the residual risk is to take account of the operators taking measures to mitigate risk from existing installations, often known as ALARP ‘as low as reasonably practical’ measures. It is not a consideration regarding making changes to the extent of hazardous materials or installations in the first place. The demolition of plant or changes to the materials stored on site are a separate consideration, as are any changes to the HSCs. It would be to double count reductions in risk to take account of such changes whilst framed as a mitigation measure.

Other risks [6.49, 6.51, 7.17 to 7.18, 8.7 to 8.9]

12.54 The HSE has raised concern about three specific types of risk from [REDACTED] on RCC – [REDACTED]. Whilst the risk from tankers is raised, [REDACTED]

[REDACTED]¹⁹⁴

¹⁹¹ Paragraph 10.4, [RD007](#)

¹⁹² DL228 and 229, pdf 827+, [RD008](#)

¹⁹³ Paragraph: 068 Reference ID: 39-068-20161209

¹⁹⁴ Pdf 153, [RD007](#)

12.55

12.56

12.57 Therefore, the key driver of risk is

However, it is important to make it clear that these other risks are material considerations. Although not significantly contributing to risk, they do contribute meaningfully, and I return to them in my assessment below.

Policy

Local [[5.19 to 5.20](#), [5.23 to 5.28](#), [7.12](#), [8.17](#), [8.20 to 8.22](#), [9.40 to 9.43](#)]

12.58 The Council's approach to managing risk is set out in Policy CS23 of the LP. The policy cross-refers to the Risk SPD, and the two must be read in conjunction. The aim of the policy is to prevent and minimise the risk from potential accidents at hazardous facilities. Two principles in this regard are set out, the first being to minimise risk to public safety wherever practicable. The second is to control inappropriate development within identified areas of risk surrounding hazardous facilities. In effect, that is to establish a LP derived 'CZ', based on a maximum acceptable level of 10 cpm pa individual risk of fatality¹⁹⁷, within which development would normally be refused¹⁹⁸. Outside this CZ, development would

¹⁹⁵ Paragraph D1, pdf 83 – [RD007](#)

¹⁹⁶ Summarised at paragraphs 8 to 10, [ID18.2](#)

¹⁹⁷ The policy and paragraph 7.157, [POL03](#) and paragraph 3.1, [POL38](#)

¹⁹⁸ The policy and paragraph 5.7, [POL03](#)

normally be acceptable with regard to risk considerations¹⁹⁹. There is also a second strand to the second part of the policy, which states that the population exposed to risk should not increase.

- 12.59 The adopted position of the Council is, therefore, with regard to risk, a binary position that development proposed within the CZ of 10 cpm pa individual risk of fatality around a hazardous installation is unacceptable, and outside it is acceptable. With regard to the RCC and the application site, the CZ is depicted in the Risk SPD²⁰⁰. The southernmost part of the large parcel is within this CZ, but none of the areas where buildings are proposed, ie where there would be a population other than very short lived use of the access road and car parks to the south, is within it.
- 12.60 It could be argued that the second part of the policy does not apply to the proposal at all, because it relates to development within identified areas of risk, which the proposed built form falls outside. However, policies should be read as a whole and pragmatically. The intention of the policy, particularly when read in conjunction with the Risk SPD, is to reduce risk from hazardous installations, and that that be achieved by allowing development if it is outside the 10 cpm pa individual risk CZ. The proposal should, therefore, be considered against this part of the policy, with which it complies.
- 12.61 The second part of the policy also requires that the population exposed to risk is not increased. The existing Heath Park site is under-occupied. In theory, it could significantly increase upon its 1,200 existing employees without requiring planning permission. However, as set out above, I do not believe this is a realistic fallback position. In addition, the proposal is to increase the attractiveness of the employment floorspace and to provide up to 545 homes. The proposal would, therefore, increase the population on the application site. Nevertheless, this would comply with the second strand of the second part of the policy, because 'risk' in the context of the policy is defined by the CZ. This must be the case because there are no restrictions on the size of developments outside the Council's CZ.
- 12.62 The same approach applies to the first part of the policy. To minimise risk to public safety does not mean, in the context of this policy, the absolute minimisation of risk, but instead should be read in the context of the identification of the CZ in the second part of the policy and the Risk SPD. The proposal therefore complies with Policy CS23 of the LP and the Risk SPD. Nevertheless, the wider implications on risk are, of course, material considerations.

Weight

Consultation Zone

- 12.63 The Council has confirmed²⁰¹ that the 2006 report by DNV²⁰² was used by the Council to inform the CZ used in the Risk SPD. It is a QRA based on the HSE QRA from 1994 but updated both to reflect on-site inventory and to use DNVs

¹⁹⁹ Paragraph 5.17, [POL03](#)

²⁰⁰ Page 38, Ibid

²⁰¹ Under XX

²⁰² [RD22](#)

own software for modelling. Specific inventory changes included [REDACTED]

[REDACTED] the QRA is therefore based on a combination of the HSC and on-site inventory, as of 2005. Full details of the DNV model were not presented to the Inquiry, but it is acknowledged that it cannot model topography.

- 12.64 The outcome of the DNV Report includes a 10 cpm pa risk of fatality contour²⁰³. Although similar, the CZ used in the Risk SPD is not precisely the same as this contour, which the Council has stated is because the SPD CZ was matched to physical features such as roads. Therefore, the CZ which directly relates to the applicability of Policy C23 of the LP is an imperfect representation of a risk contour based on a QRA which is at least partly based on how the RCC was operating in 2005, used modelling with significant weaknesses, and about which we have limited details.
- Policy CS23 [[7.11](#), [8.18 to 8.19](#), [9.38 to 9.39](#)]
- 12.65 The HSE objected to Policy CS23 in the LP during the EiP, because it deviates from the LUP Methodology²⁰⁴. The policy was not considered as part of the EiP²⁰⁵ because it is a retained policy from the previous Unitary Development Plan (UDP). At the examination into the UDP, the HSE initially objected²⁰⁶ to proposed Policy PR12 because it deviated from the LUP Methodology. The objection was then withdrawn²⁰⁷, but no evidence has been provided for the reason for the withdrawal. Nevertheless, the Inspector's Report into the examination for the UDP confirms that the HSE did not object to Policy PR12²⁰⁸.
- 12.66 The Inspector's Report for the EiP concludes that it would be inappropriate for the UDP to overturn the HSE's LUP Methodology²⁰⁹. The adoption of the policy therefore appears to be based, at least in part, on a misconception of the Inspector(s) that the policy was in accordance with the HSE's methodology. In addition, a site allocation broadly similar to what is now proposed, MUA10, was put forward by the Council in the draft LP for a mixed-use development. The draft allocation was considered at the EiP and was removed from the LP due to considerations of risk from the RCC²¹⁰.
- 12.67 Therefore, Policy CS23 of the LP is a carry-over from Policy PR12 of the UDP. Policy PR12 was discussed in-depth at the examination for the UDP. However, for reasons unknown, the HSE did not maintain its objection through to the examination, so even in that case, the wording of the policy was not the subject of detailed consideration by way of comparison to HSE's LUP Methodology. It is clear, though, that both the LP and UDP Inspectors' considered risk from the RCC to be an important factor. This is because site allocation MUA10 was

²⁰³ Pale blue line, Figure 1, page 6 - [RD22](#)

²⁰⁴ Pdf 1,013 - [RD008](#)

²⁰⁵ Agreed under XX and paragraph 9, pdf 1,067 - Ibid

²⁰⁶ Pdf 979 - Ibid

²⁰⁷ Pdf 981 - Ibid

²⁰⁸ Paragraph 4.6.4, [HBC04](#)

²⁰⁹ Paragraph 4.7.5 - Ibid

²¹⁰ Paragraph 357, pdf 1,123 - [RD008](#)

removed from the LP and because the Inspector concludes it would be inappropriate for the UDP to overturn the HSE's methodology.

Overall

The extent to which the proposed development raises issues of risk to public safety

- 12.68 Some matters can be dealt with swiftly. The residual risk is after ALARP but does not also refer to demolition of buildings or reductions in quantities of hazardous materials [12.52]. The risk should be with regard to DD to better reflect the vulnerability of certain parts of the future population to poisoning from toxic gasses [12.28 to 12.33]. The societal risk is an important consideration given the potential magnitude of fatality and serious injury that could result from a failure at the RCC [12.34 to 12.36].
- 12.69 Assessment of risk should be on the basis of the consented entitlements of the RCC, ie the HSCs [12.40 to 12.47], but with regard to the practicalities of how this must be assessed, in particular in establishing what are the key drivers of risk [12.48 to 12.51]. Helpfully, there is common ground that the key driver of this risk is [REDACTED] [12.56]. However, to reflect the potential future layouts of the RCC within the entitlements of the HSCs, these [REDACTED]
- 12.70 Unfortunately, there are serious limitations to the quantitative evidence from all sides. The HSEs CZs and risk levels are based on the D/CR models which the HSE itself has found to be not fit for purpose and lacking scientific credibility [12.5 to 12.7]. Whilst validation against DRIFT3 suggests that the CZs would increase if re-assessed, DRIFT3 itself is not fully validated, and has structural weaknesses common to integral models, in particular with regard to not accounting for topography [12.8 to 12.11]. This is particularly important where, such as for this application, there is a steep hill between the hazardous installation and the application site.
- 12.71 However, the applicant's CFD model has scenario inputs which are inconsistent with the COMAH parameters that they should have been based on, and there are several areas of dispute with the HSE on technical matters such as numerical differencing, mesh size, temperature etc. It also has structural weaknesses common to CFD models, such as a degree of specificity of obstacles that can't account for long term changes [12.16 to 12.23]. Most importantly, the model has not been provided to the HSE to be validated, and the modelling was not undertaken fully in accordance with FWG guidelines [12.25 to 12.26]. In addition, the assessment is limited to [REDACTED] [12.13 to 12.15].
- 12.72 The policy of the Council is based on an assessment using an integral model that cannot model topography and the full details of which were not presented to the Inquiry [12.62 to 12.63]. Given the complexity and technical nature of such considerations, it gives me little comfort that the policy was adopted following examinations in the UDP and LP, particularly given that the consideration at the LP EiP was cursory [12.64 to 12.66].

- 12.73 Nevertheless, whilst there is a dearth of credible and reliable technical evidence, it is not a void. It is germane that the only model²¹¹ submitted to the Inquiry which meaningfully accounts for topography and deposition did not find material risk to the occupiers of the proposed development from [REDACTED]. It can also not be entirely dismissed that the proposal would be acceptable with regard to risk when considered against the modelling which informed the adopted Development Plan. It is also germane, however, that a model²¹² that has been found to be fit for purpose, if not validated, would have found larger CZs, ie higher risk, than those as adopted, in other words unacceptable risk to the future occupants of the application site.
- 12.74 The HSEs CZs is discredited, as set out above. The LP CZ is similarly discredited. I do not, therefore, have a 'baseline' of risk. However, despite the real world reduction in on-site inventory on the RCC there have been no material changes or revocations to the HSCs by the Council. In addition, even as it is currently operating, it is undeniable that there would be some risk to the future occupants of the proposal from the RCC. It must therefore be satisfactorily demonstrated that there is no unacceptable level of risk to public safety.
- 12.75 In this regard, the CFD model has not been validated. Even if it had, it only relates to two scenarios. There is not a full QRA by the applicant considering various scenarios to fully reflect the extent of risk, or explicitly assessing against DD rather than death. There is therefore no fully substantiated evidence before me from either the applicant or the Council that the level of risk would be so low so as to move the application site out of the 'inner zone' of risk, or even the 'middle zone' of risk, as set out in the HSEs methodology. Even within the 'middle zone', the HSEs standard advice is to advise against residential development of the scale proposed. A further contextual point is the very high societal risk from accident scenarios such as [REDACTED].
- 12.76 Pulling this all together, it has not, therefore, been satisfactorily demonstrated that the potential risks to the future occupants of the proposed development would not be significant, including for death and serious injury.
- The extent to which it is consistent with the Framework and the Development Plan for the area
- 12.77 Paragraph 102 of the Framework states that planning decisions should promote public safety. It states that hazards should be anticipated and addressed, and that policies should be informed by the most up-to-date information available about the nature of potential threats and their implications. This is a holistic approach to considering public safety, and the failure to adequately demonstrate public safety amounts to a conflict with the Framework. However, as set out above, because of the specific manner in which public safety is framed by Policy CS23 of the LP and the Risk SPD²¹³, the proposal complies with this policy

²¹¹ The Fluidyn CFD model

²¹² DRIFT3

²¹³ I acknowledge that the Risk SPD is not part of the Development Plan, but it can fairly be considered together with Policy CS23 of the LP because of the close inter-relationship between the two

and supporting document and is consistent with the Development Plan for the area. I set out later in my Recommendation the implications of this conclusion.

Other Considerations

Principle [\[6.3\]](#)

- 12.78 The proposed development is for a substantial mixed-use development. On the large parcel, it would be redevelopment of an existing business park and brownfield land²¹⁴ located within Runcorn. This is supported in principle by the spatial strategy for Halton, which prioritises urban regeneration with a focus on the re-use of brownfield land. Although the spatial strategy seeks to protect important green infrastructure it does not prohibit the development of greenfield sites. The proposal therefore complies with the spatial strategy, and in particular with Policy CS(R)1²¹⁵ of the LP.

Accessibility [\[6.20\]](#)

- 12.79 The large parcel is easily accessible by car, from a long access road from the Weston Point Expressway. Heath Road South, which runs between the parcels, provides vehicular and cycle access to the services and facilities in Runcorn, which are wide ranging as is to be expected from a town centre²¹⁶, and to Weston Village. New vehicular access points would be created along this road, to both the large and small parcels.
- 12.80 There are footpaths along Heath Road South providing access to Weston Village and Runcorn. Runcorn town centre is not particularly close to the application site, but both are within the 1.2 km 'preferred maximum distance' for walking to services and facilities as set out by the Chartered Institution of Highways and Transportation. There are bus stops along this road, close to both parcels, providing services to Runcorn and Widnes, amongst other destinations. These are irregular, at a total of six services per weekday and none at the weekends, but they do provide an alternative to the car for some journeys.
- 12.81 Car and cycle parking would be provided and could be controlled at reserved matters and condition discharge stages to meet the local standards as set out in Appendix D²¹⁷ to the LP. The s106 secures funding for a package of measures which are likely to include improvements to bus services, bus stops and cycle lanes, the full detail of which would be finalised in agreement with the Council in the future. The small parcel is bordered by a footpath and the detailed design could ensure suitable access is provided to it, and then onwards to Heath Road South. There would therefore be an improvement to the bus and cycle provision.
- 12.82 The proposal would be inherently accessible because it is mixed-use. The proposed on-site services and facilities, as well as employment opportunities, would therefore be easily accessible on foot to the residents of the development.

²¹⁴ I'm aware that the more commonly used term is now previously developed land, but brownfield land is the terminology used in the LP and therefore I adopt it in my Recommendation

²¹⁵ [POL04](#)

²¹⁶ Table 4-2, [SDL22](#)

²¹⁷ Page 251, [POL03](#)

- 12.83 The application site is therefore accessible by a range of transport modes albeit to a limited degree. Importantly, the proposed development would be inherently accessible due to its mixed-use nature, and the quality and attractiveness of bus and cycle provision from the site to the nearby centres would be improved. The proposal is therefore acceptable in these respects and complies with Policies CS(R)15²¹⁸, CS(R)18²¹⁹ and C1²²⁰ of the LP, which encourage journeys by non-car based modes of transport, and safe and accessible routes for walking, cycling and public transport. It also complies with Policies CS(R)22²²¹ and HC5²²² of the LP, which require proposals for new community facilities to be located in accessible locations. It complies with Policy ED2²²³ of the LP, which expects employment development to be accessible by non-car based modes of transport.

Employment [6.5]

- 12.84 The large parcel is designated as a PEA in the LP. It is currently a large business, science and technology park, but only at a moderate density with mid-rise buildings and large areas of incidental space and several surface level car parks. The existing floorspace is 29,590 sq m. There are also supporting facilities, including a restaurant/café, health suite and meeting hall. Several of the existing buildings are vacant. Nevertheless, the current total employment on the site is approximately 1,200 people²²⁴.
- 12.85 The application is in outline, but the Illustrative Site Layout²²⁵ includes the retention of several of the existing commercial buildings. It is also proposed to demolish some of the existing commercial buildings, and to erect replacement floorspace. The description of development includes the uses of office, conference centre, retail, leisure, community, hotel, STEAM, pub/bar and a vertical farm. As currently depicted on the illustrative drawings, there would be approximately 25,000 sq m of offices and laboratories/science floorspace, and 7,000 sq m of ancillary employment floorspace. However, precise floorspace figures are not yet known and the total employment floorspace could be controlled by condition to be no greater than 30,396 sq m.
- 12.86 In addition to the proposed demolition of some of the existing employment buildings, some of the land and buildings in the large parcel would change use to non-employment uses, primarily residential. However, more employment floorspace would be provided in comparison to the existing business park. The proposal would also be for the comprehensive redevelopment of the site resulting in higher quality and more varied employment floorspace and opportunities than the existing business park, where most of the buildings are from the 1960s. The applicant estimates that the total proposed employment on the site would be 2,202 jobs²²⁶.

²¹⁸ [POL11](#)

²¹⁹ [POL12](#)

²²⁰ [POL22](#)

²²¹ [POL16](#)

²²² [POL25](#)

²²³ [POL19](#)

²²⁴ Table 6-1, [SDL36](#)

²²⁵ Ref 19-02 app 110 F, [PL02](#)

²²⁶ Paragraph 6.3.5, [SDL36](#)

- 12.87 The proposal therefore represents a step-change in the employment offer on the site, and an enhancement of employment opportunities on a designated PEA. Therefore, when considered in the round, the proposal complies with Policy CS(R)4²²⁷ of the LP, which expects new employment development to be provided on land designated as PEA and seeks to retain PEAs for employment use. It also complies with Policy ED2²²⁸ of the LP, which promotes office and research and development floorspace within PEAs, and supports the redevelopment of employment areas where they improve the quality, type and density of job creation of employment floorspace.

Ancillary facilities [\[6.6\]](#)

- 12.88 The application site is 'out-of-centre' in that it is not in a defined centre in the LP. However, the existing business park provides ancillary facilities, including a café, conference centre and gym. The description of development includes an allowance for retail, leisure including food and beverage, and local community uses. It is likely that this would include a convenience retail store, café(s), restaurant(s), bar(s), conference centre, and a gym, amongst other uses²²⁹. The full detail is not yet known and the best current estimate of the applicant is set out in its Main Town Centre Uses Assessment, November 2023²³⁰. It is likely that there would be an increase, albeit modest, in the total floorspace of such ancillary facilities.
- 12.89 Although a convenience store is likely to be provided, as currently illustrated this would be smaller than the threshold set out in Policy HC1²³¹ of the LP for requiring a Retail Impact Assessment. This could be controlled by the Council at reserved matters stage and therefore complies with Policy HC1 in this respect.
- 12.90 Main town centre uses, such as retail²³², are proposed. The applicant has therefore conducted a sequential assessment, as required by Policy HC1, which concludes that there are no suitable alternative sites that could accommodate the proposed main town centre use floorspace²³³. In addition, the applicant has found that there would be no material adverse effect on Runcorn and Halton Lea town centres²³⁴. This is because of the distance to the centres, that they have well established businesses, and that they offer different types of facilities for example those focussed on evening entertainment so are not direct competitors. I see no reason to disagree with either conclusion and the proposal therefore complies with Policy HC1. It also complies with Policy HC8²³⁵ of the LP, which does not limit the principle of the location of food and drink uses other than takeaways with regard to town centre or out-of-centre location.
- 12.91 It is also important that the proposed ancillary facilities would be commensurate with the overall scale of the proposal and would form a new neighbourhood

²²⁷ [POL06](#)

²²⁸ [POL19](#)

²²⁹ Paragraph 1.2.3, [SDL30](#)

²³⁰ Table 1-1, Ibid

²³¹ [POL24](#)

²³² The LP adopts the Framework definition of 'main town centre use'

²³³ Paragraph 4.5.1, [SDL30](#)

²³⁴ Paragraph 5.5.3, Ibid

²³⁵ [POL26](#)

centre that partially serves the proposed development. The proposal therefore complies with Policy HC5²³⁶ of the LP, which supports the enhancement of existing community facilities and the development of new facilities in out-of-centre locations as long as a sequential approach has been applied and the proposal assessed. It also complies with Policy ED3²³⁷ of the LP, which supports the provision of ancillary services and facilities in PEAs.

Housing [\[6.4\]](#)

- 12.92 Up to 545 homes are proposed. The LP makes provision for the development of an average of 350 new dwellings pa. The application site is not allocated for housing, but Policy CS(R)3²³⁸ of the LP makes allowance for the use of windfall sites. Some of the proposed housing would be on the greenfield small parcel, but the policy requirement is that only 30% of new housing should be provided on brownfield land, looked at Borough wide. The policies relating to employment floorspace allow for the mixed-use development of commercial areas so long as the uses are complementary. The proposal is for flexible E use classes, F2 use classes, and a hotel. All these uses are either naturally compatible with residential uses or could easily be controlled through the reserved matters and condition discharge stages to be so. The principle of the proposed residential part of the development is therefore acceptable.
- 12.93 It is not yet defined how the homes would be split between types and tenures, but the description of development includes reference to older persons housing and, indicatively, 74 of the homes are to be for such²³⁹. However, such housing is not secured by the s106 or by condition. Nevertheless, it is clearly intended that some older persons housing would come forward. In this regard, Policy CS(R)12²⁴⁰ of the LP supports the provision of specialist housing for the elderly in locations with easy access services and community facilities. The proposal includes retail, food and drink and community facilities on-site. If such housing were to come forward, therefore, then this would be acceptable in-principle.
- 12.94 The s106 secures 25% of the proposed dwellings, whether they be normal homes or for older persons housing, to be AH with a split of 50% First Homes, 25% affordable rent and 25% shared ownership. The proposal, the majority of which is on brownfield land and not therefore subject to an AH requirement, would be in excess of the policy standards with regard to AH. It is therefore acceptable in this respect and complies with Policy CS(R)12 of the LP which requires 25% of older persons accommodation to be for AH, and Policy CS(R)13²⁴¹ of the LP which requires 25% AH on greenfield land.

²³⁶ [POL25](#)

²³⁷ [POL20](#)

²³⁸ [POL05](#)

²³⁹ Table 4-1, [SDL36](#)

²⁴⁰ [POL09](#)

²⁴¹ [POL10](#)

Ecology [\[6.14 to 6.18, 7.61\]](#)Existing

- 12.95 The large parcel is the business park. This includes areas of grass, scattered and groups of trees, some hedgerows, and other incidental greenspaces. The small parcel is an open area of grassland. The applicant has undertaken a Preliminary Ecological Appraisal²⁴² in 2022, which the Council confirmed at the Inquiry remains up-to-date as do all other submitted ecological surveys and appraisals. This confirms²⁴³ that the existing habitat on the sites includes semi-natural woodland, scattered trees, neutral grassland, amenity grassland, and hedges. Further surveys have also confirmed that there is suitable habitat for bats²⁴⁴, breeding birds²⁴⁵ and GCN²⁴⁶, amongst other species. Nevertheless, the existing habitat is mostly of average quality, and the existing biodiversity has been found to only be of moderate value.

Proposed

- 12.96 Although only in outline, the Illustrative Site Layout²⁴⁷ shows that significant areas of greenspace would be retained. The proposal, though, is for a large-scale mixed-use development and it would involve the loss of some of the existing habitat and CBAs, including much of the grassland on the small parcel, and several trees and groups of trees. There is also the potential for disruption during construction. However, the detailed design and layout of the proposal could avoid where possible, and minimise otherwise, harm to existing biodiversity. This could be controlled by condition(s) and at reserved matters stages.
- 12.97 In addition, there would be extensive new tree and other planting, 1.47 ha of new woodland habitat is proposed and the planting of 415 urban trees and 212 fruit trees, totalling 5,855 trees. These offer opportunities to enhance the biodiversity value of the site. The preliminary approach to this is set out by the applicant in a Biodiversity Enhancement Measures report²⁴⁸, and includes considerations regarding tree and other planting, light pollution, habitat creation, bat and bird boxes, wetland areas, bee towers, suitable licensing for bats and GCN, and other measures.

Nearby sites

- 12.98 Runcorn Hill LNR and LWS is close to the small parcel. There is potential for direct harm to this during construction or from light pollution during operation. However, these factors could both be adequately controlled by condition(s). The LNR/LWS is easily accessible from both the large and small parcels so there is also the potential for harm to these areas from increase recreational pressure from the future occupiers and users of the proposed development. However, the

²⁴² [SDL07](#)

²⁴³ Table 1, Ibid

²⁴⁴ [SDL12](#) and [SDL13](#)

²⁴⁵ [SDL08](#)

²⁴⁶ [SDL10](#)

²⁴⁷ Ref 19-02 app 110 F, [PL02](#)

²⁴⁸ [SDL16](#)

s106 secures funding for infrastructure at Runcorn Hill Park to manage visitor pressures and to maintain the ecological integrity of the sites.

Biodiversity Net Gain

- 12.99 The proposal was submitted before the mandatory requirement for 10% BNG was introduced. The requirement is therefore to achieve 'a' net gain as set out in the Framework. The submitted Biodiversity Metric 4.0 Calculation Tool²⁴⁹ confirms the proposal would achieve a BNG of 24.28%, rising to 31.76% if including the proposed tree planting, exceeding policy requirements, in excess of this requirement.

Protected Sites

- 12.100 The application site is located within the Zone of Influence of the Mersey Estuary SPA and Ramsar sites. The SPA and Ramsar sites also encompass the Mersey Estuary SSSI, and the application site is within the SSSI's Impact Zone. The SPA's habitat, particularly its mudflats and saltmarshes, provides essential winter feeding and roosting grounds for non-breeding birds, including the redshank, pintail and godwit, amongst other species. These birds form its qualifying features²⁵⁰. The Ramsar is designated for assemblages of international importance for waterfowl, redshank, and pintail birds, amongst other species.
- 12.101 The wide range of recreational activities which take place on this estuary can result in disturbance to the birds. However, the application site is more than 1 km from the sites, making noise and visual disturbance unlikely. There is also no Functionally Linked Land within or surrounding the application site, making direct disturbance to the qualifying features of the protected sites unlikely. The Council's guidance also states that proposals on the south side of the Mersey, such as the application site, are unlikely to have significant recreational pressure on the protected sites. This is because the Manchester Ship Canal prevents access to the south bank of the Mersey²⁵¹.
- 12.102 Accordingly, the MEAS has confirmed that the proposal would not have a likely significant effect on the designated sites²⁵², either alone or in combination with other plans or projects. NE also do not object to the proposal with regard to the effects on the SSSI. I see no reason to disagree with the conclusions of MEAS. For the avoidance of doubt, I confirm this judgment is made without relying on mitigation measures. An Appropriate Assessment is not, therefore, required.

Overall

- 12.103 Because the ecological value of the site is only moderate, harm to existing biodiversity would only be limited, and because of the extensive areas of greenspace and habitat creation depicted on the illustrative proposals, the mitigation hierarchy could be followed. This would ensure that the proposal avoids higher value habitats where possible, minimises the harm where unavoidable, provides suitable habitats in mitigation, and biodiversity

²⁴⁹ [SDL17](#)

²⁵⁰ [ID22](#)

²⁵¹ Paragraph 5.1, [ID21](#)

²⁵² Paragraph 5, [ID10](#)

enhancement in compensation. The detail of this could be controlled by condition(s) and at reserved matters stages. The proposal would therefore have an acceptable effect on biodiversity, both with regard to harm to existing biodiversity and the enhancement of biodiversity through the proposal.

- 12.104 The proposal therefore complies with Policy CS(R)20²⁵³ of the LP, which seeks the protection and enhancement of the Borough's natural assets including SPA, Ramsar, LNR and LWS sites. It complies with Policy HE1²⁵⁴ of the LP, which sets out that proposals should follow the mitigation hierarchy of avoidance, minimisation, mitigation and compensation. It complies with Policy HE4²⁵⁵ of the LP which requires that biodiversity is protected and enhanced, and Policy HE5²⁵⁶ of the LP which requires landscaping to support biodiversity.

Highways [[6.20](#), [7.60](#)]

Free-flow of traffic

- 12.105 The existing Heath Park is under-occupied. The numbers of people working from the site could, in theory, be increased significantly without requiring planning permission, with the resultant effects of traffic generation and highway safety. However, as set out above, I do not view any material increase in occupation and job creation on the existing Heath Park as being a realistic fall-back scenario.
- 12.106 In comparison to the existing site, the proposal would provide a greater variety and attractiveness of employment floorspace that would be more likely to be fully occupied. Significant residential and other accommodation is also proposed. This would lead to increased traffic both within the application site and on the surrounding road network. The application site is well connected to the transport network along either Heath Road South or the Weston Point Expressway. It is proposed, as set out on the Circulation & Connectivity drawing²⁵⁷, to utilise these connections with a primary vehicular route from the expressway through the site to Heath Road South, with secondary routes branching off from it. However, this could be controlled by condition so that the expressway route be for commercial access and Heath Road South accesses for residential, including for the small parcel.
- 12.107 The applicant's updated Transport Assessment²⁵⁸ (the TA) from 2023 and later Technical Note 1²⁵⁹ calculate the likely trip generation from the proposal. The effects of this on road junctions near to the site has been assessed to be acceptable. However, this is with the exception of the Moughland Lane/Heath Road South/Clifton Road junction, where there would be a material increase in congestion. This junction operates at above capacity in the AM peak and close to capacity in the PM peak as existing. The increase in traffic generated by the proposal would worsen this situation so that the junction would operate over capacity in both AM and PM peaks. However, this makes no allowance for any

²⁵³ [POL14](#)

²⁵⁴ [POL27](#)

²⁵⁵ [POL29](#)

²⁵⁶ [POL30](#)

²⁵⁷ Ref ATC.22.1229.122.r4, [PL16](#)

²⁵⁸ [SDL22](#)

²⁵⁹ [SDL25](#)

modal shifts in transport as a result of the measures in the proposal to promote non-car based modes of transport. The s106 also secures a contribution towards improvement works to this junction, which could increase capacity.

- 12.108 Car parking is indicatively indicated to the south west corner of the site. There would likely be further car parking for different uses throughout the site, at up to 1,654 spaces compared to the 1,200 as existing²⁶⁰. There is no reason to believe that adequate car parking could not be provided for the proposal, and therefore there would not be any material increase in on-street car parking pressure on surrounding streets. It therefore complies with Policy C2²⁶¹ and Appendix D²⁶² of the LP with regard to car parking standards.

Highway safety

- 12.109 As set out in the TA²⁶³, accident and injury data is about average in the surrounding area and there are no concerns regarding highway safety. The increase in traffic the proposed development would generate would not be so significant so as to materially change this.
- 12.110 The existing access road from the expressway is in a wide cutting with good visibility and limited junctions and other crossing points, presenting little in the way of hazards. Any new access points to Heath Road South would be alongside open land and there is no reason to believe that adequate sight lines could not be achieved at the reserved matters and condition discharge stages. There is sufficient space on the site for appropriate cycle and pedestrian routes to be provided, including segregation if necessary. The full details would come forward at reserved matters stage.
- 12.111 The s106 also secures a contribution that would be used for crossing improvements and changes to the Moughland Lane/Heath Road South/Clifton Road junction, both of which would likely enhance highway safety.

Overall

- 12.112 Subject to the conditions and s106 clauses referred to above, the proposal would not, therefore, have a severe impact on the road network. This is a view shared by the Highway Authority²⁶⁴. It is therefore acceptable with regard to its effect on the free-flow of traffic and highway safety and it complies with Policies C1²⁶⁵ and HC5²⁶⁶ of the LP, which require proposals to not have an unacceptable effect on highway safety and that the residual cumulative impacts on the highway network would not be severe. The proposed development also complies with Policy ED2²⁶⁷ of the LP which requires adequate and safe access to employment development, Policy HE5²⁶⁸ which requires that landscaping be well laid out and

²⁶⁰ Page 7, [SDL25](#)

²⁶¹ [POL23](#)

²⁶² Page 251, [POL03](#)

²⁶³ Table 3-1, [SDL22](#)

²⁶⁴ [CR15](#)

²⁶⁵ [POL22](#)

²⁶⁶ [POL25](#)

²⁶⁷ [POL19](#)

²⁶⁸ [POL30](#)

maintainable to ensure road safety, and Policy GR2²⁶⁹ of the LP which requires proposals to provide and maintain safe highway conditions.

Green infrastructure [[6.7 to 6.13](#), [7.58](#)]

- 12.113 The small parcel is designated natural and semi-natural greenspace that provides a visual and landscape buffer between Runcorn Hill Park and the nearby existing developed areas. The proposal would result in the loss of a significant proportion of this space. There would also be the loss of CBAs on the large parcel, which are also green infrastructure. In addition, the proposed residential development would create a requirement for greenspace provision.
- 12.114 The proposal includes extensive and detailed information on greenspace provision and landscaping, given that it is an outline planning application. The detail as submitted would be the subject of control at reserved matters and condition discharge stages. However, the submitted drawings to be approved include the provision of new parks and gardens, natural and semi-natural greenspace, amenity greenspace, children's playspace, and allotments. This provision would largely be focussed on the southern part of the small parcel and the western part of the large parcel, in and around the electricity pylons. However, there would be further greenspace at various locations in both parcels.
- 12.115 The overall provision would meet the required standards for parks and gardens, and allotments. There would also be more natural and semi-natural greenspace, amenity greenspace and children's playspace than as existing. The provision would, though, be below the required standards to support the proposed development. However, this should be seen in the context of an existing surplus of provision of such space in Runcorn. In particular, the application sites are surrounded by the large areas of greenspace at Runcorn Hill Park and the Heath Park playing fields. There is a large existing children's playground near to both parcels within the playing fields. The amount of children's playspace to be proposed could also be increased, to be controlled by condition.
- 12.116 A further consideration is that the proposal would significantly improve public access to greenspace. This is because both existing parcels are private land with no public access. There is, in reality, some public use of the spaces, in particular the small parcel, because there are few or no barriers to entry. However, this could be changed at any point. The proposed strategy would also improve linkages between greenspaces across both the application sites and towards the existing surrounding greenspaces.
- 12.117 Overall, therefore, the overall principle of the proposal with regard to its effect on green infrastructure would be acceptable. It complies with Policy CS(R)21²⁷⁰ of the LP, which requires proposals to maximise opportunities for green infrastructure, protect and enhance linkages and accessibility to green infrastructure, and only resists loss of green infrastructure where there are identified deficiencies in existing provision. It complies with Policy HE4²⁷¹ of the LP, which requires that where there would be loss of existing green infrastructure

²⁶⁹ [POL35](#)

²⁷⁰ Page 84, [POL03](#)

²⁷¹ [POL29](#)

it be replaced by equivalent or better provision in terms of quantity and quality. It would not, however, comply with Policy RD4²⁷² of the LP, which sets out the quantitative requirements for on-site greenspace provision.

Character and appearance [6.19]

Existing

- 12.118 The Heath Park business park is dominated by long and narrow modernist buildings from the 1950s and 60s. There are also more modern buildings and extensions scattered throughout Heath Park and large covered walkways joining many of the buildings. There are surface level car parks dotted throughout the parcel and several areas of incidental greenspace. Even the more modern buildings and extensions have assimilated successfully into the site, and it is functionally and visually cohesive and reads as a distinctive and mostly self-contained area. It blends successfully with the playing fields and Runcorn Hill Park beyond by presenting an open aspect to Heath Road South. There is surrounding residential development of Weston Village to the south and west and Runcorn to the north and east, and any existing built form on the large parcel is set back from these surroundings.
- 12.119 The existing site has 59 Category A trees or tree groups and 18 Category B trees or tree groups²⁷³, some of which are protected by Tree Preservation Orders (TPOs). They are located throughout the large parcel, including several to a central courtyard area, and groups to the south west, to the north east near the playing fields, and alongside Heath Road South. These, and to a lesser extent the further Category C trees, positively contribute to the character and appearance of the large parcel.
- 12.120 The small parcel is open grassland. Although privately owned, there are no physical barriers to the surrounding Runcorn Hill Park. It is therefore strongly visually linked to the park and to the playing fields to the east and it is a moderately attractive piece of green open space. However, there is a small collection of residential buildings directly to the east, including bungalows facing onto the parcel on the opposite side of Highlands Road. There are also tall electricity pylons which run diagonally across the parcel. It is also less visible to the north and west because of existing woodland areas.
- 12.121 The entire parcel is within the Runcorn Hill and Heath Parkland LCA. A key characteristic of the LCA is that it provides a corridor of greenspace to the south west of Runcorn, and the small parcel positively contributes to this characteristic. It is also in the backdrop of the key views both from and to Runcorn Hill, located to the north, and which is a prominent feature and backdrop to Runcorn and further afield.

Assessment

- 12.122 The proposal is in outline. The detailed design is not therefore known and the layout is not yet fixed. However, the submitted drawings to be approved confirm that the more modern existing buildings on the large parcel would be demolished.

²⁷² [POL21](#)

²⁷³ Section 5, [SDL19](#)

Most of the modernist buildings would be retained, although refurbished. Some would remain in commercial use and some would be turned into residential units. A series of further buildings and terraces are proposed throughout the large parcel, mostly in a courtyard typology. A large retail and leisure building is proposed close to the north east boundary. The part of the small parcel north of the pylons would be developed for residential dwellings. The area underneath and to the south of the pylons would remain as open land, albeit re-landscaped.

- 12.123 The overall design approach is of high quality. The higher quality and more historically noteworthy existing buildings would largely be retained and refurbished. A courtyard typology is proposed that would better define public and private spaces and develop and enhance a street pattern with natural overlooking. The loss of incidental greenspaces and lots of the surface level car parking would increase the density whilst improving the attractiveness and functionality of the design. The large parcel would retain its character as a visually cohesive development that nevertheless is compatible with its surroundings. It is also noteworthy that the design has won several architectural awards, including the “Small Masterplans” award at the National Urban Design Awards 2023 and a UK Festival of Place: Pineapple Award 2022.
- 12.124 Full details are not yet known, but it is likely that approximately 60 individual trees would be felled, as well as several more from groups of trees, including Category A and Category B specimens, and some from the TPOs. Because of the high visual amenity value of these trees, this loss would cause harm to the character and appearance of the area. However, significant replacement planting is proposed, including in the open spaces that link the small and large parcel and to the boundaries of both parcels of land. The Greenspace Masterplan Strategy²⁷⁴ also includes reinforcement and restoration of hedgerows and tree belts and creation of new green linkages. This could all be controlled by condition(s). The significantly increased levels of tree planting in well considered locations, such as the corridor linking the two parcels of land, would result in an enhancement in the character and appearance of the large parcel.
- 12.125 The proposed development on the small parcel would erode the greenspace. Because of the open nature of the land and the strong visual links to the remainder of the park, this would be highly visible to the south. The harm caused would be mitigated to a small extent by the existing backdrop of development along Highlands Road and further afield in Runcorn. In addition, a border of trees and other planting is proposed around the residential buildings, and the existing woodland provides further screening to the north and west. The effect on the key views to and from Runcorn Hill would also be limited because of the limiting of the buildings to two storeys and the existing intervening woodland. The detailed design and layout of the proposed buildings could be controlled at reserved matters and condition discharge stages and there is no reason to believe that a high quality design could not be achieved.

²⁷⁴ [SDL28](#)

Overall

- 12.126 Subject to control of the design detail by condition(s) and at reserved matters stages, the proposal would result in an enhancement of the character and appearance of the large parcel, including with regard to trees and landscape character. However, despite the proposed extensive replacement planting, there would still be some intrinsic harm from the loss of several existing Category A and B trees of high visual amenity value. There would also be intrinsic harm from the development of greenspace on the small parcel in a manner which conflicts with a key characteristic of the LCA.
- 12.127 There would therefore be conflict with Policies CS(R)18²⁷⁵ and GR1²⁷⁶ of the LP which require high quality design appropriate to its setting, and Policy CS(R)20²⁷⁷ of the LP which expects the landscape character as informed by the LCA to be promoted and sustained. There would also be conflict with Policy HE5²⁷⁸, which states that planning permission would not normally be permitted if there would be adverse effects on trees the subject of a TPO, and that there is a presumption in favour of retention and enhancement of existing trees and woodland.

Heritage

Designated heritage assets

- 12.128 The application site is not within a conservation area. Nor does it contain listed buildings. The nearest conservation areas are Higher Runcorn to the north and Weston Village to the south²⁷⁹. There are also several listed buildings in the surrounding area. However, there is no intervisibility between the application site and these designated heritage assets because of intervening landscape, in particular trees and buildings. The existing business park is inward looking, with surrounding tree planting to many of its borders. There is also a significant distance between the application site and the heritage assets. The application site does not, therefore, contribute to the significance of any designated heritage assets.
- 12.129 The proposed development would not alter the above. Although denser than the existing site, the proposal is not for any individual buildings taller than the tallest existing building. It would not, therefore, be any more visible to/from the heritage assets than as existing. With regard to the development of the small parcel, this would be closer to the Higher Runcorn Conservation Area and the listed buildings within it, however it would remain approximately 400 m distant, with significant intervening existing buildings and it would not be visible from within the conservation area. The proposal would not, therefore, affect the settings of the conservation areas or listed buildings in the area and is acceptable in these respects.

²⁷⁵ [POL12](#)

²⁷⁶ [POL34](#)

²⁷⁷ [POL14](#)

²⁷⁸ [POL30](#)

²⁷⁹ Figure 3-2, [SDL29](#)

Buildings of local merit

- 12.130 Heath Park began construction in 1959 and was extended in the 1960s. The buildings built then are of modernist style, with concrete structures and extensive glazing. Some of these original buildings have since been demolished, but the administrative wing, drawing office service wing and canteen are surviving elements from this period. The surviving buildings have been extensively re-configured internally, and re-clad externally. More recent covered walkways have also been added.
- 12.131 In the 1980s, Heath Park was further extended with post-modernist buildings for a conference centre, office block and bridge link. These survive but are of limited architectural merit. In the 21st-Century, two more office buildings were constructed that also have limited architectural merit.
- 12.132 The remaining 1950s and 60s buildings are competent examples of modernist architecture. They also retain a broad sense of the original layout of Heath Park as a business park. However, the 1980s and 21st-Century additions, and the demolitions, have, in-combination, eroded the original layout. The buildings have also been extensively altered and renovated. They are therefore only of moderate architectural and historic interest. Of note, they were not locally listed²⁸⁰, despite having been put forward by the local community as being suitable for local listing.
- 12.133 Although only currently illustrative, most of the 1950s and 60s buildings would be retained. Those to be demolished would be a canteen, stores and workshops, and a compound of buildings to the east, and the covered walkways. Given their only moderate architectural and historic merit, and lack of protection or even local listing status, this would be acceptable. However, to reflect their local importance, it would be necessary to descriptively record the 1950s and 60s buildings to be demolished, to a Level 2 standard²⁸¹. This could be controlled by condition. There would be further demolition of the 1980s and 21st-Century buildings, but these are of limited architectural merit.

Overall

- 12.134 As set out above, the proposal would not harm the significance of designated heritage assets. It would involve the demolition of some 1950s and 60s buildings of moderate local historic and architectural interest, but this would be acceptable subject to a record being made of the buildings prior to demolition. The proposal is therefore acceptable in these respects and complies with Policies CS(R)20²⁸² and HE2²⁸³ of the LP, which require heritage assets to be conserved and enhanced.

²⁸⁰ [CR05](#)

²⁸¹ As set out in Understanding Historic Buildings A Guide to Good Recording Practice 2016, by Historic England

²⁸² [POL14](#)

²⁸³ [POL28](#)

Living conditions

Future occupants

- 12.135 The proposed layout is only illustrative but provides an indication of the possible layout and location of the proposed mix of uses on the application site. It indicates sufficient distance between proposed residential and commercial uses so as to mean that the proposal could provide adequate living conditions for the future occupiers of the proposal. There is no reason to believe that this could not be achieved in the final layouts. The Illustrative Site Layout²⁸⁴ includes the conversion of some of the existing commercial buildings to residential but these are narrow buildings and there is no reason to believe that adequate layouts could not be provided, with sufficient daylight, sunlight and outlook.
- 12.136 The proposed commercial floorspace would mostly only be in use classes which are naturally compatible with nearby residential occupation. Therefore, there is no reason to believe that the proposed provision of these ancillary facilities could not be successfully accommodated into the final design of the proposal. With regard to the proposed food and beverage uses, these would likely be within a separate building on the site, as set out on the Illustrative Site Layout. Either way, there is sufficient space to accommodate such uses without causing unacceptable effects on the living conditions of future occupants or existing neighbours. This could be controlled by condition(s) and at reserved matters stages, both in terms of the location of the uses and to control items such as plant noise.
- 12.137 Nevertheless, the commercial floorspace would create some noise pollution, but this could be controlled by appropriate conditions requiring the future submission of Noise Assessment(s), to include information regarding plant²⁸⁵ and other noise associated with the commercial floorspace and an assessment of the effect of existing noise generation from roads on the future occupants.

Neighbouring occupiers

- 12.138 As detailed on the Illustrative Site Layout, there would be residential development on the small parcel. However, this would only be two-storeys²⁸⁶ and on the opposite side of Highlands Road. It would therefore have an acceptable effect on the living conditions of the existing occupiers on the other side of the road, subject to consideration of the detailed design at reserved matters stage.
- 12.139 There are also existing residential homes which directly adjoin the large parcel, along the south side of Heath Drive, and the north and east sides of Weston Crescent. The properties on Weston Crescent and Heath Drive back onto areas of the application site proposed to be landscaped with trees and woodland. This would have the potential to cause unacceptable obstruction of light and harm to outlook due to the proximity. However, this could be controlled at the reserved matters and condition discharge stages to ensure that there would be no unacceptable effects in these regards. In addition, the proposed buildings near to Heath Drive could also be controlled at reserved matters stage to ensure that

²⁸⁴ Ref 19-02 app 110 F, [PL02](#)

²⁸⁵ As requested by the Council's Environmental Health officer - Page 2, [CR12](#)

²⁸⁶ See Scale Parameters drawing Ref 19-02 app 112 G – [PL03](#)

there would be no unacceptable effects with regard to overlooking or loss of light to the existing residents.

- 12.140 In a similar vein, the proposed retail and leisure uses could be controlled by condition discharge and reserved matters submission to ensure that any effects on existing residents with regard to noise and light pollution and other disturbance would be within acceptable limits.

Overall

- 12.141 For the reasons set out above, subject to the imposition of condition(s) and the consideration of the detailed design at reserved matters, the proposal would have an acceptable effect on the living conditions of neighbouring residents, and would create acceptable living conditions for the future occupiers. The proposal therefore complies with Policy ED2²⁸⁷ of the LP, which requires that employment development be compatible with surrounding uses. It complies with Policy HC8²⁸⁸ of the LP, which requires that food and drink uses would not harm residential living conditions. It complies with Policy HE5²⁸⁹ of the LP, which requires that landscaping ensures suitable living conditions. It complies with Policy HE7²⁹⁰, which requires that the effects of pollution will not have an unacceptably negative effect on living conditions. It complies with Policy GR2²⁹¹ of the LP, which requires that proposals have an acceptable effect on the living conditions.

Agent of change [\[7.57\]](#)

- 12.142 The RCC is a large employer in the area. It is a designated site of Critical National Infrastructure. The proposal would introduce residential development. However, there are significant existing residential homes in Weston Village that are closer to the RCC. Therefore, the proposal cannot have an impact on the RCC in terms of any risk of causing restrictions to be imposed on the operation of the RCC, because the existing homes impose greater restrictions. There is not, therefore, any concern with regard to the 'agent of change' principle. The wider considerations regarding public safety are, of course, set out extensively above.

Technical matters [\[6.22, 7.59\]](#)

Pylons

- 12.143 Electricity pylons run through both parcels. SP Energy Networks Holdings Ltd (SPEN) is responsible for the pylons, which serve approximately 30,000 customers. SPEN has objected²⁹² due to concerns that the proposal would have detrimental impacts on its operations and its ability to ensure security of electricity supply to its customers due to the potential for an adverse impact on the safety and operation of the lines. This is particularly with regard to planting proposed within the easement for the power lines.

²⁸⁷ [POL19](#)

²⁸⁸ [POL26](#)

²⁸⁹ [POL30](#)

²⁹⁰ [POL31](#)

²⁹¹ [POL35](#)

²⁹² [CR40](#)

- 12.144 As it stands, planting is proposed underneath and close to the pylons²⁹³. However, the areas closest to the pylons are to be for wildflower meadows or relate to existing woodland planting. The application is in outline and the detail of the planting in proximity to the pylons would come forward at reserved matters and condition discharge stages. Extensive greenspace is proposed and there is no reason to believe that a suitable planting scheme could not be achieved and secured. The proposal is therefore acceptable in this respect and complies with Policy CS(R)7²⁹⁴ of the LP, which requires that proposals adequately mitigate any effect on local infrastructure.

Land contamination

- 12.145 The current business park includes laboratories and research and development, which could have contaminated the land. The small parcel was previously subject to quarrying and infilling works and a further quarry was located adjacent to the boundary. This therefore also has the potential to be contaminated. The applicant's Preliminary Risk Assessment²⁹⁵ confirms these, and other, potential risks concluding that the overall risk from contamination is low to moderate.
- 12.146 The proposal is for uses, including dwellings, which are sensitive to land contamination. It also has the potential to disturb land contamination in a way that could create a risk to existing residents close to the site, in particular those along Highlands Road opposite the small parcel and former quarries. However, conditions could control the construction of the proposal to ensure that contamination is suitably identified, treated and monitored, including for unexpected contamination found during construction. This is in accordance with the conditions requested by the EA²⁹⁶.
- 12.147 Subject to control by these conditions, the proposal would be adequately controlled with regard to the effects of contamination. It therefore complies with Policy CS(R)23²⁹⁷ of the LP, which requires the investigation of potentially contaminated land and that the land be made suitable for the proposed use. It complies with Policy HE7²⁹⁸ of the LP, which requires that land contamination be mitigated so that it would not negatively impact on the quality of the environment. It complies with Policy HE8²⁹⁹ of the LP, which requires that land contamination be suitably assessed, and then effectively remediated.

Air quality

- 12.148 Existing air quality on both parcels of land is acceptable with regard to the Council's own limits, and the general standard of air quality in the wider area is good³⁰⁰. Construction of the proposal would create dust and other emissions but these could be controlled by condition(s) with regard to the construction methods and practices. During operation, the proposal would result in an increase in traffic

²⁹³ Pylon Meadow drawing Ref ATC.22.1229.123.r5 – [PL17](#)

²⁹⁴ [POL08](#)

²⁹⁵ [SDL04](#)

²⁹⁶ [CR10](#)

²⁹⁷ [POL17](#)

²⁹⁸ [POL31](#)

²⁹⁹ [POL32](#)

³⁰⁰ Section 4.5, [SDL27](#)

and associated emissions. However, the applicant has assessed that this would have a negligible effect on air quality³⁰¹, and this is agreed by the Council's Environmental Health Officer³⁰². Given the likely small increase in pollutants, I see no reason to disagree. The proposal therefore complies with Policies CS(R)23³⁰³ and HE7³⁰⁴ of the LP, which require development to not exacerbate all forms of emissions and to avoid negatively impacting on the environment of the Borough with regard to air pollution.

Flooding

- 12.149 Both parcels are at low risk of fluvial flooding³⁰⁵, and also groundwater and tidal flooding. Small parts of the large parcel are at high risk from pluvial flooding³⁰⁶, where existing falls and depressions in the land can capture surface water. The proposal includes extensive landscaping and would retain large areas of open space. There is therefore no reason to believe that appropriate measures could not be taken to appropriately mitigate pluvial flood risk. This would include restricting run-off rates in accordance with the LP³⁰⁷ to be a maximum of 50% of the existing rate to the brownfield large parcel and to the existing greenfield run-off rates to the small parcel.
- 12.150 The detail of this could be controlled at reserved matters and condition discharge stages. Therefore, subject to these measures, the pluvial flooding risk, both on the application site and with regard to off-site risks, would be low³⁰⁸. The Local Lead Flood Authority agrees³⁰⁹ that the proposal would have an acceptable effect on flood risk, subject to control of the detail by condition. The proposal is therefore acceptable with regard to flood risk and complies with Policy HE9³¹⁰ of the LP, which requires development to not be subject to unacceptable risk of flooding and nor should it unacceptably exacerbate risk elsewhere.

Other

- 12.151 There is a hydrogen pipeline which runs across the large parcel³¹¹. This is not within an area where there is proposed development and the British Pipeline Agency Limited do not object to the proposal³¹². However, they would need to be notified of any work taking place within 50 m of this pipeline³¹³, which could be observed by both the applicant and the Council at reserved matters stage.
- 12.152 Liverpool John Lennon Airport has confirmed that the proposal would have no impact on operations at the airport³¹⁴. The Airport would need to assess the full

³⁰¹ Section 6.2, [SDL27](#)

³⁰² [CR12](#)

³⁰³ [POL17](#)

³⁰⁴ [POL31](#)

³⁰⁵ Figure 5-1, [SDL33](#)

³⁰⁶ Figure 5-2, Ibid

³⁰⁷ Paragraph 12.84, [POL33](#)

³⁰⁸ Table 9-1, Ibid

³⁰⁹ [CR27](#)

³¹⁰ [POL33](#)

³¹¹ [CR29](#)

³¹² [CR01](#)

³¹³ [CR30](#)

³¹⁴ [CR24](#)

details as they come forward at reserved matters stages, which could be appropriately controlled by the Council notifying the airport at that point.

- 12.153 A representation was made to the effect that the rights of the person under Article 1 of the Human Rights Act 1998 with regard to the right to peaceful enjoyment of property would be violated if the application were allowed. I have found that the proposed development would not result in any unacceptable harm to the living conditions of neighbouring occupiers. The development would not conflict with Policy GR2³¹⁵ of the LP in this regard. I am therefore satisfied that a grant of planning permission would not unacceptably interfere with the person's right to the peaceful enjoyment of their property.

Planning Balance

Positive

- 12.154 Halton is a deprived area and the LP sets out that Halton is the 27th most deprived Borough in the country³¹⁶ [7.6]. The proposed development is for a substantial mixed-use redevelopment that would involve a significant investment in a deprived area, mostly on brownfield land. It would be inherently accessible due to the mixture of complementary uses proposed on the site. Non-car based modes of transport are limited, but there are bus services and these would be enhanced as part of the proposal, and some existing services and facilities can be reached by walking. The proposed development would have an overall positive impact on health and would support healthy environments and encourage healthy lifestyles. It is not Green Belt and would reduce pressure on Green Belt release to accommodate development. I therefore place substantial weight on the principle of the proposed development.
- 12.155 Existing employment floorspace would be refurbished and enhanced. Significant new space would be provided, including STEAM accommodation, and other employment through retail, leisure and community facility provision. The proposal would result in hundreds of extra jobs on the site compared to as existing. There would be further jobs, albeit temporary, during construction. There would be increase expenditure on surrounding goods and services by the construction workers and by the future occupiers of the proposal. I place substantial weight on these economic factors, particularly given the deprived nature of some parts of the wider area.
- 12.156 Up to 545 homes are proposed, to potentially include some older persons housing, and 25% of which would be AH. This is in excess of the LP requirement, which does not require affordable housing on brownfield land, ie the large parcel. The provision of housing is an important requirement of local and national planning policy. There is a critical need for older persons housing, as set out in PPG³¹⁷. I therefore place substantial weight on all the types of proposed housing. Although the older persons housing is not secured, I place the same weight on all types of proposed housing, so this does not affect my weighting.

³¹⁵ [POL35](#)

³¹⁶ Paragraph 2.28, page 17 – [POL03](#)

³¹⁷ Housing for older and disabled people - Paragraph: 001 Reference ID: 63-001-20190626

- 12.157 A BNG of 31.76% is proposed and could be secured by condition(s) and at reserved matters stages. This is in excess of the policy requirement for 'a' net gain. I place significant positive weight on this factor.
- 12.158 The proposal would significantly improve public access to greenspace. This is because both existing parcels are private land with no public access. It would also improve linkages between greenspaces across both the application sites, and towards the existing surrounding greenspaces. I place moderate positive weight on these factors.
- 12.159 The proposal would result in an enhancement of the character and appearance of the large parcel, including with regard to trees and landscape character. The detailed design of both parcels could be controlled by condition and at the reserved matters stages so as to be of high quality. I place moderate positive weight on this.
- 12.160 Some details regarding renewable energy generation, such as hydrogen, and other factors relating to low carbon have been submitted. A condition could also secure further information in these regards at the reserved matters stages. It is likely that a suitable approach to such considerations could be secured. However, in the absence of full details or an understanding of if the measures would go above and beyond minimum standards, I only place limited positive weight on this factor.

Neutral

- 12.161 It has been demonstrated that the proposed town centre uses would not materially harm existing town centres. The provision of retail, leisure and community facilities is also part of the ethos of the proposal, and they would be complementary to the residential and commercial floorspace.
- 12.162 The proposal would not have a likely significant effect on the designated European Sites, either alone or in combination with other plans or projects. The proposal would meet the required open space standards for parks and gardens and allotments. It would not affect the settings of the CAs or listed buildings in the area. The proposed works would involve the demolition of some 1950s and 60s buildings, but they are only of moderate local historic and architectural interest.
- 12.163 Levels of noise, air and light pollution could be suitably controlled by condition(s) and at reserved matters stages. The living conditions of existing and proposed people could also be suitably protected or secured at the condition discharge and reserved matters stages. Various technical matters with regard to the existing electricity pylons, land contamination, flooding, a hydrogen pipeline and Liverpool Airport could all be dealt with satisfactorily at the condition discharge and reserved matters stages. The living conditions of future occupants would be of suitable quality and the living conditions of existing neighbours would be suitably protected.
- 12.164 All the factors in this section demonstrate that the proposal would meet required standards and/or would not cause material harm. They all, therefore, weigh neutrally in the planning balance.

Negative

- 12.165 It has not been satisfactorily demonstrated that the potential risks to the safety of the future occupants of the proposed development would not be significant, including for death and serious injury. In particular, it has not been satisfactorily demonstrated that [REDACTED]
[REDACTED] I therefore place very substantial weight on this factor.
- 12.166 There would be harm from the loss of several existing Category A and B trees of high visual amenity value. There would also be intrinsic harm from the development of greenspace on the small parcel in a manner which conflicts with a key characteristic of the LCA. The small parcel is already screened to two sides by woodland and is seen in the context of the adjacent residential buildings. The impact on views to and from Runcorn Hill would be limited both by those factors and because the proposal is only for two storey buildings in that location. Therefore, I place limited weight on these factors.
- 12.167 Although only of moderate ecological value, the existing habitat is suitable for bats, breeding birds, GCN and reptiles. Some of this would be lost as part of the proposal. There would also be harm during construction to the Runcorn Hill LWS and LNR, close to the small parcel, and from light pollution and increased recreation during operation. Appropriate mitigation measures are secured through the s106 or could be considered as part of the reserved matters and condition discharge stages. Nevertheless, there would still be harm to existing biodiversity. Because of the small amount of harm, moderate existing value, and proposed mitigation measures, I place limited weight on this factor.
- 12.168 The proposal would not have a severe impact on the free-flow of traffic or highway safety. However, there would be an increase in traffic generated by the proposal, which would result in the worsening of congestion, particularly at the Moughland Lane/Heath Road South/Clifton Road junction. Mitigation works would respond to this harm. Nevertheless, there would still be some residual harm from the increase in traffic. Because it would be at a low level, I place limited weight on this factor.
- 12.169 The proposal would create more natural and semi-natural greenspace, amenity greenspace and children's playspace than as existing. However, this would be below the required standards to support the proposed development. This is a failure of the proposal to meet required standards. However, I only place limited weight on this because it should be seen in the context of an existing surplus of provision of such space in Runcorn including the nearby large areas of greenspace at Runcorn Hill Park and the Heath Park playing fields, and children's playground near to both parcels within the playing fields.

Conclusion

- 12.170 With regard to public safety, the proposal complies with Policy CS23 of the LP. There would be conflict with Policies CS(R)18, CS(R)20, GR1, RD4 and HE5 of the LP. However, these conflicts are minor and sit within wider considerations

where the proposal would provide enhancements with regard to overall quality and accessibility of greenspace, increase biodiversity through BNG, and would be of a high quality design that enhances the large parcel and of intrinsic high quality of design on the small parcel. There are also substantial benefits to the proposal, as set out above. Therefore, the proposed development complies with the Development Plan, when considered as a whole.

- 12.171 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of this application be made in accordance with the Development Plan unless material considerations indicate otherwise. In this regard, although the proposal complies with Policy C23 of the LP with regard to public safety, the wider public safety considerations are important material considerations. As set out above, it has not been demonstrated that there would not be a significant risk to public safety, and I place very substantial weight on this factor. It is also material that the relevant Development Plan policy with regard to public safety was likely adopted following misconceptions about its compatibility with HSE methodology, and that its assessment of risk is based on a QRA which lacks credibility.
- 12.172 The benefits of the proposal are extensive. It is for a substantial mixed-use development including significant economic investment in both the short and long term, and the provision of up to 545 homes including above policy compliant offer of 25% AH. There are further important benefits, in particular from BNG, public access to greenspace, and the provision of a development of high quality design. I place particular importance on the principle of a visionary development in a deprived area of the country. Nevertheless, the potential scale of harm to the safety of the future occupants and users of the application site is such that this outweighs the benefits of the proposal and constitutes a material consideration which also justifies making a decision otherwise than in accordance with the Development Plan.

13. RECOMMENDATION

- 13.1 That permission be refused.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

For Halton Borough Council

John Hunter, of Counsel, instructed by Elizabeth Wilson-Lagan, Head of Legal, HBC.
He called:

Tim Gibbs MRICS MRTPI	Director of Planning and Transport, HBC
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Additional participants at the General Round Table Session:

Sophie Leadsom MCIEEM	Principal Ecologist, Merseyside Environmental Advisory Service
Andrew Evans MRTPI	Principal Planning Officer, HBC
Jonathan Farmer	Service Manager, HBC

For SOG Ltd

Paul Gilroy KC and Freddie Humphries, of Counsel, instructed by Horwich Farrelly Limited. They called:

Dr Amita Tripathi DEA	Technical Director, Fluidyn France
Andrew Teage MRTPI	Director, WSP
Andy Stanley	Founding Partner, RAS Limited

Additional participant at the General Round Table Session:

Ardan Leary	Technical Director, WSP
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For the Health and Safety Executive

Vincent Fraser KC and Martin Carter, of Counsel, instructed by the Government Legal Department. They called:

Harvey Tucker AMiChemE	Principal Specialist Inspector of Health and Safety, HSE
Stuart Reston	Principal Specialist Inspector of Health and Safety, HSE
Dr Simon Gant CEng FIMechE	Strategic Science Advisor for Net Zero, HSE

Interested Persons

Cllr Margaret Ratcliffe	Beechwood and Heath Ward Cllr
Graham Belt	Local resident
Paul Musgrave	Local resident
Val Foot	Local resident
Catherine Bollom	Local resident
Jackie Lawson	Local resident
Michael Hodgkinson	Local resident

ANNEX B: DOCUMENTS

Core Documents can be accessed at this [link](#). A full schedule of the Core Documents can be accessed at: [link](#).

Inquiry Documents can be accessed at this [link](#). A full schedule of the Inquiry Documents can be accessed at: [link](#).

Richborough

ANNEX C: SCHEDULE OF RECOMMENDED CONDITIONS

Time limits, drawings and reserved matters

1. Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application(s) for the approval of the Reserved Matters shall be made to the local planning authority before the expiration of ten years from the date of this permission.
3. The development hereby permitted shall be begun within three years from the date of the approval of the final Reserved Matters application(s).
4. All reserved matters applications shall be brought forward in accordance with the following schedule of approved drawings:
 - Location Plan (Ref 02_001-A);
 - Scale Parameters Plan (Ref 19-02 app 112 G);
 - Overall Planting Scheme (Ref ATC.22.1229.109.r4);
 - Proposed Green Infrastructure & Greenspace Plan (Ref ATC.22.1229.121.r8);
 - Circulation & Connectivity Plan (Ref ATC.22.1229.122.r4);
 - Pylon Meadow – Multi Functional, Green Infrastructure Corridor Proposed Plan (Ref ATC.22.1229.123.r5); and,
 - Land Use Composition and Coverage Plan (Ref ATC.22.1229.124.r1).

Reserved matters

5. Reserved Matters application(s) shall be accompanied, as appropriate, by a road layout scheme to provide that:
 - a) business and technical park site traffic shall be routed to a southerly direction toward Weston Point Expressway; and,
 - b) residential traffic shall be routed to a northerly direction toward Heath Road South.
6. Reserved Matters application(s) shall be accompanied, as appropriate, by a drawing setting out the following:
 - a) The precise location and numbers of car parking spaces for all modes, including electric vehicle infrastructure;
 - b) Visibility splays of vehicular accesses; and,
 - c) Boundary treatment and landscaping details in relation to vehicular access visibility splays.
7. Reserved Matters application(s) shall be accompanied, as appropriate, by a detailed Noise Assessment and Noise Mitigation Scheme. The development shall thereafter be carried out in full accordance with the approved details.

8. Reserved Matters application(s) shall be accompanied, as appropriate, by an Arboricultural Impact Assessment, an Arboricultural Method Statement and a Tree Protection Plan. The development shall thereafter be carried out in full accordance with the approved details.
9. Reserved Matters application(s) shall be accompanied, as appropriate, by an updated Mitigation and Enhancement Measures Statement in relation to bat species. The development shall thereafter be carried out in full accordance with the approved details.

Pre-commencement

10. Prior to commencement of development, a detailed Phasing Strategy shall be submitted to and agreed in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved Strategy.
11. (A) Prior to the commencement of development, a site wide Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following details:
 - Traffic Management Plan;
 - Wheel wash and winter highways management;
 - Air and dust quality mitigation measures to include consideration of the recommended measures set out at Table 6-1 in the Air Quality Assessment dated December 2023 by WSP;
 - Areas for loading and unloading;
 - Location, description and layout of contractor compounds;
 - Confirmation that demolition and construction works and associated deliveries shall not take place outside of the following hours:
 - o Mondays to Fridays 0730 to 1900 hours;
 - o Saturdays 0730 to 1300 hours; and,
 - o There shall be no working on Sundays, Public Holidays or Bank Holidays;
 - Details of how existing utility services will be protected during construction to avoid interruption to existing properties;
 - Recycling arrangements for vegetation that has to be cleared for development;
 - Details of site deliveries and contractor parking off the highway;
 - How the existing vegetation on the site will be gradually cut and removed under ecological supervision to encourage any amphibians present to move away from the affected areas;
 - Avoidance strategy for nesting birds, amphibians and mammals;
 - Confirmation that the working area, together with any storage areas, will be kept clear of debris, and any stored materials will be kept off the ground on pallets so as to prevent mammals or amphibians from seeking shelter or protection within them;
 - Good practice methods ensuring:
 - o all trenches and excavations have a means of escape (e.g. a ramp);

- o any exposed open pipe systems should be capped to prevent mammals gaining access; and,
 - o the appropriate storage of materials to ensure that mammals do not use them;
- Any open excavations (e.g., foundations / footings / service trenches etc.) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil (or similar) to prevent amphibians from seeking shelter beneath them. Any excavation must be in-filled and made good to ground level with compacted stone or similar at the earliest opportunity, so as to remove any hazard to amphibians;
- Soft tree felling technique method statement for all trees to be removed;
- Should any frogs or toads be encountered that are at risk of harm, operators are advised that using wet gloves they should be removed from harm by being carefully handled off the work site to be placed in a nearby like-for-like habitat;
- Sympathetic construction phase lighting scheme to limit impact on wildlife;
- Tree and hedgerow protection measures; and,
- Avoidance measures for reptiles, badgers and hedgehogs.

(B) Thereafter, no development shall commence on any phase until an updated CEMP for that specified phase has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved CEMP(s).

12. Prior to commencement of development, a site wide Greenspace Management Plan shall be submitted to and approved in writing by the local planning authority. Thereafter, no development shall commence on any phase until an updated Greenspace Management Plan for that specified phase has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.
13. Prior to the commencement of development, a Wetland Infiltration System Management Scheme shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.
14. Prior to the commencement of development, a Remediation Strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. This Strategy will include the following components:
- a) A Preliminary Risk Assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and,
 - potentially unacceptable risks arising from contamination at the site.
 - b) A Site Investigation Scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

- c) The results of the Site Investigation Scheme referred to in (b) and, based on these, an Options Appraisal and Remediation Strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall thereafter be carried out in full accordance with the approved details.

- 15. Prior to the commencement of development, a Site Wide Waste Management Plan shall be submitted to and agreed in writing by the local planning authority. Thereafter, no development shall commence on any phase until an updated Site Wide Waste Management Plan for that specified phase has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.
- 16. Prior to the commencement of development, a Building Record to Level 2 (as set out in Historic England Guidance – Understanding Historic Buildings) for any existing building proposed to be demolished shall be submitted to and approved in writing by the local planning authority.
- 17. Prior to the commencement of development, a Site Wide Biodiversity Plan that formalises biodiversity enhancement objectives to achieve site wide Biodiversity Net Gain (based on DEFRA Metric 4.0) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.

Pre-commencement (by phase)

- 18. Prior to the commencement of development on each phase, a scheme and timetable for the achievement of Biodiversity Net Gain for that specific phase, based on the DEFRA Metric 4.0 and having regard to the Site Wide Biodiversity Plan (approved under Condition 17), shall be submitted to and approved in writing by the local planning authority. The specific phase scheme shall thereafter be implemented in full in accordance with the approved details.
- 19. Prior to the commencement of development on each phase, a Travel Plan for that specified phase shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in full in accordance with the approved details.
- 20. Prior to the commencement of development on each phase, details of the implementation, maintenance and management of a SuDS scheme for the disposal of surface water in accordance with the SuDS hierarchy shall be submitted to and approved by the local planning authority. The details shall include:

- infiltration testing, soakaway design and/or attenuation and filtration structures and calculations to demonstrate a reduction in surface water run-off rate to greenfield rates for new roof/hardstanding areas;
- confirmation of the existing discharge rates for each catchment based on the lower value of either the Rational Method calculation or the hydraulic capacity calculation for the existing outfall pipe;
- confirmation of the ownership, condition and capacity of the downstream network from Catchment B;
- confirmation of how the existing drainage from the site to the south of Catchment B will be retained and integrated into the proposed drainage system as the surface water drainage currently drains into the Catchment B drainage outfall;
- updated layouts with no clashes between attenuation basins and proposed dwellings;
- information regarding the infiltration of surface water to the ground including an assessment of the risks to controlled waters; and,
- a Maintenance and Management Plan outlining who is responsible for the maintenance of both the foul and surface water network.

The Schemes shall be implemented and thereafter managed and maintained in accordance with the approved details.

21. Prior to the commencement of development on each phase, a Landscape Ecological Management Plan (LEMP) with a minimum 30 year management period for each specific phase shall be submitted to and agreed in writing by the local planning authority. The LEMPs shall include but not be limited to the following:
- Description and evaluation of the features to be managed;
 - Ecological trends and constraints on site which may influence management;
 - Aims and objectives of management;
 - Appropriate management options for achieving aims and objectives;
 - Prescriptions for management actions;
 - Preparation of a work schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - Personnel responsible for implementation of the plan;
 - Confirmation of funding and ownership; and,
 - Details of a programme of monitoring and remedial measures triggered by monitoring.

The development shall thereafter be carried out in full accordance with the approved details.

22. Prior to the commencement of development on each phase, a Sustainable Development and Climate Change Scheme for the relevant phase detailing how the scheme has been designed having regard for the predicted effects of climate change including reducing carbon dioxide shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.

23. Prior to the commencement of development on each phase, a Health Management Plan shall be submitted to and approved in writing by the local planning authority.

The development shall thereafter be carried out in full accordance with the approved details.

24. No above ground works (excluding demolition and site setup) for each phase shall take place until samples of the materials to be used in the construction of the external surfaces (e.g roofs, walls, doors, windows) of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Specific trigger

25. No piling will take place until a Groundwater Risk Assessment has been submitted to and approved in writing by the local planning authority demonstrating that there is no unacceptable risk to groundwater. Development shall thereafter be carried out in accordance with the approved details.
26. Prior to the installation of any lighting, a Lighting Scheme that will prevent excessive light spill from affecting nocturnal species to minimise harm to protected species shall be submitted to and approved in writing by the local planning authority. Such a scheme will give consideration toward shielded light installations, greater separation between lighting fixtures and the use of red spectrum lighting. The development shall thereafter be carried out in full accordance with the approved details.

Pre-occupation

27. No dwelling hereby approved shall be occupied until required noise mitigation measures have been installed for that dwelling in full and complete accordance with the detailed Noise Assessment and Noise Mitigation Scheme submitted to and agreed by Condition 7.
28. Prior to any part of the development being occupied/bought into use, a Verification Report demonstrating the completion of works set out in the approved Remediation Strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The Report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met.
29. No development shall be occupied for a given phase until a Verification Report confirming that the SuDS system for that phase has been constructed in accordance with the approved design drawings (including off site alterations) and in accordance with best practice has been submitted to and approved in writing by the local planning authority. This shall include:
- evidence that the SuDS have been signed off by an appropriate, qualified, indemnified engineer and are explained to prospective owners and maintainers plus information that SuDS are entered into the land deeds of the property; and,
 - submission of 'As-built' drawings and specification sheets for materials used in the construction, plus a copy of Final Completion Certificate.

30. No development shall be occupied for a given phase until a Waste Storage and Collection Plan for that phase has been submitted to and been approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.

For observation

31. The amount of commercial floorspace hereby approved shall be limited to a maximum of 30,396 square metres.
32. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details.
33. No tree/hedgerow felling, lopping or pruning or scrub/grassland clearance shall take place from 1st March to 31st August inclusive, unless a survey for breeding birds has been undertaken and the results, together with, where necessary, a scheme of mitigation and protection measures has been submitted to and approved in writing by the local planning authority. Should scrub/ grassland clearance, tree or hedgerow felling take place between the dates stated above, any agreed mitigation and protection measures shall be implemented in full and retained through the duration of the relevant works.
34. Works shall not commence unless the local planning authority has been provided with a copy of a licence/registration issued by Natural England in respect of Bats pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified development to go ahead.
35. Works shall not commence unless the local planning authority has been provided with a copy of the District Level Licence issued by Natural England in respect of Great Crested Newts pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified development to go ahead.

===== END OF SCHEDULE =====



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.