
Report to the Secretary of State for Transport

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an Inspector appointed by the Secretary of State for Transport

Date: 18 February 2020

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

**THE DERBYSHIRE COUNTY COUNCIL (WOODVILLE TO SWADLINCOTE
REGENERATION ROUTE (CLASSIFIED UNNUMBERED ROAD) (SIDE ROADS)
ORDER 2019**

**THE DERBYSHIRE COUNTY COUNCIL (WOODVILLE TO SWADLINCOTE
REGENERATION ROUTE (CLASSIFIED UNNUMBERED ROAD) COMPULSORY
PURCHASE ORDER 2019**

Dates of Inquiries: 21 to 24 January 2020

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CONTENTS

	Page
Acronyms and Abbreviations used in the Report	2
Case Details	3
Preamble	3
Description of the Woodville to Swadlincote Regeneration Route and the Order Land	5
The Case for Derbyshire County Council as Acquiring Authority	5
The Cases for the Objectors	16
The Response of the Council	19
Inspector's Conclusions	28
Recommendations	38
 Appendix 1: Appearances	 39
Appendix 2: Core Documents	40
Appendix 3: Inquiry Documents	45

ACRONYMS AND ABBREVIATIONS USED IN THE REPORT

ALA 1981	The Acquisition of Land Act 1981
BCR	Benefit Cost Ratio
CD	Core Document
CPO	Compulsory Purchase Order
D2N2	Derby, Derbyshire, Nottingham and Nottinghamshire
DCC	Derbyshire County Council
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
Doc	Document
ha	hectare
HA 1980	the Highways Act 1980
Kirkvale	Kirkvale Limited
km	kilometre(s)
kph	kilometres per hour
LEP	Local Enterprise Partnership
LGF	Local Growth Fund
LTP	Local Transport Plan
m	metre(s)
MHCLG	Ministry of Housing, Communities and Local Government
mph	miles per hour
NPPF	The National Planning Policy Framework
PMA	Private Means of Access
PRoW	Public Right(s) of Way
PSSR	Preliminary Sources Study Report
S106	Section 106 of the Town and Country Planning Act 1990
SDDC	South Derbyshire District Council
SoR	Statement of Reasons
sqm	square metres
SRO	Side Roads Order
SSHCLG	Secretary of State for Housing Communities and Local Government
SST	Secretary of State for Transport
TA	Transport Assessment
the Acquiring Authority	Derbyshire County Council
the Council	Derbyshire County Council
the Inquiry	the co-joined Inquiries into the SRO and the CPO
the Local Plan	The South Derbyshire Local Plan Part 1
the NPPF	the National Planning Policy Framework
the Scheme	the Woodville to Swadlincote Regeneration Route
WSRR	the Woodville to Swadlincote Regeneration Route

CASE DETAILS**The Side Roads Order (SRO)**

- The SRO is made under Sections 14 and 125 of the Highways Act 1980, and is known as the **Derbyshire County Council (Woodville To Swadlincote Regeneration Route (Classified Unnumbered Road) (Side Roads) Order 2019**
 - The SRO was made on 7 June 2019.
 - The Derbyshire County Council (hereafter referred to as “the Council”, “DCC” or “the Acquiring Authority”) submitted the SRO for confirmation to the Secretary of State for Transport.
 - If confirmed, the SRO would authorise the Council to improve or stop up lengths of highway, construct new highways and stop up and/or provide new private means of access to premises, in order to construct the Classified Unnumbered Woodville to Swadlincote Regeneration Route.

Summary of Recommendation: that the SRO be confirmed with modifications.

The Compulsory Purchase Order (CPO)

- The CPO is made under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and Schedule 2 of the Acquisition of Land Act 1981. It is known as the **Derbyshire County Council (Woodville To Swadlincote Regeneration Route (Classified Unnumbered Road) Compulsory Purchase Order 2019**
 - The CPO was made on 6 June 2019.
 - The Council submitted the CPO for confirmation to the Secretary of State for Transport.
 - If confirmed, the CPO would authorise the Council to compulsorily purchase land and the rights over land in order to construct the Classified Unnumbered Woodville to Swadlincote Regeneration Route with its associated works and mitigation measures, as provided for by the above-mentioned SRO.

Summary of Recommendation: that the CPO be confirmed with modifications.

PREAMBLE

1. The Classified Unnumbered Woodville to Swadlincote Regeneration Route (“the WSRR” or “the Scheme”) is proposed as a 2-lane single-carriageway road, some 1.0 kilometres (km) in length, which would link the A514 Derby Road/Swadlincote Road with Occupation Lane, within the administrative area of South Derbyshire District Council (SDDC). Full planning permission was granted for the WSRR by SDDC in April 2018, with a further grant of planning permission by DCC on 23 September 2019¹ (see later).
2. Under provisions of the Highways Act 1980 (HA 1980) the Council is authorised to exercise powers of compulsory purchase and to acquire land or rights over land where it is reasonably necessary for the construction, operation, maintenance or accommodation of a highway proposal. To this end the Council, acting as Acquiring Authority, made a SRO and a CPO to enable the Scheme to be progressed². If

¹ See Core Document (CD) WSRR DCC PI #45

² See Document (Doc) INQ/1

confirmed, these Orders would authorise the exercise of powers to enable the compulsory purchase of land and new rights to facilitate the provision of the WSRR. They would also allow alterations to be made to the highways and public rights of way (PRoW) affected by the Scheme. The SRO and CPO were duly advertised³, with objections needing to be lodged before 19 July 2019. Objections received are detailed later in this Report.

3. I issued a Pre-Inquiry Note⁴ for distribution to all objectors, setting out the administrative and practical arrangements for concurrent Inquiries (hereafter simply referred to as “the Inquiry”) into the objections. I subsequently opened the Inquiry at the SDDC Offices, Civic Way, Swadlincote, on 21 January 2020. It sat on 4 days and closed on 24 January 2020. I carried out unaccompanied site visits to the areas affected by the Scheme on 20 and 22 January 2020 and also undertook an inspection of the route of the Scheme and the surrounding area on 23 January 2020 accompanied by a representative of the Council and some objectors to the Orders.

Numbers of Objectors

4. A total of 6 objections to the Orders were lodged by statutory objectors during the formal objection period⁵. The Council has continued to discuss and negotiate with objectors, with the result that 4 of the statutory objections have been withdrawn⁶. One of these withdrawals relates to the objection by Midland Lead – the only objector who attended the Inquiry. Midland Lead had been intending to present its objection through expert witnesses and cross-examination of the Council’s case, but agreement was reached between these 2 parties during the Inquiry, such that it was able to withdraw its objection and did not therefore formally present its case. Relevant documentation can be seen in Appendix 3⁷. First Fence Limited also withdrew its objection during the course of the Inquiry⁸.

Main Grounds for Objection

5. The various withdrawals meant that by the close of the Inquiry there only remained 2 statutory objections to the Orders. These are discussed in detail later in this Report, but in summary they cover the following points:
 - The Council has not demonstrated that the benefits of the Scheme would outweigh the significant impacts or costs to the local community;
 - An alternative route for the Scheme, which would cause less disruption to existing businesses should have been considered and adopted;
 - The Council’s real objective for the Scheme is housing regeneration, not a reduction in traffic;
 - The Council is proposing to acquire more land than is required, especially in relation to land required for construction works – and the compulsory acquisition of this land is therefore unnecessary;
 - The Council has failed to demonstrate that there is a compelling case in the public interest to justify the compulsory purchase of land; and
 - Acquisition of the land would be a breach of objectors’ human rights.

³ See Doc DCC/10

⁴ Doc INSP/1

⁵ See Doc INQ/1

⁶ See withdrawal letters at Docs WL/1-4

⁷ See Docs INQ/1, OBJ01/1-8, and WL/3

⁸ Docs INQ/1 and WL/4

Scope of this Report

6. This Report contains a brief description of the site and its surroundings and then sets out the gist of the case put forward by the Council in support of the Scheme. It then summarises the remaining objections before setting out the Council's response to these objections. My conclusions and recommendations then follow. Lists of Inquiry appearances and documents are attached. These include details of the submitted proofs of evidence and rebuttal proofs. Where appropriate, references to CDs and other submitted documents are given in parentheses or footnotes.

DESCRIPTION OF THE WSRR, ITS ROUTE AND THE ORDER LAND

7. A detailed description of the choice of route for the WSRR can be found in the Swadlincote Regeneration Route Preliminary Sources Study Report (PSSR)⁹ and in the written evidence of the Council's "Geotechnical and Contamination Ground Conditions" witness¹⁰, whilst details of its engineering design are given in the evidence of the Council's "Highway Engineering" witness¹¹. Details of the Scheme are also given in the Council's Statement of Reasons (SoR)¹².
8. In brief, the WSRR would provide a new, all-purpose single-carriageway to the south-east of Swadlincote, linking Occupation Lane at Woodville to the A514 Derby Road at Swadlincote, thereby facilitating further redevelopment of derelict and brownfield land in the area. A General Arrangement drawing showing the location, layout and route of the Scheme is provided at Annex A to the SoR¹³, and can also be found in Doc INQ/1.
9. In order to construct the WSRR the CPO seeks to acquire land and new rights over land, with some of the land to be acquired to be vested in exchange for areas of public open space which are needed for the Scheme. Overall the land included in the CPO – referred to as "the Order land" – extends to some 5.42 hectares (ha). A detailed description of the Order Land is given in the SoR, and is also referred to in the evidence of Mr Leighton¹⁴. In total there are 12 parties affected by the proposed construction of the WSRR.

THE CASE FOR DCC AS ACQUIRING AUTHORITY

The material points are:

Background

10. The purpose of the Orders is to enable the completion of the WSRR, to facilitate the redevelopment of an area of former open cast and deep mine workings, known collectively as the Woodville Regeneration Area¹⁵ ("the Regeneration Area"). The now completed first phase of the WSRR, known as Hepworth Road, was proposed and consulted upon in August and September 2000 as part of the preparatory work preceding the submission of an outline planning application for the Woodville Woodlands residential development. This section of the WSRR, connecting the A511 at Butt Lane to Moira Road and later to Occupation Lane, was required to mitigate the transport impacts of that development, which was constructed in 2014/2015.

⁹ CD WSRR DCC PI #49, dated March 2006

¹⁰ Mr Cragg – see Docs DCC/3/1-3

¹¹ Mr Harris – See Docs DCC/4/1-6

¹² See Doc INQ/1

¹³ See Doc INQ/1

¹⁴ Docs DCC/6/1-2

¹⁵ See Appendix A in Doc DCC/1/3

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11. The remaining section of the WSRR, which is the subject of these Orders, would complete the link by providing a new highway from an existing roundabout at Occupation Lane to the A514 Derby Road, giving access to the remaining brownfield development sites and a small area of previously undeveloped land – all part of the aforementioned Regeneration Area. The Scheme would also provide some relief to the nearby A511/A514 “Clock Garage” junction - a 5-arm roundabout which suffers from traffic congestion at most times of the day.

Consideration of Route Options

12. The consideration of options for the route of the WSRR is detailed in the evidence of Mr Cragg¹⁶. The process of investigation for the Scheme began with a desk study - the PSSR of March 2006 – which looked at 3 alternative routes and compared them in terms of anticipated ground conditions and the resulting ground hazards. The study encompassed published information on matters such as geology, mining history, abandoned mine hazards, land-use history and environmental factors such as landfills, groundwater conditions, pollution incidents. The 3 route options are depicted on drawing D112011/GS/01 “Geotechnical Hazard Plan”¹⁷.
13. The 3 alternatives were assessed comparatively on the basis of 4 criteria: route length; the presence of abandoned mineshafts coincident with the route; the presence of abandoned backfilled opencast mine workings along the route; and the earthworks required to construct the road. Option A was found to be preferable, taking all the criteria into account. Option C was closely comparable with Option A, but would present further technical challenges due to more extensive earthworks required to achieve the necessary gradients. Option B was least favoured, being the longest route and passing closest to the greatest number of mineshafts, as well as requiring relatively expensive earthworks at its northern end. Option A was therefore taken forward for further investigations by intrusive methods.
14. The preliminary geotechnical interpretative report dated October 2007¹⁸ further addressed the ground conditions along Option A and broadly corroborated the findings of the PSSR. The coal mining risk assessment dated March 2018¹⁹ provides a detailed appraisal of abandoned coal and fireclay mining hazards along Option A based on an assessment of Coal Authority records including shafts, adits, opencast backfill and shallow and deep in-seam workings. Recommendations are given for the mitigation of risks associated with mining hazards which essentially entail ground treatment. A further intrusive ground investigation along Route A was conducted in January 2019, resulting in the “Woodville Phase II Investigation Report” by Aecom Infrastructure & Environment UK Ltd, dated May 2019²⁰.
15. Investigations by third parties²¹ into land bordering the chosen route have broadly corroborated the ground conditions and the nature of ground hazards and the related risks to development. The design of the highway scheme has necessarily considered how risks from the ground hazards are to be mitigated in this area.

¹⁶ Docs DCC/3/1-3

¹⁷ See Appendix B in Doc DCC/3/3

¹⁸ CD WSRR DCC PI #44

¹⁹ CDs WSRR DCC PI #30 to WSRR DCC PI #35

²⁰ CD WSRR DCC PI #54

²¹ CD WSRR DCC PI #51 and CD WSRR DCC PI #54

Law and Policy

Highways Act 1980, Acquisition of Land Act 1981 and CPO Guidance

16. The Orders are made pursuant to powers under the Highways Act 1980 ("HA 1980") and are subject to the provisions of the Acquisition of Land Act 1981 ("ALA 1981"). The "Guidance on Compulsory purchase process and The Crichel Down Rules"²² sets out the principles to be applied when considering a CPO. In order to confirm a CPO the decision maker has to be satisfied that:
- i. There is a compelling case in the public interest;
 - ii. The Acquiring Authority has taken reasonable steps to acquire all of the land and rights in the Order by agreement;
 - iii. The purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected;
 - iv. The Acquiring Authority has a clear idea of how it intends to use the land which it is proposing to acquire;
 - v. The necessary resources required to achieve the end purpose, justifying acquisition, are likely to be available within a reasonable time-scale; and
 - vi. There are no physical or legal impediments which are likely to block the scheme.
17. Highway authorities are given powers to construct or alter roads that cross or join trunk or classified roads by section 14 of the HA 1980. Provision in respect of private means of access (PMA) is made by section 125 of the HA 1980. Of particular relevance in this case is subsection (3), which indicates that in order to confirm an SRO which stops up a PMA the Secretary of State for Transport (SST) must be satisfied either that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided. During the course of the Inquiry, modifications have been made to provide for new PMAs and, as a result of those modifications (detailed later), the only objector to appear at the Inquiry (Midland Lead) has withdrawn its objections. It is clear, in short, that section 125(3) of the HA 1980 is satisfied.
18. Sections of the land required to construct the roundabout which links the WSRR to the A514 are public open space. Some of this land is only required during the construction period as working space. Public open space is subject to Section 19 of the ALA 1981 which provides:

19.— Commons, open spaces etc.

(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

(a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the

²² CD WSRR CPO/CDR #1

like rights, trusts and incidents as attach to the land purchased, or [(aa)...]

(b) that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this section, the Secretary of State shall direct the acquiring authority to give public notice of his intention so to do, and—

(a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and

(b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate."

19. In this case the intention to issue a Section 19 certificate was advertised, with an objection period ending on 6 January 2020. This application was unopposed, and on 17 January 2020, the Secretary of State for Housing Communities and Local Government (SSHCLG) signed a certificate²³ that he was satisfied about the matters in Section 19(1)(a).

Policy Considerations

20. Planning for the Regeneration Area, including phase 2 of the WSRR, was initially progressed through the emerging Woodville to Swadlincote Town Centre Area Action Plan, and a public consultation exercise took place in February and March 2007, seeking opinion on 3 alternative land-use scenarios for the Regeneration Area. Common to these alternatives was an indicative alignment for phase 2 of the WSRR, along the Option A route favoured by the PSSR.
21. Due to a change in UK Government guidance, work on the Area Action Plan ceased a short time after the 2007 consultation and thereafter the Regeneration Area was pursued through the South Derbyshire Local Plan Part 1 ("the Local Plan"), where it was highlighted and scrutinised at each consultation stage, before the Plan was adopted in June 2016²⁴. The Local Plan makes provision both for the development of the Regeneration Area and for the WSRR, as detailed in the following paragraphs.
22. The Vision for South Derbyshire, set out in Chapter 3 of the Local Plan incorporates the following:

"Major urban renewal will also have taken place in the wider Swadlincote urban area with the reclamation and re-development of underused and derelict brownfield land south of Woodville. The environment and job

²³ Doc INQ/2

²⁴ CD WSRR SDDC LP PI #1

opportunities in the Area will have been significantly enhanced through the construction of the Woodville - Swadlincote Regeneration Route bypassing - and providing relief from traffic congestion at - the Clock Roundabout, opening up land for development and providing better links between Swadlincote and the A42 to the east."

23. Policy S1: "Sustainable Growth Strategy" promotes sustainable growth to meet objectively assessed housing and commercial needs in the plan period 2011-2028. Part iii) of the policy makes a commitment to *"Provide new infrastructure to support the growth across the District. This will include new transport and education provision, and other services and facilities....."*. The WSRR is essential for safe and suitable access to allow wider redevelopment to come forward in the Regeneration Area and beyond.
24. Policy S5: "Employment Land Need" identifies the quantum of land required for industrial and business development in support of the Economic Strategies of the Council and the Derby, Derbyshire, Nottingham and Nottinghamshire (D2N2) Local Enterprise Partnership (LEP). As noted under Policy E1C, below, land within the Regeneration Area is identified to assist in meeting this need.
25. Policy S6: "Sustainable Access" promotes sustainable transport methods through the provision of new or enhanced walking, cycling, public transport and rail freight services and infrastructure and, where needs cannot be met by the aforementioned means, highway and car/lorry parking infrastructure. The WSRR includes a cycle and pedestrian path, as detailed later, and would also enhance the potential for bus service provision both to future development within the Regeneration Area and the established residential development to the south of Woodville, along Hepworth Road, which is not currently served.
26. Policy E1C: "Strategic Employment Land Allocations 2011-2028" identifies employment land allocations in use classes B1, B2 and B8 throughout South Derbyshire, including 12ha at the Woodville Regeneration Area.
27. Policy E6: "Woodville Regeneration Area" states that the *"Woodville Regeneration Area is protected for employment-led redevelopment, supported by the Woodville-Swadlincote Regeneration Route, to enable the economic, social and environmental regeneration of Woodville and Swadlincote. Redevelopment of the site should incorporate 12 ha of employment development defined by use classes B1, B2 and B8 and up to 150 new dwellings"*. The accompanying plan showing the area covered by Policy E6 includes the indicative alignment of the WSRR²⁵.
28. Policy INF4: "Transport Infrastructure Improvement Schemes" indicates that the Council will work with partners to deliver, amongst other schemes, the *"Woodville-Swadlincote Regeneration Route"*. It also makes it clear that *"Where required to mitigate the transport impacts of the development the Council will seek to negotiate financial contributions toward these schemes. Proposals that would prejudice their implementation will not be permitted"*. The policy goes on to explain that in determining the detailed alignments and designs of these schemes regard shall be had to the following: (i) *Minimising the impact on the environment, heritage assets and natural features;* (ii) *Taking full account of recreational routes along, or affected by, the schemes;* (iii) *Providing for the needs of pedestrians, cyclists and people with impaired mobility;* and (iv) *Mitigating any potential flood risk impact.*

²⁵ See Appendix A in Doc DCC/1/3

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29. The Local Plan Policies Map for Woodville²⁶ identifies the indicative alignment of the proposed WSRR and the surrounding Regeneration Area allocated for employment (Policy E1C) and regeneration/housing (Policy E6).
30. In addition, the Derbyshire Local Transport Plan²⁷ (LTP) identifies the road scheme known as the "A514 Woodville to Swadlincote Regeneration Route Study". The extract from the LTP is reproduced below:

"A514 Woodville-Swadlincote Regeneration Route Study: In order to help both the County Council and South Derbyshire District Council build a better understanding of this potential scheme and its links to land-use development, we have commissioned investigation work, including geotechnical and ecological surveys and preliminary design."

31. At the national level, the National Planning Policy Framework²⁸ (NPPF) sets out the Government's planning policies for England. Paragraphs 108 to 111 detail the Government's planning policies with respect to transport, focussing on, and emphasising the promotion of, sustainable transport. The written evidence of Mr Godfrey shows that the WSRR is compliant with the NPPF²⁹. In addition, Mr Groves' evidence shows that the WSRR would satisfy the 3 interdependent objectives to achieve sustainable development, as set out in paragraph 8 of the NPPF³⁰.
32. Finally, NPPF paragraph 81 states that planning policies should recognise and seek to address potential barriers to investment, including a poor environment or lack of infrastructure. The WSRR would facilitate development within the Regeneration Area and within and around the wider Swadlincote and Woodville urban areas. Its delivery would therefore be consistent with this aspect of national policy.

Planning Applications

33. A planning application for the WSRR was submitted to SDDC in March 2017 and permission was subsequently granted in April 2018. Notwithstanding this, in accordance with the requirements of Regulation 3 of the Town and Country Planning General Regulations 1992, the Acquiring Authority submitted a separate planning application to DCC³¹ in its capacity as a local planning authority for the scheme under the provisions of those regulations. In this second application the opportunity was taken to revise the application site boundary, following further design work.
34. That application was submitted to and validated by DCC in May 2019, and planning permission was granted on 23 September 2019³². In the report to DCC's Planning Committee for the application³³, the officer concluded that the WSRR accorded with planning policies and was a key scheme of highway infrastructure, seeking to facilitate the development of the Regeneration Area, bringing with it significant benefits in terms of employment and economic development, regeneration of a vacant site and provision of additional housing.
35. A planning application to SDDC from Harworth Group plc and Beepart Ltd for development of part of the Regeneration Area identified in Local Plan Policy E6 was

²⁶ CD WSRR SDDC LP P2 #2

²⁷ CD WSRR DCC PI #57

²⁸ CD WSRR NPPF #1

²⁹ See Table 1.1 in Doc DCC/7/2

³⁰ See Doc DCC/1/2

³¹ CD WSRR DDC PI #45

³² CD WSRR DDC PI #45

³³ CD WSRR CR/M #8

validated on 28 August 2019 and is currently being processed³⁴. The application proposes up to 300 dwellings, a local centre comprising a retail unit, pub and restaurant, 2,000sqm of Class B1 offices, 4,000sqm of Class B2 general industrial uses and 8,000sqm of Class B8 storage and distribution uses.

36. As a piece of strategic infrastructure capable of mitigating the transport impacts of development in the Swadlincote urban area and beyond, the WSRR has secured funding contributions from other proposed housing developments in the area, negotiated through legal agreements with landowners and developers under Section 106 (S106) of the Town and Country Planning Act 1990. The WSRR would thus assist in the delivery of new housing in accordance with the land use strategy for the District set out in the Local Plan. The contributing development proposals are as follows³⁵:

- Broomy Farm (planning application 9/2014/0740): £305,000
- William Nadin Way Site C, (planning application 9/2014/0888): £233,664.52
- Court Street, Woodville: (planning application 9/2016/0288): £27,500 (to be confirmed)
- Blackfordby (North West Leicestershire District Council planning application 15/01078/OUTM): £53,158.56

Scheme Design

37. The Scheme would comprise a new, all-purpose single-carriageway of 7.3 metres (m) width, some 850m long from the proposed new roundabout at the northern end, to Occupation Lane. The full Scheme would be about 1.0km long when the sections to be widened along the A514 Derby Road are included. In keeping with the already completed Hepworth Road, the Scheme would provide a verge separation between the carriageway and the footway to give opportunity for planting and landscaping. A 2m wide footway would be installed on the southern side of the highway, and a 3m wide shared pedestrian and cyclist path would run along the north-eastern side, increasing to 3.5m where the verge separation is removed in order to limit land take from adjacent existing commercial premises.
38. This new section of highway would have 3 roundabout junctions, 2 of which would provide access the Regeneration Area, whilst the third would be at the northern end of the Scheme, linking the WSRR with the existing A514 Derby Road. Part of the Scheme would incorporate the existing adopted highway known as Kiln Way, which is currently a cul-de-sac off which the majority of the existing commercial businesses affected by the Scheme are located. The alignment of Kiln Way would be improved and altered to meet current highway design standards for a primary distributor route with the increased traffic and road speeds.
39. The Scheme would also sever Woodhouse Street, creating a cul-de-sac on the north-east side and providing a new junction on the south-western side, giving access to the remainder of Woodhouse Street to the south-west. The existing junction between Woodhouse Street and Swadlincote Road would be modified to discourage entry by heavy goods vehicles, due to turning restrictions within the cul-de-sac. Traffic entering and leaving the south-western section of Woodhouse Street would do so by a left turn in and out. Right turning would be prohibited for reasons of highway safety, as the proximity of the Woodhouse Street junction to the new Derby

³⁴ See Appendix B in Doc DCC/1/3

³⁵ See Appendix C in Doc DCC/1/3

Road roundabout could cause right-turning traffic to queue and block the circulatory lanes at the roundabout, resulting in a risk of collisions. A kerbed island would be installed across the mouth of the Woodhouse Street junction to provide a physical restriction on right-turn manoeuvres.

40. The WSRR has been designed in accordance with the Design Manual for Roads and Bridges (DMRB) and DCC's own adopted standards³⁶. The section of new road from Occupation Lane to just north of Roundabout 2 would have a speed limit of 40mph, whilst the remainder of the new road would have a speed limit of 30mph to match the speed limits currently in place on surrounding roads (Kiln Way, Woodhouse Street and the A514 Derby Road).
41. In terms of Link Design, the geometry associated with the 40mph section has been based on a 70kph design speed, following the criteria set out in DMRB, whilst the geometry associated with the 30mph section has been based on the DCC adopted standards. All roundabouts have been designed to DMRB criteria, following TD16/07³⁷. The Scheme has required no departures from standards.

Assessment of the Scheme

42. Transport. The Transport Assessment³⁸ (TA) for the WSRR focused on the junctions at its northern and southern ends, in order to inform their design. It considered 2 potential land-use options to test the performance of the Scheme and its junctions at the design stage. These options were:
- Scenario 1: 150 residential dwellings, 5,400 square metres (sqm) of B1 (office) and 30,600sqm of B2 (industrial); and
 - Scenario 2: 250 residential dwellings, 4,050sqm of B1 (office) and 27,000sqm of B2 (industrial).
43. In addition, a TA³⁹ was submitted by Curtins in July 2019, on behalf of the Harworth Group, for a specific development scenario as described earlier, which would cover approximately 2/3rds of the Regeneration Area. The Harworth development scenario, plus an estimate for the development of the remainder of the Regeneration Area, based on Scenario 1 above, is predicted to generate fewer two-way trips on the local highway network than was the case with the WSRR TA. As such, the analysis contained in the WSRR TA remains robust.
44. The WSRR TA showed that the performance of the junctions at the northern and southern ends of the Scheme would be appropriate, and this was accepted by the local highway authority when consulted during the planning process. A re-run of the assessments for the northern and southern junctions, for a new design year of 2026, shows that the junctions would operate within capacity, both with the development trips proposed in the current Harworth Group planning application, and with the higher number of development trips in WSRR Scenario 1.
45. In terms of the wider network, the main source of congestion in the morning and evening peak hours, locally, is the Clock Garage roundabout. This is currently operating at or over capacity in both morning and evening peak hours, with the longest queues being on the approach arms that would benefit from any potential reassignment onto the alternative Hepworth Road-WSRR route.

³⁶ See CDs WSRR DMRB #1 to #6 and Appendix E of CD WSRR HDS #1

³⁷ CD WSRR DMRB #3

³⁸ CD WSRR DCC PI #1

³⁹ CD WSRR DCC PI #50

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46. The overall level of re-assignment to the new route would be a function of the longer A511(E)–Hepworth Road–A514 (Derby Road) route (dissuading traffic to use the new route) and the level of congestion at the Clock Garage roundabout (encouraging traffic to use the new route). In other words, peak hour congestion at the Clock Garage roundabout would likely lead to more traffic using the WSRR as an alternative but, during off-peak hours, the shorter distance of the existing route would be more attractive than diverting to use the WSRR.
 47. Notwithstanding any day-to-day re-assignment benefits and unlocking the future development of the Regeneration Area, there would also be strategic benefits to the highway network of building the WSRR, since it would provide an alternative route away from the Clock Garage roundabout - for example, in the event of a road traffic collision or roadworks. This means that the highway network would be more reliable and resilient in future. In addition, the route extends from Hepworth Road and therefore has the potential to better connect this area of housing to public transport services as it would provide a more obvious “through route” than using Moira Road to serve this area of housing.
 48. Moreover, the proposed shared-use pedestrian/cycle path alongside the route would also represent a much more attractive route for non-motorised users between Swadlincote and Woodville than the existing PRowS linking Moira Road /Occupation Lane with Kiln Lane/Swadlincote Road.
 49. Noise. An assessment of the predicted changes in road traffic noise levels due to the Scheme has been undertaken for 2 traffic scenarios, namely 0% of traffic reassigning from using the A511-A514 route to using the WSRR, and 50% of such traffic transferring. This assessment shows that whilst 98-99% of residential buildings and all non-residential sensitive buildings within the 600m study area are predicted to experience no change, or a negligible or minor change in traffic noise levels as a result of the Scheme, with no mitigation, 31 to 52 properties would experience a moderate increase and 1 to 15 properties a major increase.
 50. The assessment concludes that based on no reassignment of traffic from the A511-A514 route to the WSRR, mitigation in the form of 2.4m acoustic barriers along the northern and southern sections of the scheme could reduce the total number of moderate and major increase from 32 to 14 moderate increases, and increasing the height of these barriers to 3.0 m would further reduce this number to 12. Based on 50% of traffic reassigning from using the A511-A514 route to the WSRR, the 2.4m barriers would reduce the number of moderate and major impacts from a total of 67 to 35. Increasing the height of the barriers to 3.0 m would further reduce this to 27.
 51. Once the plans for the wider Regeneration Area are finalised, it is possible that the mass of the buildings between the Scheme and surrounding residential properties would provide the same acoustic benefit as the barriers to the southern end of the scheme, making these barriers unnecessary, although the intention is to install them if required.
 52. Due to the physical relationship between the Scheme and the properties to the south, and the fact that some of the increases in traffic noise levels are driven by changes in traffic flow on local roads, it would not be practicable to mitigate all of the moderate and major adverse impacts. A small number of moderate impacts are predicted to the east of the Scheme in the vicinity of Vicarage Road. Although details of the wider Regeneration Area are not available, it is likely that the acoustic benefit in the form of screening provided by this development would remove the moderate adverse impacts in this area. Further options for mitigation, such as low

noise surfacing or reducing the speed limit on the scheme have been considered, but would be ineffective.

53. A preliminary consideration of residential buildings with the potential to qualify for noise insulation under the Noise Insulation Regulations has identified 12 properties, 11 of which are on the modified section of the A514, and of those, 7 fall within a "Noise Important Area". In the scenario in which 50% of traffic using the A511-A514 route reassigns to using the WSRR, it is predicted that the 11 properties on the A514 would potentially no longer qualify for noise insulation.
54. The changes in road traffic noise levels would not be likely to result in unsuitable working conditions within the industrial/office buildings along the route.

Resources for Delivery

55. The Council's current estimate of the gross costs of providing the WSRR is £13.4 million, including costs incurred to date, pre-contract construction and land assembly estimates and an appropriate allowance for risk.
56. Over recent years, reflecting the policy support set out above, the Council has sought to see the WSRR included in funding programmes at LEP level, which for Derbyshire is the D2N2 LEP. D2N2's Local Growth Fund (LGF) programme sits within the context of its Growth Deal with Government. The Council has been successful in securing provisional approval of £6.4 million of LGF grant for the WSRR. The Full Business Case cannot be completed until the project is ready for construction, as it is dependent upon land assembly. However, the Economic Case for the project demonstrates that it easily satisfies the LGF requirement of demonstrating "high" value for money.
57. The WSRR is also eligible to take advantage of funding contributions from proposed housing developments in the area, negotiated through S106 agreements with landowners and developers as already referred to, above. If fully realised, these would contribute £619,423 to the project budget.
58. The Council recognises the need for it to demonstrate its ability to fund the WSRR in full and has already committed preparation costs of £1.2 million to the project. The LGF, S106 contributions and this commitment total £8.22 million. In order to secure the remaining budget, an allocation of £5.2 million from corporate capital programmes alongside the underwriting of the expected S106 contributions was approved at the meeting of DCC's Cabinet on 16 January 2020. This makes provision from corporate budgets of a contribution of £3 million towards the scheme which, together with contributions from the annual highways and transport capital programme, would ensure its delivery. Within the context of an annual highways and transport programme comprising at least £20 million of works, the Council is able and accustomed to accommodating overspends against individual projects, should these exceed their allocated budgets.

Approach to Delivery

59. As noted above, the WSRR was granted planning permission by the Council's Regulatory Planning Committee on 23 September 2019, and the Council does not believe that the discharging of the conditions attached to this permission represents a significant impediment to delivery of the Scheme. Detailed designs fit for issue as part of an invitation to tender were in place for the WSRR in early December 2019 and the Council intends to award the construction contract through open tender. The Council issued the invitation to tender on 6 January 2020 with a closing date of 7 February 2020. Works are currently scheduled for May 2020.

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60. The Council recognises the need to minimise disruption to residential and commercial premises during construction. This is one of the Quality Assessment questions within the tender package and requires the tenderer to state their methodology for dealing with access to businesses and maintaining 24/7 emergency access during construction. The contract prepared for the tender also commits the tenderer to restrictions in working, to enable vehicle and pedestrian access to be maintained during all phases of the contract.

Procedural and statutory requirements

61. The relevant statutory requirements in respect of notice of the Orders and of the Inquiry have all been complied with⁴⁰.

Details of the SRO and the CPO

The SRO

62. The SRO details the lengths of highway to be improved; the highways to be stopped up; the new lengths of highway to be created; the PMA to be stopped up; and the new PMA to be provided. It is the Council's view that in all cases, reasonably convenient alternative routes or access would be provided for any highways or PMA which are required to be stopped up by the WSRR.
63. In this regard, the WSRR would affect 2 public footpaths, namely Public Footpath Swadlincote FP 17, and Public Footpath Woodville FP 5. These paths, however, are blocked on the ground and are not currently passable, as I saw at my site visit. The SRO would stop up these footpaths, but reasonably convenient alternative routes would be provided by means of the footway and combined footway/cycleway to be provided alongside the carriageway, as part of the WSRR. Some objections to the SRO from statutory objectors have been responded to by proposed modifications which are detailed in Doc DCC/13 and are discussed further in the Modifications section, later in this Report.

The CPO

64. The CPO seeks to acquire land and new rights over land, with some of the land to be acquired to be vested in exchange for areas of public open space which are needed for the Scheme. Overall, a total of some 5.42ha is included in the CPO⁴¹. Permanent title to the Order land is required in respect of all CPO plots except for Plot 1/3, which relates to part of Unit 9 of Woodhouse Business Centre. The Council is seeking the acquisition of rights in respect of this plot to enable it to carry out reinstatement and ancillary works required as a result of the partial demolition of Unit 9 and Unit 10 of Woodhouse Business Centre as part of the Scheme.
65. Following publication of the CPO a number of typographical errors (none of any substance) have been identified. Minor modifications are proposed in order to address these matters. In addition, some plots of land have now been transferred into DCC ownership⁴², and are proposed to be removed from the CPO. All of these matters are detailed in Doc DCC/13 and are discussed further in the Modifications section, later in this Report.

⁴⁰ See Doc DCC/10

⁴¹ See Docs INQ/1 and DCC/6/1-2

⁴² See Sections 2.1 and 2.2 in Doc DCC/6/2

Summary of the Council's case

66. The Council's SoR states that the Scheme is a direct response to national, regional and long-standing local policy objectives for the regeneration of a large brownfield site, known locally as the Woodville Regeneration Area, which will meet the employment and housing needs of the Acquiring Authority's area, where economic activity is significantly lower than the average for Derbyshire.
67. Compulsory acquisition of the Order land is both necessary and proportionate to allow the Scheme to proceed, within the funding and delivery deadlines, and to unlock and accelerate the delivery of these benefits.
68. The Scheme would accord with the relevant tests and requirements set out in the HA 1980, the ALA 1981 and in the MHCLG's Guidance on Compulsory purchase process and the Crichel Down Rules, and there is a compelling case for the Scheme being in the public interest. In view of these points, and the others detailed above, the CPO and the SRO should be confirmed, subject to the modifications set out later in this Report.

THE CASES FOR THE OBJECTORS

69. Of the 6 statutory objectors to these Orders⁴³, 4 had withdrawn their objections by the close of the Inquiry. This includes Midland Lead (OBJ01), the only objector to appear at the Inquiry – although the withdrawal of its objection meant that it did not present its evidence to the Inquiry. The relevant proofs of evidence and written statements are included in the list of Inquiry documents at Appendix 2, for completeness. The remaining 2 unwithdrawn objections are from objectors who chose to rely on their written submissions, and are set out below.

Kirkvale Limited (OBJ02)⁴⁴

70. Kirkvale Limited (referred to hereafter simply as "Kirkvale") was represented by Savills (UK) Limited, who submitted an objection on behalf of their client dated 16 July 2019. This objector submitted a further, written statement in December 2019. The land in question is Plots 1/7, 1/7A and 1/7B. Kirkvale is the freeholder owner-occupier of this land and, if confirmed, the Order would give powers for the temporary and permanent acquisition of land and rights owned and occupied by Kirkvale. This would result in the severing of this land, making it impossible for Kirkvale to operate its business at this location.
71. The Kirkvale land in question is set in a disused railway cutting. It supports 3 businesses: a scrap yard trading as End of the Line, which carries out activities along the site identified; a waste transfer station which treats and processes skip-borne non-hazardous household, commercial and industrial waste; and a skip hire business, Eco Skip Hire Limited, which supplies skips and containers for waste into the local community. The scrap yard and waste transfer station activities are controlled by Environmental Permits issued by the Environment Agency and function as separate entities. The skip hire business is a tenant of Kirkvale.
72. Kirkvale considers that this land should not be acquired unless the Scheme is sufficiently amended to minimise its impact on the land, and the Order is amended accordingly. For example, the land-take could be minimised if piles and gabions were to be used instead of steep embankments, and acoustic fencing should have

⁴³ See Doc INQ/1

⁴⁴ See Docs INQ/1 and OBJ02/1

been proposed adjacent to the businesses along the route. Although the concept of a new route out of Swadlincote was first considered in 2002, the Council's initial contact with landowners was not until October/November 2017, some 15 years from inception.

73. As the WSRR is predicated on the notion of regeneration, it has to be questioned why the route is proposed next to a waste transfer station and elevated such that every road user would have a view of a scrapyard and a waste operation. It also has to be questioned why a regeneration project is promoting housing development close to existing industrial and commercial users. The Scheme's primary purpose is to enable and act as a catalyst for the redevelopment of poorly restored former minerals workings and a small area of previously undeveloped land known collectively as the Woodville Regeneration Area. However, former mineral workings are excluded from the NPPF's definition of previously developed land.
74. Harworth Group submitted an outline planning application, validated on 28 August 2019, for development of some of the land across which the WSRR would pass. Amongst other things, this application was for 300 dwellings⁴⁵. This application is accompanied by a TA by Curtins⁴⁶, which calculates that the development would introduce 542 vehicle movements onto the local highway network in the morning and evening peak hours combined⁴⁷. This is a considerable volume of new traffic, that would increase traffic movement on other sections of the highway.
75. Whilst the WSRR would provide an alternative route to passing through the Clock Garage roundabout, it would only move congestion pinch points from one location to another, several hundred metres along the A511/A514. Indeed, a local newspaper report from 24 September 2019 indicates that the Scheme would not be any kind of solution to recognised traffic issues in the area⁴⁸.
76. Moreover, the proposed development of 300 dwellings is inconsistent with Policy E6 of the adopted Local Plan, which supports development of up to 150 new dwellings. Economic, social and environmental regeneration of Woodville is cited as the driver behind Policy E6, and the explanatory text to this policy states that it could also contribute towards enhancing the existing urban environment in Woodville, providing new and improved green spaces, community facilities and tree planting, reflecting its key location in the Heart of the National Forest. However, it is difficult to envisage the WSRR achieving anything other than more housing, industrial uses and congestion in Woodville and Swadlincote. As such, there is no compelling public interest for the Scheme.
77. SDDC declared a Climate Emergency on 27 June 2019 and pledged to make the District carbon neutral by 2030. Although it is not currently a legal duty to produce a Climate Emergency Action Plan and to deliver on its commitments, given the significant strength of public support for action on climate change it is entirely possible that some form of statutory duty on Local Authorities to act will emerge soon. In this regard it is difficult to see how the creation of a road that delivers 300 new homes and significant industrial and commercial development, and generates additional movements while simply moving traffic congestion points "down the road", can be consistent with the public interest or with a commitment to reduce the

⁴⁵ See Annex 2 to Doc OBJ02/1

⁴⁶ See Annex 4 to Doc OBJ02/1

⁴⁷ Note that Kirkvaley refers to this 542 figure, incorrectly, as a daily traffic flow

⁴⁸ See Annex 1 to Doc OBJ02/1

carbon footprint. Indeed, by promoting the use of vehicles the Scheme would defeat the Council's desire to tackle climate change.

78. The Human Rights Act 1998 incorporated the European Convention on Human Rights ("the Convention") into UK law, and includes provisions aimed at protecting the rights of the individual (including companies). In resolving to make the Orders, the Council should have considered the rights of property owners under the Convention, notably under Article 1 (of the First Protocol), which protects the rights of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws. As there is no public interest achieved by the Scheme the human rights of the owners of Kirkvale should be protected.
79. The alternative route suggested by Kirkvale⁴⁹ is a hybrid of the 3 alternatives considered by the Council⁵⁰. It is a more beneficial route that would cause less disruption to local businesses, would provide a better road alignment both in a vertical and horizontal dimension, and would still achieve the redistribution of traffic from the A511/A514, but without seriously affecting any businesses.
80. In summary, the Acquiring Authority appears to have paid scant regard to the interests of those limited numbers of businesses affected by the proposed route, even though more than ample time has existed to do so. Overall, there is no compelling case in the public interest to acquire the land that justifies interfering with the human rights of those with an interest in the land affected. Therefore, as no public interest benefit would be achieved by the Scheme, Kirkvale Limited respectfully requests that the Orders are not confirmed.

John Finnegan (OBJ04)⁵¹

81. John Finnegan was represented by Savills (UK) Limited, who submitted an objection on behalf of their client dated 17 July 2019. No further correspondence was received from this objector. The land in question is Plots 1/6, 1/6A, 1/6B and 1/6C. John Finnegan is the freeholder owner-occupier of the above land and other interests which are subject to compulsory acquisition under the CPO.
82. The Order, if confirmed, would give powers for the temporary and permanent acquisition of land and rights owned and occupied by John Finnegan, and also occupied by M&M Roofing. The compulsory purchase of this land is likely to result in access disruption that is likely to have a serious impact on the operation of John Finnegan's business and the overall function of the land. Without amendments to the proposals, the proposed WSRR is likely to unnecessarily compromise the function of this land.
83. In particular, from the information provided to date there is limited evidence to demonstrate why the use of John Finnegan's land in this specific location is preferred to the use of alternative sites, or whether any alternative methods could have been considered to avoid disrupting John Finnegan's interests. As such, the Council has not demonstrated that the acquisition of this land is necessary.
84. Moreover, the Council has not demonstrated that there would be sufficiently reduced traffic resulting from the works to outweigh the significant impacts or costs of the

⁴⁹ See Annex 2 to the Kirkvale objection in Doc INQ/1, and also Doc OBJ02/1

⁵⁰ See Annex 3 to Doc OBJ02/1

⁵¹ See Doc INQ/1

proposals to the local community. There is concern that housing regeneration is the Acquiring Authority's real objective for the Scheme and not the reduction of traffic.

85. The Council is proposing to acquire more land than is required, especially in relation to the land required for construction works. The compulsory acquisition of this land is therefore unnecessary.
86. Overall, the Council has failed to demonstrate that there is a compelling case in the public interest to justify compulsory acquisition, which would result in a threat to the livelihoods of those employed at this land. As such, this land should not be acquired unless the Scheme is sufficiently amended to minimise its impact on the Land. The Orders should be amended accordingly.

THE RESPONSE OF THE COUNCIL

87. Midland Lead was the only objector who appeared at the Inquiry, but it withdrew its objection as a result of discussions and negotiations which continued whilst the Inquiry was sitting. These discussions led to proposed modifications to the SRO which would enhance the access arrangements to the Midland Lead site, and which were agreed with the Council. Similar discussions with First Fence Limited also resulted in agreed modifications to the SRO and the withdrawal of the First Fence Limited objection⁵².
88. The Council responded to the unwithdrawn objections in writing, as neither of the remaining objectors chose to present their cases at the Inquiry. These responses can be found in Section 15 of the Council's Statement of Case⁵³ and in the Council's various proofs of evidence and rebuttal proofs of evidence issued before the Inquiry⁵⁴. They are also summarised in Doc DCC/18. As already noted, the Council has responded to some of the points raised by objectors by offering modifications to the SRO. These are set out later in this Report, after the 2 remaining objectors - Kirkvale and John Finnegan - have been responded to. The material points are:

Kirkvale Ltd

89. The land in question comprises a disused railway cutting, from where Kirkvale operates its various businesses. The land is in the shape of a long, thin oblong running roughly from west to east and extends to some 1.6ha (4.0 acres). The land would be bisected by the proposed WSRR, which would run roughly north-south. The site lies at a low level, and the land would be filled so that the WSRR would be level with the adjoining land to the north and south.
90. It is accepted that the Scheme would have a serious adverse impact upon the Kirkvale site and the businesses which operate from there. The amount of land taken would be significant, and just as importantly the land would be severed, with the north-eastern parcel becoming inaccessible. But the owner is entitled to compensation for total extinguishment, or for the land in the CPO only or the land in the CPO and the north-eastern parcel. The evidence of Mr Leighton⁵⁵ indicates that there have been serious negotiations as to price, with the Council making a final offer of compensation in December 2019. However, this has not been accepted by Kirkvale. It appears that disagreements regarding the amount of compensation is the real reason why no agreement has been reached between the parties. Kirkvale

⁵² Doc WL/4

⁵³ See Doc INQ/1

⁵⁴ Docs DCC/1/2, DCC/1/4, DCC/3/2, DCC/4/2; DCC/4/6, DCC/5/2, DCC/6/2 and DCC/7/2,

⁵⁵ See Docs DCC/6/1-2

has, however, advanced 2 principal arguments which purport to be about the merits of the Scheme.

91. The first is that there is no policy support for the Scheme, no need for the same, and therefore that the Acquiring Authority cannot establish that there is a compelling case in the public interest for compulsory acquisition.
92. This argument is based on the misconception that a transport scheme must only be advanced for transport purposes. In truth, however, road schemes are often promoted in order to facilitate regeneration or to unlock land value. In this instance, the primary reason for the Scheme is to facilitate redevelopment of the Regeneration Area, though it would also make the network more resilient in that it would provide an alternative to the congested Clock Garage route between the A511 and the A514 and may, in the evening peak period, provide a quicker and better route as is made clear in Mr Godfrey's evidence⁵⁶.
93. It is acknowledged that much of the Regeneration Area does not fall within the NPPF's definition of previously developed land. It does, however, comprise land which has been previously used for minerals working, and has been subsequently poorly restored. The Scheme provides an opportunity for this land to be put to beneficial use, in accordance with Local Plan Policy E6, referred to earlier.
94. Policies E6 and INF4 of the Local Plan make express provision for the construction of the WSRR. The Scheme also has planning permission. The Local Plan has been subject to public consultation and an examination and has been found to be sound, being adopted in 2016. In these circumstances, it is averred that the need for the scheme has already been established, having regard to paragraphs 2.34 and 2.35 of the "Advice for Inspectors – Transport Orders"⁵⁷, as set out below:

"2.34 If a Line Order has been approved, and the inquiry concerns a consequential CPO, an objection challenging the need for the road or based on changing the line would not be heard. A CPO where planning permission for the road has been granted after the precise route has been included in an adopted Development Plan would similarly not give rise to reconsideration of the need for the road. If anyone is determined to make submissions or present such evidence, he or she should be invited to do so in the form of a written submission, which the Inspector can attach to the report.

2.35 If the Development Plan does not fix a specific route, but merely safeguards a swathe of land, however, there would be scope for objections to the precise line put forward within the safeguarded area of land; but not for objections concerning the need for the road. There could clearly also be objections to any proposal to a proposed alignment which falls outside the safeguarded area. Where planning permission alone has been granted, this indicates that the LPA consider that the road is an acceptable use of the land concerned; but in those circumstances, objections challenging the need for the road or the particular line would not be ruled out."

95. The second argument advanced by Kirkvale is that there is a better alternative route for the WSRR. However, the alternative promoted by Kirkvale has to be assessed by

⁵⁶ Docs DCC/7/1-2

⁵⁷ Doc DCC/9

reference to the demanding approach set out at paragraphs 2.50, 2.51, 2.166 and 2.167 of the aforementioned "Advice for Inspectors – Transport Orders", as set out below:

"2.50 It is not the role of the Inspector to make a recommendation in favour of an alternative proposal. However, the Inspector must understand any alternatives proposed sufficiently well to be able to decide whether they appear to be worth further investigation. An important factor in such decisions will be whether or not the alternative would overcome or sufficiently mitigate some deficiency in the Order proposal that would otherwise render it incapable of passing the statutory tests. Should he or she come to the conclusion that an alternative proposal before the inquiry warrants further investigation as compared with the order proposal, it would clearly not be logical to recommend the making or confirmation of the orders.

*2.51 When an alternative route is considered at an inquiry, the promoters should produce an evaluation of the merits and practicability of the alternative proposed, whether it would meet the aims and objectives set for the original scheme, taking into account its comparative impacts on the environment and adjoining owners, and comparative costs. When considering comparative costs, there will usually be an assessment of the cost of the delay, which would follow from considering an alternative scheme. An alternative would no doubt require detailed design work, followed in all probability by the preparation of new orders and the holding of a new inquiry. The assessed cost of delay is therefore often very substantial. In *Smith & Others v SoS*⁵⁸ for Transport and Barnsley MBC (1995 QBCOF 95/1433 – 4D) the Court of Appeal held that delay and its costs could be a material consideration to be weighed along with all others in considering whether an alternative should be further considered, but that except in special circumstances it should not be regarded as an overriding and decisive factor. Decisions should be based upon what is appropriate in the public interest, and therefore all relevant factors should be taken into account.*

2.166 Although the Inspector is not in a position to make a recommendation in favour of any alternative proposal, any such proposal (and any counter-objections to it) must be given due consideration, and its apparent advantages and disadvantages compared with the published proposal. This is because the Inspector will need to advise the SoS/WM⁵⁹ on whether the alternative in question appears to warrant further investigation where the Inspector comes to the conclusion that, whilst the original proposal may be justified in principle, the objections made against it are sufficiently overwhelming to lead the Inspector to recommend against it.

2.167 There will then follow an overall judgement on the proposal, together with the reasoning which leads to any recommended modification, bearing in mind the submissions and objections made, any relevant policies and any criteria specified in the enabling Act. "

⁵⁸ Secretary of State

⁵⁹ Welsh Minister

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96. Accordingly, when assessing the advantages and disadvantages of an alternative, the context must be borne in mind; the fundamental question is whether the objections to the promoted scheme itself are “sufficiently overwhelming” that it cannot meet the statutory tests and that therefore the Inspector should recommend against it. If the promoted scheme does not have serious deficiencies then there is little purpose in postponing matters to investigate the alternative.
97. In truth, Kirkvale has not put before the Inquiry an alternative capable of comprehensive assessment – the section from Occupation Lane to the southern end of Pool Street is not set out in any detail, nor is there any indication of how the traffic should be accommodated between the northern end of Pool Street and the A514. In respect of the south-eastern section of the route, however, the only possibility is to traverse the Regeneration Area along the line of Option B, referred to earlier. Overall, that was the least preferable of the 3 routes assessed in the PSSR, with the difficulties associated with that section of Option B being vividly apparent from an examination of Appendix B of Mr Cragg’s proof⁶⁰, which shows that there are a number of mine shafts along or in close proximity to the Option B alignment. The Option B alignment, as a whole, was also the longest of the 3 tested, and would require relatively extensive earthworks in the section from Pool Street to its termination west of the ski slope at Swadlincote Snowsports Centre.
98. Although Kirkvale has not indicated how it envisages its alternative would connect to the A514 at the northern end, Mr Harris⁶¹ and Mr Godfrey⁶² set out the highway engineering and transport planning difficulties associated with Pool Street and the north-western link between the northern end of Pool Street and the A514 (whatever that link might be). In short, there are difficulties with alignment and geometry, and with the capacity of junctions which would necessitate very significant works between Woodhouse Street and the A514. Furthermore, Pool Street is narrower than Kiln Way and the adverse impact on adjoining premises would be substantial and any alignment of the alternative would be longer and thus less useful as an alternative to the Clock Garage route. The disadvantages of the Kirkvale alternative are overwhelming. It would, moreover, frustrate and delay much needed development as set out in Mr Groves’ rebuttal proof of evidence⁶³.
99. Insofar as other matters raised by Kirkvale are concerned, its complaint about a lack of contact from the Council between 2002 and 2017 is noted, but the Council’s position is that regular contact has been made with Kirkvale since there was certainty that the Scheme would proceed. Indeed Mr Leighton’s evidence refers to visits by the Council in November 2017, Spring 2018 and early 2019⁶⁴.
100. Matters of detailed design such as the use of embankments and cuttings rather than piles and gabions, and the elevated nature of the road as it crosses the Kirkvale site are addressed by Mr Harris. He explained that if gabions or other retaining structures were to be used, in order to provide a narrower land-take corridor, the prevailing ground conditions mean that there would be a need for further ground improvement or the use of piled foundations, to support the retaining structure. Instead, the Scheme uses cuttings and embankments so as to be stable in the long-term, in accordance with accepted practice. In addition, Mr Harris explained that the

⁶⁰ Appendix B in Doc DCC/3/3

⁶¹ Doc DCC/4/6

⁶² Doc DCC/7/2

⁶³ Doc DCC/1/4

⁶⁴ Doc DCC/6/2

vertical alignment is constrained by a number of existing features and factors, and this is the reason for the Scheme's elevated nature as it crosses the Kirkvale land.

101. With regard to Kirkvale's query as to why acoustic fencing has not been proposed adjacent to the businesses along the WSRR route, Mr Pagett's evidence explains that an assessment of the traffic noise impact at 7 industrial/office buildings along the line of the Scheme was carried out⁶⁵. However, Mr Pagett also comments that these premises would not normally be considered as sensitive buildings for assessment according to DMRB. In these circumstances it was considered more appropriate to address these properties in terms of achieving reasonable internal sound levels for working, in room types such as open plan offices, staff meeting/training rooms, and executive offices. The noise impact assessment indicated that a 2.4m high acoustic barrier should be installed at the northern end of the Scheme, alongside the premises of First Fence Limited, but no other barriers were considered within the noise impact assessment along Kiln Way.
102. Kirkvale also argued that a scheme which would increase vehicle usage and vehicle volumes in a time of recognised climate emergency should not be promoted. In response, it is the Council's position that the Government's policy to end the sale of new conventional petrol and diesel cars and vans by 2040 means that in future, the link between increased car trips and carbon dioxide emissions will not be linear. In any case, the WSRR would also provide for walking and cycling trips by means of the proposed footway and combined footway/cycleway, thereby also catering for non-car modes of travel.
103. The Council accepts that the WSRR would not provide a complete solution to traffic problems at the Clock Garage roundabout – but as already noted above, that is not the primary reason for constructing this new road. The WSRR would, however, offer an alternative route away from the Clock Garage roundabout, and notwithstanding the traffic likely to be generated by the proposed new development in the Regeneration Area, the Council maintains that the Scheme would result in overall traffic and transport benefits⁶⁶.
104. Kirkvale also argues that the proposed Harworth Group development is not consistent with Local Plan Policy E6, and would only bring more housing, industrial uses and congestion to Woodville and Swadlincote. Indeed, Kirkvale contends that the Regeneration Area could, instead, have made a significant contribution towards enhancing the existing urban environment in Woodville, to reflect its key location in the heart of the National Forest. However, the Council maintains that the proposed development would accord with Policy E6, which establishes the principle of mixed-use development on the Regeneration Area, incorporating both employment and residential uses. Whilst it is accepted that the current proposal is for 300 dwellings whereas Policy E6 only refers to "up to 150 dwellings", the acceptability of the detail of this proposal will be a matter for the SDDC Planning Committee.
105. Finally, Kirkvale argues that no public interest benefit would be achieved by the Scheme, which would therefore breach its human rights. In response, the Council argues that the totality of its case demonstrates the significant benefits of the Scheme, which has been granted planning permission and which accords with the aforementioned Local Plan policies, as well as being in line with national planning guidance. The Order land is the minimum required to achieve the Scheme benefits,

⁶⁵ Doc DCC/2/1-2 and CDs WSRR NIA #1 and WSRR NIA #2

⁶⁶ See Doc DCC/7/2

and in such circumstances the use of compulsory purchase powers would not constitute an unlawful interference either with property rights protected under Article 1 of the First Protocol of the Convention, or with the respect for private and family life and the home, protected under Article 8 of the Convention.

106. Kirkvale could have rebutted or challenged the Council's evidence and rebuttal evidence, but chose not to do so. Nor did it appear at the Inquiry to further its objection or answer questions with regard to its alternative. Accordingly, the Council maintains that there is no merit in Kirkvale's alternative route proposal, and nothing in the Kirkvale objection which undermines the case for the Scheme.

John Finnegan

107. This property comprises a level, surfaced yard with security fencing and various items of plant and building materials stored on pallets and within bund walls. Part of the plot is let to M&M Roofing Supplies Ltd. The Scheme would take a frontage strip of land the whole length of the front boundary. The existing security fencing would be taken down and re-erected within the retained plot and a new boundary to the proposed highway would be provided as part of the accommodation works.
108. Although the property would lose land along its frontage it would retain its PMA, which would be slightly repositioned. The owner would be entitled to compensation in respect of the land lost. He has relied on his original objection and has submitted no evidence to the Inquiry and has not appeared. The wholly unspecified reference in his letter of objection to a threat to livelihood should be disregarded as there is no evidential basis to support a threat to the viability of the business and, given the small amount of land involved, the proposition is inherently improbable. Nor have the negotiations with Mr Leighton involved any suggestion that the viability of the business will be affected.
109. Responses to John Finnegan's points of objection are set out in Doc DCC/18, but in summary, the Council's views that regeneration is a proper objective for a road scheme and that this alignment is the best available, have already been detailed, above. The objector has not pursued any argument as to excessive land take and the objections are wholly generic in that regard. The Council therefore maintains that there is nothing in this objection which comes anywhere near to providing a reason for not confirming the Orders.

Modifications proposed to the Orders

110. Modifications to the Orders are proposed, as set out in DOC DCC/13, which was introduced at the round-table session to discuss the detail of the Orders. Some involve the correction of errors in the made Orders. Other changes are more substantive and result from the Council's on-going discussions with objectors. As such, the modifications include matters agreed with Midland Lead (OBJ01) and First Fence Limited (OBJ05).
111. For the SRO, some of the modifications require corrections or amendments to be made to the SRO itself, whilst others involve amendments and/or modifications to the Schedules and/or Site Plans. All the proposed modifications are set out below, with suggested new wording shown in bold:
- i. For the SRO: in Article 3(c), under "the classified road", change "construct" to "construct/**improve**";
 - ii. For Schedule 1, under "Highways to be improved", insert "**Bernard Street**" after "Woodhouse Street";

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- iii. For Schedule 1, under "Particulars of new highways – Reference letter", delete the reference to new highway "A";
 - iv. For Schedule 1, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "b", insert the words "**and Woodhouse Street**" between the words "Derby Road (A514)" and "south-westwards";
 - v. For Schedule 1, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "f", delete "31 metres" and replace with the words "**11 metres**";
 - vi. For Schedule 1, under "Reference number of new accesses", insert a new private means of access numbered "**7**" below the new private means of access numbered "4";
 - vii. For Schedule 2, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "h", delete the words "north-east" and replace with the words "**south-east**";
 - viii. For Schedule 2, under "Private means of access to be stopped up", insert an additional private means of access to be stopped up labelled "i" with the following description: "**Access to south-west side of Kiln Way from Kiln Way over a width of 7.5 metres starting at a point 156 metres from the junction between Woodhouse Street and Kiln Way south-eastwards.**";
 - ix. For Schedule 2, under "Reference number of new accesses", insert a new private means of access numbered "**6**" adjacent to the private means of access to be stopped up labelled "i" (see modification "viii" above);
 - x. For SRO Site Plan No 1 & 1A, substitute the sealed Site Plan with the version to be found at Doc DCC/14 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) The deletion of new highway "A";
 - (b) The turning head on Woodhouse Street previously shown stippled as new highway now shown cross-hatched as highway to be improved;
 - (c) The relocation of the new private means of access numbered "1" to the north-west of Woodhouse Street;
 - (d) An additional new private means of access numbered "**7**" to the north-east of Kiln Way.
 - xi. For SRO Site Plan No 2, substitute the sealed Site Plan with the version to be found at Doc DCC/15 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) Insertion of an additional private means of access to be stopped up labelled "**i**";
 - (b) An additional new private means of access numbered "**6**" located to the south of Kiln Way;
 - (c) The deletion of the splitter island at the new private means of access numbered "5".
112. None of the proposed modifications are considered to be significant and none affect the extent or scale of the proposals. Moreover, it is not considered that any of the modifications would materially alter anyone's understanding of the Order.
113. Note that a new SRO Site Plan No 3 & 3A can be found at Doc DCC/16, marked "With Acquiring Authority's Modifications". However, no modifications are proposed

on this plan, which, essentially, is the same as the original version of this plan to be found at Doc INQ/1.

114. For the CPO, a small number of modifications are proposed, to delete some land from the Order; and to amend the description of the land forming Plot 2/1E. These are set out below, with suggested new wording shown in bold:
- i. For the CPO, for Schedule 1, in Table 2, delete the plot description for Plot 2/1E and replace with the following wording (for consistency with the description in Table 1):
"28,984 square metres of brownfield land, part of the Public Rights of Way known as Woodville FP5 and Woodville FP6 and the northern arm of the roundabout on Occupation Lane located south-east of Kiln Way and north-west of Occupation Lane".
 - ii. For the CPO Map No 1, substitute the sealed Map with the version to be found at Doc DCC/17 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) Plots 1/1, 1/2, 1/2A, 1/2B, 1/2C and 1/2D now shown coloured pink with green hatching as land to be deleted from the Order;
 - (b) An additional box coloured pink with green hatching to be inserted in the Key with the text **"Land to be Deleted"**.
115. None of the proposed modifications are considered to be significant and none require additional land or affect the extent or scale of the proposals. Moreover, it is not considered that any of the modifications would materially alter anyone's understanding of the Order.

Conclusion by the Council as Acquiring Authority

116. The need for the Scheme is, it is submitted, established by the clear commitment in the Local Plan to redevelop the Regeneration Area and to build the WSRR. While the primary purpose is to facilitate development of the Regeneration Area the route would, in conjunction with phase 1, Hepworth Road, provide an alternative route between the A511 and A514 which avoids the Clock Garage roundabout, which is congested at peak times. It would therefore increase network resilience and it has been designed, with a pedestrian footway and a combined footway and cycleway, in such a way as to encourage sustainable transport and non-motorised use. In that regard, it is fully compliant with the requirements of policy INF4 set out above. It is also consistent with NPPF transport policies as set out in the detailed analysis contained in Mr Godfrey's unchallenged proof of evidence⁶⁷.
117. The Council has conducted itself wholly in accordance with the CPO Guidance in seeking to negotiate with the landowners, as evidenced by the withdrawal of 4 of the 6 statutory objections. The Council has responded to all of the matters raised against the CPO and SRO in the outstanding objections, and does not consider that any of the points carry merit. The Scheme would require the demolition of Units 9 and 10 of the Woodhouse Business Centre, but terms have been agreed with the freeholder for the acquisition of the land and a final agreement has been reached with one of the tenants whilst negotiations are advanced in respect of the other, KC Pallet Recycling. It is accepted that there would be a significant impact on Kirkvale

⁶⁷ Doc DCC/7/2

Limited, but no other business would sustain a serious adverse effect and landowners would be entitled to compensation.

118. With regard to the funding of the Scheme, the Council has secured significant backing of some £6.4 million from the D2N2 LEP, and expects to receive almost £620,000 contributions from existing S106 agreements. Further commitments to the funding of the Scheme, sufficient to ensure its delivery, have been made by the Council. Any adverse impacts of the WSRR would be significantly outweighed by the scale of benefits which would arise from the WSRR and the development which it would enable.
119. The benefits of the Scheme have been assessed at £135 million as explained by Mr Seymour in his oral evidence. The Benefit to Cost Ratio (BCR) is provisional, and will be updated should the Orders be confirmed, but on any view of matters the BCR is very high, being about 10 on the present cost estimate. The evidence put forward by the Council is robust and plausible. It has not been challenged. And in these circumstances, it is averred that there is a compelling public interest case for confirming the Orders.
120. Overall, the Council considers that there are no material impediments to the implementation of the Scheme, other than the confirmation of the Orders, and no reasonable alternatives to the Scheme as a whole exist.
121. The evidence shows that all the relevant statutory tests have been met and the Council therefore requests that the CPO and the SRO be confirmed with the proposed minor modifications detailed above.

Inspector's conclusions begin on the next page

INSPECTOR'S CONCLUSIONS

122. Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in superscript brackets ^[] to earlier paragraphs where appropriate.

Structure of Conclusions

123. In these conclusions I first set out the tests which the Orders must satisfy if they are to be confirmed. I then examine the policy context for the Woodville Regeneration Area ("the Regeneration Area") and the Woodville to Swadlincote Regeneration Route (WSRR or "the Scheme"), before moving on to consider matters raised by the 2 remaining statutory objectors. I then deal with the remaining other matters, before reviewing the proposed modifications to the SRO and the CPO put forward by the Council. Finally, my conclusions are drawn together into recommendations on each of the Orders.

The Statutory Tests against which the Orders need to be assessed

124. The SRO is made under Sections 14 and 125 of the HA 1980. Subject to confirmation by the Secretary of State for Transport (SST), it would authorise the Council to stop up any highway or private means of access (PMA) and provide any improved or replacement highway, footpath, PMA or new means of access to premises adjoining or adjacent to a highway, in association with the Scheme.
125. It is a requirement that provision be made for the preservation of any rights of statutory undertakers in respect of their apparatus. No stopping up Order shall be confirmed unless either another reasonably convenient route is available or will be provided before the highway is stopped up. Furthermore, the stopping up of a PMA shall only be authorised if the SST is satisfied that no access to the land or premises is reasonably required, or that another reasonably convenient means of access to the land or premises is available or will be provided.
126. The CPO is made under Sections 239, 240, 246, 250 and 260 of the HA 1980 and Schedule 2 of the ALA 1981. For this Order to be confirmed the land affected must be required for the construction or improvement of, or the carrying out of works to, a highway maintainable at public expense, or for the provision of buildings or facilities to be used in connection with the construction or maintenance of a highway maintainable at public expense. The powers extend to the acquisition of land to mitigate any adverse effect the existence of a highway would have on the surroundings of that highway. The powers also extend to the acquisition of rights over land.
127. The CPO would authorise the acquisition of land and rights for the construction of the WSRR and its associated junctions and for the construction and improvement of highways and new means of access to land and premises in pursuance of the SRO. It would also authorise the acquisition of land to be vested in exchange for areas of public open space which need to be acquired for the Scheme^[9,18,19].
128. The Government's guidance on compulsory purchase, set out in the "Guidance on Compulsory purchase process and The Crichel Down Rules" ^[16] sets out the principles to be applied when considering a CPO. In order to confirm a CPO the decision maker has to be satisfied that there is a compelling case for acquisition in the public interest; that the Acquiring Authority has taken reasonable steps to acquire all of the land and rights in the Order by agreement; that the purpose of acquisition justifies interfering with the human rights of those with an interest in the land affected; that the Acquiring Authority has a clear idea of how it intends to use

the land it is proposing to acquire, and should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable time-scale; and that the Acquiring Authority can show that there is a reasonable prospect of the scheme going ahead, and that it is unlikely to be blocked by any physical or legal impediments to implementation.

129. The guidance also explains that the Minister confirming the order has to be able to take a balanced view between the intentions of the Acquiring Authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. These matters are explored later in these conclusions.

Policy context

130. The evidence before the Inquiry shows that a road to link Woodville and Swadlincote was being considered as far back as 2000, when public consultation took place on the first phase of the WSRR as part of preparatory work for an outline planning permission for what has subsequently been built as the "Woodville Woodlands" residential development^[10]. The first section of the WSRR, which was constructed in 2014/2015, linked the A511 at Butt Lane to Moira Road and later to Occupation Lane and was required to mitigate the transport impacts of that development^[10].
131. Route selection planning for phase 2 of the WSRR, which is the subject of the current Orders, was initially progressed through the then emerging Woodville to Swadlincote Town Centre Area Action Plan^[20]. The purpose of this Plan was to establish a planning policy in respect of the redevelopment of former open cast and deep mine workings and brownfield sites known collectively as the Regeneration Area. Public consultation took place on 3 alternative land-use scenarios for this Regeneration Area in 2007, based on a common indicative alignment for phase 2, arising from a desk-based Regeneration Route Preliminary Sources Study Report (PSSR). This study concluded that route Option A was preferable, taking all of the criteria into account^[7,12,14].
132. Although work on the Area Action Plan ceased a short time after the 2007 consultation exercise, the main elements of the proposals, including the WSRR, were pursued through the Local Plan, where the Regeneration Area proposals and the WSRR were highlighted at each consultation stage, before adoption of the Plan in June 2016^[21]. Both of these elements appear to play an important role in the future redevelopment and renewal of this area, as detailed in the Vision for South Derbyshire, set out in Chapter 3 of the Local Plan^[22].
133. Insofar as individual policies are concerned, Policy E6 deals specifically with the Regeneration Area, and states that it is protected for employment-led redevelopment, supported by the WSRR, to enable the economic, social and environmental regeneration of Woodville and Swadlincote. It goes on to explain that redevelopment of the site should incorporate 12ha of employment development defined by use classes B1, B2 and B8 and up to 150 new dwellings^[27].
134. In this regard I have noted that the current Harworth Group planning application for a large part of the Regeneration Area, served by the WSRR, includes proposals for 300 dwellings, along with a local centre and B1, B2 and B8 uses^[35]. It is clear that the SDDC Planning Committee will have to consider whether or not this proposed development mix is acceptable, but the submission of this application does demonstrate that there is a real interest in redeveloping this area, and a consequent real need for the WSRR. The WSRR is, in fact, specifically listed in Policy INF4, as one of the transport schemes that SDDC will work with partners to deliver^[28].

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135. Other Local Plan policies highlighted by the Council, such as S1, S5 and E1C^[23,24,26], all add further support to the WSRR as the means by which redevelopment of the Regeneration Area will proceed.
136. The Derbyshire LTP also identifies the WSRR^[30], although as this document dates back to 2011, and clearly pre-dates the planning permission for the current Scheme, it only speaks about the proposal in general terms. Nevertheless, its inclusion in the LTP clearly adds weight to its standing as an important element of the development and infrastructure requirements of this part of the District.
137. At the national level, the Council highlights paragraph 81 of the NPPF which, amongst other things, indicates that planning policies should seek to address potential barriers to investment, including a poor environment or lack of infrastructure^[32]. As the WSRR would provide essential infrastructure to facilitate development within the Regeneration Area and within and around the wider Swadlincote and Woodville urban areas, its delivery would be consistent with this aspect of national policy.
138. Moreover, by making provision for non-motorised users, by means of the proposed footway and combined footway/cycleway, the Scheme would also assist in furthering the NPPF objective, set out in its paragraph 108, of taking the opportunity to promote sustainable transport modes^[31].
139. In summary, I share the Council's view that the construction of the WSRR would amount to the bringing forward of a scheme that has well-established policy support.

Objections from Kirkvale Limited

140. Kirkvale did not appear at the Inquiry, nor did it respond to any of the information put forward by the Council in its proofs of evidence or rebuttal proofs of evidence. Instead, it sought to reply upon its original objection, which was expanded upon by a separate Written Statement dated December 2019^[70]. The original objection and Written Statement raise a number of matters, some of which are put forward as general queries, rather than direct matters of objection. It seems to me that the points raised can best be dealt with under 4 separate headings, as detailed below.
141. The lack of contact from the Council. Kirkvale indicates, in its original objection, that its representatives contacted SDDC in 2002, when the concept of a new route out of Swadlincote was first considered, in order to discuss how any such road might be adapted to help regenerate the area and minimise any disruption to the business^[72]. However, it then comments that no contact was made by DCC as the Acquiring Authority until 2019, when the Scheme was in the final design stages, and at no time during the intervening 16 or 17 years has any consideration been given to the likely impact of the Scheme on the various Kirkvale activities on the site^[72].
142. Although information in Kirkvale's further Written Statement is slightly at odds with the above dates, as it states that the initial contact from the Council with landowners was in October/November 2017, to raise awareness of the Scheme^[98], the substance of the objection is quite plain – Kirkvale considers that the Acquiring Authority should have been in touch much sooner, to discuss the likely implications of the Scheme on the Kirkvale businesses.
143. There is no evidence before me to dispute these dates – indeed, Mr Leighton appears to confirm that the Council has only been in regular contact with Kirkvale since there has been certainty that the Scheme would proceed^[98], which to my mind suggests the time of planning permission being granted by SDDC, namely April

2018. However, leaving aside whether the Council could or should have made any earlier contact with Kirkvale, I am not persuaded that the points raised constitute a valid objection to the Orders now before this Inquiry.

144. Since the WSRR has received planning permission^[1,33,34], and a firm alignment for the Scheme has therefore been known, there is no evidence to suggest that the Council has not discharged its duties to affected landowners correctly. Mr Leighton's evidence indicates that all the affected landowners were visited in November 2017 and notified of the proposed Scheme and its likely effect on their property, with follow-up visits being in the Spring of 2018 and again early in 2019^[98].
145. Mr Leighton's evidence also indicates that this landowner fulfils the requirements of the Compulsory Purchase Code to be able to claim total extinguishment, but has nevertheless opted to discuss selling the land required by the CPO together with the severed land to the north-east, and so retaining the land to the west of the new road to continue its business^[89]. Negotiations for the purchase of the land have been ongoing for some time, but no settlement has been reached, although the submitted evidence indicates that Kirkvale would be content to withdraw its objection to the CPO if agreement on compensation could be reached. I understand that the Council made a final offer of compensation on 13 December 2019, but this has not been accepted by Kirkvale^[89].
146. In these circumstances it seems to me that the nub of this part of the objection is simply a difference of opinion regarding the level of compensation to properly be paid^[89]. As I made clear at the Inquiry, matters of compensation are not for me to consider, but would be a matter for negotiation or for determination by the Upper Tribunal (Lands Chamber) if the Orders are confirmed. As such, I do not consider that this part of Kirkvale's objection should carry any material weight against the Scheme.
147. Policy issues and the principle of the Scheme. Some aspects of the Kirkvale objection seem to amount to general opposition to the development of housing on the Regeneration Area, as this would place such development in proximity to industrial and commercial uses^[73], as well as specific opposition to the current planning application submitted by the Harworth Group^[74-76].
148. However, on the first of these points, it is quite clear that the Council's planning strategy for the area, set out not only in its overall Vision for South Derbyshire but also in Local Plan policies such as E6, INF4, S1, S5 and E1C seeks to achieve a redevelopment of this area of former open cast and deep mine workings for both housing and employment development^[23-28]. Whilst Kirkvale might not support such development, the appropriate time to object would have been during the preparation of the Local Plan, not through this Orders Inquiry. I accept Kirkvale's point that former mineral workings do not fall within the NPPF's definition of previously developed land^[73], but see no good reason to dispute the Council's view that these former workings have been poorly restored, and that enabling this land to be redeveloped and put to beneficial use would accord with Local Plan Policy E6^[92].
149. Insofar as the current Harworth Group planning application is concerned, I acknowledge that it appears to be seeking to provide a greater number of housing units than are referred to in Policy E6^[27,35], but neither the specifics of this proposed development – nor the development as a whole – are matters which are before this Inquiry. As I have noted above, it will be for the SDDC Planning Committee to consider the acceptability of this development proposal. In my assessment the key point insofar as the current Inquiry is concerned, is that the Regeneration Area

would need to be served and serviced by new infrastructure along the lines of the WSRR. In my assessment an objection to the Harworth Group's proposals does not, therefore, equate to a valid objection to the WSRR itself, or to the current Orders.

150. It is self-evident that development of the Regeneration Area would introduce more traffic into the local area, but I consider it reasonable to assume that this additional traffic would have been accounted for when the Local Plan was prepared. Indeed, the fact that the WSRR is included in both the Local Plan (through Policy INF4) and the LTP, as a means of addressing increased transport demand arising from development, evidences this point^[28,30].
151. In this regard, the WSRR is not promoted as providing a solution to existing congestion and difficulties at the Clock Garage junction^[10,20,102]. But by providing an alternative route for A511/A514 traffic, I see no good reason to dispute the Council's view that transport benefits would arise from the Scheme, as traffic could divert away from the Clock Garage roundabout, which is recorded as operating over capacity in both the morning and evening peak periods^[11,45]. With this point in mind I do not share the objector's view that the Scheme would simply move congestion pinch points from one location to another^[75,77] – and I note that the objector has submitted no detailed technical evidence to support such a claim.
152. Kirkvale also questions how the creation of a road that delivers 300 new homes and significant industrial and commercial development, promoted by a private developer, with a road that generates additional movements and simply moves traffic congestion points "down the road", can be consistent with the public interest or with a commitment to reduce the carbon footprint^[77]. I have largely dealt with these points already, but on the specific query regarding carbon footprint, it seems to me that the Government's policy to end the sale of new conventional petrol and diesel cars and vans by 2040, such that the future link between increased car trips and carbon dioxide emissions will not be linear, has to carry weight here^[101]. In addition, the fact that the WSRR would have a footway and combined footway/cycleway along its length would assist with promoting opportunities for non-motorised trips, thereby helping to reduce the carbon footprint^[101].
153. I note that Kirkvale draws attention to the supporting text to Policy E6, in particular that section which indicates that development of the Regeneration Area could also contribute towards enhancing the existing urban environment in Woodville, providing new and improved green spaces, community facilities and tree planting, reflecting its key location in the Heart of The National Forest^[76]. Having regard to the Illustrative Masterplan for the Harworth Group's proposal, and the Council's acceptance that the Scheme would not solve problems at the Clock Garage roundabout, Kirkvale argues that it is difficult to envisage the WSRR achieving anything other than more housing, industrial uses and congestion in Woodville and Swadlincote^[76].
154. The matters, however, add little to the points already covered above, and in my opinion do not serve to provide any meaningful weight against the WSRR, or the current Orders. As such, I do not consider that Kirkvale's objections on policy matters, or on matters of principle regarding the Scheme, should carry weight against the Orders.
155. Scheme details and alternative proposals. Under this heading Kirkvale raises a number of objections or queries, such as why the WSRR is proposed to pass next to a waste transfer station on an elevated alignment^[73]; why piles and gabions have not been considered to reduce the amount of land-take required^[72]; and why

acoustic fencing has not been proposed adjacent to the businesses along the route^[72]. In addition, Kirkvale proposes an alternative alignment for the WSRR which it maintains would cause less disruption to local businesses and would provide a better horizontal and vertical road alignment^[79].

156. On the first of these points, the Kirkvale site sits in a disused railway cutting, at a low level, and the intention is that the land would be filled so that the WSRR would be level with the adjoining land to both the north and south. This point, plus the constraints acting on the horizontal and vertical alignments, described by Mr Harris, demonstrate to me that the routeing and alignment of the WSRR have been carefully assessed^[88,89]. The presence of a waste transfer station and scrap yard are matters of fact, and not reasons in themselves for an alternative routeing or alignment to be considered.
157. Insofar as the use of piles and gabions is suggested by Kirkvale, to produce a narrower land-take corridor for the WSRR, there is no detailed highway engineering evidence before me to justify such a design approach in this case. In contrast, I have Mr Harris's evidence that if gabions or other retaining structures were to be used, the prevailing ground conditions mean that there would be a need for further ground improvement or the use of piled foundations, to support the retaining structure. This is why the Scheme uses cuttings and embankments so as to be stable in the long-term, in accordance with accepted practice^[99]. I see no reason to disregard Mr Harris's view that the use of cuttings and embankments is a preferable design approach here.
158. Kirkvale's comment about acoustic screening seems to me to be just that – a comment. It does not raise any specific objection on this matter, and there is no technical evidence before me to question the conclusion of Mr Pagett – that insofar as the Kiln Way section of the WSRR is concerned, acoustic barriers should only be installed at the northern end, alongside the premises of First Fence Limited^[100].
159. Turning to the alternative alignment for the WSRR suggested by Kirkvale, this has only been put forward in a diagrammatic form, with the suggested route ending at Common Road/Woodhouse Street at its northern end, and with no clear indication as to how it would link with Occupation Lane in the south^[5,79,94-96]. Insofar as the southern section is concerned, it appears that the suggestion is that this largely follow the route of Option B, as considered and assessed in the PSSR. However, in its entirety, Option B was found to be the least favourable of the 3 assessed routes as it encountered or came within 20m of the greatest number of mineshafts^[13,96].
160. I acknowledge that some of the arguments against Option B arose in light of the difficulties which would be encountered in the section north of Common Road/Woodhouse Street, where the road would have to pass close to the Swadlincote Snowsports Centre and would entail relatively extensive earthworks^[13,96]. There is no suggestion from Kirkvale that its proposed alternative would follow this northern alignment – but neither does Kirkvale give any clear indication as to how the alternative would link with the A514 Derby Road. As has been pointed out by the Council, if the route was to utilise the existing length of Woodhouse Street to join with the A514, significant junction improvements would be needed at the Pool Street/Woodhouse Street junction, as well as at the Woodhouse Street/A514 junction^[97].
161. In addition to the matters detailed above, Pool Street is narrower than Kiln Way, as I saw at my site visit, such that an alternative route passing along Pool Street would undoubtedly have a substantial impact on a number of the businesses and premises

along that route^[97]. Such a route would also be longer than the currently approved WSRR route, and this would decrease its attraction as an alternative to the existing route through the Clock Garage junction^[97].

162. Drawing all the above points together, I do not consider that any of the scheme design points raised in objection to the current WSRR proposal, or the alternative route suggested by Kirkvaley, constitute valid reasons why these Orders should not be confirmed.
163. Public interest/benefits of the Scheme, and Human Rights. Kirkvaley contends that the Council has failed to demonstrate that there is a compelling case in the public interest to justify the compulsory acquisition of its land, which it argues would be a breach of its human rights^[5,78]. However, I do not agree. Construction of the WSRR and the consequent opening up of access to the Regeneration Area would be fully in accord with the Council's Vision for South Derbyshire, as detailed above^[22], and would clearly assist in furthering proposals contained in the adopted Local Plan, and also the LTP^[23-30]. Such actions are clearly in the overall public interest.
164. Moreover, the WSRR itself is predicted to have a BCR of about 10, and whilst I acknowledge that at present this can only be a provisional figure, it nevertheless indicates that the Scheme is anticipated to result in substantial public benefits and represent very good value for money^[118].
165. In such circumstances I share the Council's view that the use of compulsory purchase powers would not constitute an unlawful interference either with property rights protected under Article 1 of the First Protocol of the Convention, or with the respect for private and family life and the home, protected under Article 8 of the Convention. As such, I am satisfied that this is not an argument which should carry weight against the confirmation of the current Orders.
166. Summary. Having regard to all the points set out above, I consider that the various matters raised by Kirkvaley, either taken individually or as a whole, do not amount to valid reasons why the Orders should not be confirmed.

Objections from John Finnegan

167. John Finnegan did not appear at the Inquiry, but simply relied on his original, fairly brief objection^[81-86]. He did not respond to any of the information put forward by the Council in its proofs of evidence or rebuttal proofs of evidence.
168. Although John Finnegan maintains that there is limited evidence to demonstrate why the use of his land is preferred to the use of alternative sites, or whether any alternative methods could have been considered to avoid disrupting his interests, I have already concluded, above, that there is ample evidence before me to indicate that the current route for the WSRR is the preferable option. The evidence discussed above also demonstrates that the intention behind the promotion of the WSRR has always been to provide a catalyst for development of the Redevelopment Area, with additional benefits of providing an alternative route to that through the Clock Garage junction and providing increased opportunities for travel by non-motorised modes.
169. Insofar as this objector claims that the Council is proposing to acquire more land than is required, this is at odds with the Council's claim that the land contained within the CPO is the minimum necessary to deliver the Scheme^[104]. The Council's position is supported by the detailed highway engineering evidence of Mr Harris, whereas John Finnegan produces no evidence to support his claim. In these circumstances I see no good reason to dispute the Council's position on this matter.

170. Finally, the objector's claim that the Council has failed to demonstrate that there is a compelling case in the public interest to justify the compulsory acquisition of this land, is not accepted, for the same reasons I have given to the similar claim made by Kirkvaley, above. The specific claim from John Finnegan that the acquisition would result in a threat to the livelihoods of those employed at this land is not supported by any meaningful evidence, and I share the Council's view that having regard to the small amount of land involved, this proposition appears unlikely^[107].
171. Summary. In view of the points set out above, I do not consider that John Finnegan has raised any supportable reasons why the Orders should not be confirmed.

Other Matters

172. I turn now to other matters which need to be established before the Orders can be confirmed, as detailed earlier in these conclusions. Having regard to the points detailed above, I am satisfied that the Council has, in the first place, sought to acquire the land necessary for the Scheme by negotiation. I am also satisfied that the Council has properly considered its obligations with regard to human rights legislation, and that in discharging these obligations it has sought to strike a balance between the rights of the individual and the interests of the public^[104].
173. In light of the significant public benefit which would arise to the South Derbyshire area, with the successful construction of the WSRR and the furtherance of the implementation of the Local Plan and LTP strategy, it is my view that the Orders would not constitute an unlawful interference with individual property rights. I conclude that any residual interference with human rights would be necessary in order to achieve the Scheme and, having regard to the Scheme benefits, would be proportionate.
174. As previously noted, the Scheme has the benefit of planning permission, and funding has been secured by means of £6.4 million from the D2N2 LEP Local Growth Fund, with remaining funding allocated by the Council from its corporate capital programmes^[56,58,117]. Some S106 monies may also be available to contribute towards the Scheme^[36,57,58,117]. Whilst the Full Business Case cannot be completed until the WSRR is ready for construction, and is therefore dependent on successful land assembly, no firm evidence has been submitted to lead me to conclude that this funding is unlikely to be forthcoming.
175. A number of conditions attached to the planning permission still need to be discharged^[59], but the Council does not believe that this represents a significant impediment to scheme delivery, and I have no reason to dispute this. Furthermore, the Council has confirmed that all necessary statutory formalities in connection with the promotion of the Orders and the holding of the Inquiry have been complied with^[61]. The Scheme is therefore in an advanced state of readiness and there is no evidence to suggest that it is likely to be blocked by any impediment to implementation.
176. Finally, I note that insofar as the CPO requires the acquisition of some areas of public open space, the SSHCLG has indicated that he is satisfied regarding matters in Section 19(1)(a) of the ALA 1981, and signed a certificate on 17 January 2020 to this effect^[19].

Conclusion on the Side Roads Order

177. The Council asks for the SRO to be confirmed in modified form, to cover a number of modifications discussed at the Inquiry. These are set out in Doc DCC/13 and cover minor changes to the text, as well as modifications to the Schedules and Site Plans

to address objections made by Midland Lead and First Fence Limited. The proposed modifications are set out below, with suggested new wording shown in bold:

- i. For the SRO: in Article 3(c), under "the classified road", change "construct" to "construct/improve";
- ii. For Schedule 1, under "Highways to be improved", insert "**Bernard Street**" after "Woodhouse Street";
- iii. For Schedule 1, under "Particulars of new highways – Reference letter", delete the reference to new highway "A";
- iv. For Schedule 1, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "b", insert the words "**and Woodhouse Street**" between the words "Derby Road (A514)" and "south-westwards";
- v. For Schedule 1, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "f", delete "31 metres" and replace with the words "**11 metres**";
- vi. For Schedule 1, under "Reference number of new accesses", insert a new private means of access numbered "**7**" below the new private means of access numbered "4";
- vii. For Schedule 2, under "Private means of access to be stopped up", in respect of the private means of access to be stopped up labelled "h", delete the words "north-east" and replace with the words "**south-east**";
- viii. For Schedule 2, under "Private means of access to be stopped up", insert an additional private means of access to be stopped up labelled "i" with the following description: "**Access to south-west side of Kiln Way from Kiln Way over a width of 7.5 metres starting at a point 156 metres from the junction between Woodhouse Street and Kiln Way south-eastwards.**";
- ix. For Schedule 2, under "Reference number of new accesses", insert a new private means of access numbered "**6**" adjacent to the private means of access to be stopped up labelled "i" (see modification "viii" above);
- x. For SRO Site Plan No 1 & 1A, substitute the sealed Site Plan with the version to be found at Doc DCC/14 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) The deletion of new highway "A";
 - (b) The turning head on Woodhouse Street previously shown stippled as new highway now shown cross-hatched as highway to be improved;
 - (c) The relocation of the new private means of access numbered "1" to the north-west of Woodhouse Street;
 - (d) An additional new private means of access numbered "**7**" to the north-east of Kiln Way.
- xi. For SRO Site Plan No 2, substitute the sealed Site Plan with the version to be found at Doc DCC/15 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) Insertion of an additional private means of access to be stopped up labelled "**i**";
 - (b) An additional new private means of access numbered "**6**" located to the south of Kiln Way;
 - (c) The deletion of the splitter island at the new private means of access numbered "5";

178. Having had regard to the descriptions of these proposed modifications and the explanations as to why they are considered necessary, I share the Council's view that they all relate to relatively minor matters which would not affect the extent or scale of the proposals. Because of this I do not consider that any of the modifications would materially alter anyone's understanding of the Order and I therefore consider that no further formal consultation on these modifications is necessary. No final version of the SRO was submitted at the Inquiry, but it would comprise the as-made version to be found within Doc INQ/1, as amended by the modifications proposed in Doc DCC/13. Final versions of Site Plans 1 & 1A, 2, and 3 & 3A can be found respectively at Docs DCC/14-16⁶⁸.
179. I consider that all the above modifications to the SRO are necessary to address specific objections, and for clarity and accuracy. I further consider that they can all be made in accordance with paragraph 8 of Schedule 1 to the HA 1980. With regard to the statutory criteria to be satisfied, I am mindful that there are no objections to the Scheme or the Orders from Statutory Undertakers. Moreover, where a highway or PMA is to be stopped up, I am satisfied that a reasonably convenient alternative route or access would be provided, as described in the Schedules and Site Plans of the SRO.
180. I conclude that the SRO should be confirmed with the modifications detailed in paragraph 177 above.

Conclusions on the Compulsory Purchase Order

181. The Council asks for the CPO to be confirmed in modified form, to cover a small number of modifications discussed at the Inquiry and as detailed in Doc DCC/13. These primarily amount to a minor change to wording to create consistency throughout the Order, and changes to address the fact that some land no longer needs to appear in the CPO. These proposed modifications are set out below, with suggested new wording shown in bold:
- i. For the CPO, for Schedule 1, in Table 2, delete the plot description for Plot 2/1E and replace with the following wording (for consistency with the description in Table 1):

"28,984 square metres of brownfield land, part of the Public Rights of Way known as Woodville FP5 and Woodville FP6 and the northern arm of the roundabout on Occupation Lane located south-east of Kiln Way and north-west of Occupation Lane".
 - ii. For the CPO Map No 1, substitute the sealed Map with the version to be found at Doc DCC/17 (marked "With Acquiring Authority's Modifications"), which contains the following modifications:
 - (a) Plots 1/1, 1/2, 1/2A, 1/2B, 1/2C and 1/2D now shown coloured pink with green hatching as land to be deleted from the Order;
 - (b) An additional box coloured pink with green hatching to be inserted in the Key with the text **"Land to be Deleted"**.
182. I consider that these minor amendments would not affect the extent or scale of the proposals. Moreover, I am satisfied that neither of the modifications would materially alter anyone's understanding of the Order, and that no further formal

⁶⁸ But note that SRO Site Plan No 3 & 3A, although marked "With Acquiring Authority's Modifications", is the same as the made version of this Site Plan, to be found at Doc INQ/1

consultation is necessary on these modifications. They could therefore be made in accordance with paragraph 8 of Schedule 1 to the HA 1980 and paragraphs 4 and 5 of Schedule 1 to the ALA 1981. No final version of the CPO was submitted at the Inquiry, but it would comprise the as-made version to be found within Doc INQ/1, as amended by the modifications proposed in Doc DCC/13. A final version of Map No 1 can be found at Doc DCC/17.

183. At paragraph 173 I conclude that the purposes for which the CPO is being promoted justify interfering with the human rights of those with an interest in the land affected, and that any residual interference with human rights is proportionate and necessary to achieve the Scheme.
184. In my assessment, all the land proposed to be acquired is necessary for the Scheme to proceed and there is no firm evidence before me to suggest that this land is not the minimum necessary for the Scheme to be constructed. I am satisfied that the Council has a clear idea of how the land to be acquired would be used. In paragraph 174 I note that the necessary resources are available for the Scheme to be implemented within a reasonable timescale, and in paragraph 175 I note that the Council has confirmed that all statutory procedures have been followed correctly.
185. I conclude that the CPO should be confirmed with the modifications detailed in paragraph 181 above.

RECOMMENDATIONS

186. I recommend that the **Derbyshire County Council (Woodville To Swadlincote Regeneration Route (Classified Unnumbered Road) (Side Roads) Order 2019** should be modified as indicated in paragraph 177 above, and that the Order so modified should be confirmed.
187. I recommend that the **Derbyshire County Council (Woodville To Swadlincote Regeneration Route (Classified Unnumbered Road) Compulsory Purchase Order 2019** should be modified as indicated in paragraph 181 above, and that the Order so modified should be confirmed.

David Wildsmith

INSPECTOR

APPENDIX 1 – APPEARANCES

FOR DERBYSHIRE COUNTY COUNCIL (DCC) AS ACQUIRING AUTHORITY:	
Mr Emyr Jones of Counsel	instructed by Mr Thomas Phillips of Geldards LLP on behalf of DCC
He called:	
Mr Richard Groves BA(Hons) MRTPI	Planning Policy Officer, South Derbyshire District Council
Mr Andy Pagett BSc(Hons) MIOA	Senior Acoustic Consultant, Aecom Infrastructure & Environment UK Ltd
Mr David Cragg BSc MSc FGS CGeol MIMMM CEng SiLC	Technical Director and Head of Remediation Design in Environment and Ground Engineering, Aecom Infrastructure & Environment UK Ltd
Mr Scott Harris MSc MIHE PE MASCE	Principal Engineer, Aecom Infrastructure & Environment UK Ltd
Mr James Seymour BA(Hons) MSc	Transport Strategy Manager, DCC
Mr Jeffrey Leighton BSc PGDipMan MRICS IRRV(Hons)	Valuation Surveyor, DCC
Mr Daniel Godfrey MSc MA(Cantab) MCIHT CMILT CTPP	Associate Director, Transport Planning, Aecom Infrastructure & Environment UK Ltd
Mr Gary Thompson BEng CEng MICE	Project Manager, DCC

OBJECTORS TO THE ORDERS:	
Mr Charles Streeten of Counsel	instructed by Ms Abigail Walters of Bryan Cave Leighton Paisner
<p><i>Mr Streeten appeared at the Inquiry and had been intending to call 2 witnesses to speak on behalf of Midland Lead (OBJ01) – Mr Andrew Chapman MRICS IRVV, Head of Professional Services of FHP, and Mr Paul Wilson, BA(Hons) MCIHT MSoRSA CMILT, Operations Director at BWB Consulting Ltd. Mr Chapman and Mr Wilson both submitted proofs of evidence and rebuttal proofs, which are listed in Appendix 3 below. In addition, a Witness Statement was also submitted by Mr Cornelis Tuinenburg, Managing Director and owner of Midland Lead Holdings Ltd (which owns other companies, collectively referred to as Objector No 1). This is also listed in Appendix 3.</i></p> <p><i>However, after the Inquiry was opened, Midland Lead continued to discuss matters with DCC, and following proposed amendments to the SRO it withdrew its objection, such that the Midland Lead evidence was not presented to the Inquiry. The relevant proofs of evidence etc have, however, been retained in the list of documents for the sake of completeness. In addition, it should be noted that a representative of Midland Lead attended the first part of the site visit, to ensure that Objectors were present at all times.</i></p>	

APPENDIX 2 – CORE DOCUMENTS

Document Reference	Title
Derbyshire County Council (DCC) Planning Information	
WSRR DCC PI #1	Transport Assessment (Final)
WSRR DCC PI #2	170511 Woodville Link Road Consultation Report (Final)
WSRR DCC PI #3	Woodville Link Road Cultural Heritage DBA_V1 Final version 20 11 15
WSRR DCC PI #4	Woodville Road Phase II Investigation Report Optimized
WSRR DCC PI #5	60494894 Woodville Link Road Flood Risk Assessment & Sustainable Drainage Strategy_v3 com
WSRR DCC PI #6	WVL-ACM-XX-XX-DR-ZZ-05001 Drainage GA Sheet 1 of 3
WSRR DCC PI #7	WVL-ACM-XX-XX-DR-ZZ-05002 Drainage GA Sheet 2 of 3
WSRR DCC PI #8	WVL-ACM-XX-XX-DR-ZZ-05003 Drainage GA Sheet 3 of 3
WSRR DCC PI #9	WVL-AEC-XX-XX-TN-DR-05001 Detailed Drainage Design Technical Note
WSRR DCC PI #10	Woodville Link Road Planning Statement 280519
WSRR DCC PI #11	Planning Statement Appendix A (1 of 2) Consultation Report
WSRR DCC PI #12	Planning Statement Appendix A (2 of 2) Consultation Report
WSRR DCC PI #13	WVL-AEC-XX-XX-DR-CE-00055-P1 GA DETAILED FOR DCC PLANNING – Sheet 1 of 3
WSRR DCC PI #14	WVL-AEC-XX-XX-DR-CE-00056-P1 GA DETAILED FOR DCC PLANNING – Sheet 2 of 3
WSRR DCC PI #15	WVL-AEC-XX-XX-DR-CE-00057 GA DETAILED FOR DCC PLANNING – Sheet 3 of 3
WSRR DCC PI #16	WVL-AEC-XX-XX-DR-CE-00058-P1 General Arrangement FOR DCC PLANNING
WSRR DCC PI #17	WVL-AEC-XX-XX-DR-CE-00011-P2 LONG SECTIONS – Sheet 1 of 2
WSRR DCC PI #18	WVL-AEC-XX-XX-DR-CE-00012-P1 LONG SECTIONS – Sheet 2 of 2
WSRR DCC PI #19	WVL-AEC-XX-XX-DR-CE-00013 TYPICAL CROSS SECTION
WSRR DCC PI #20	WVL-AEC-XX-XX-DR-CE-00059-P1 GA FOR DCC PLANNING-A4
WSRR DCC PI #21	WVL-AEC-XX-XX-DR-CE-00022-P1 PROW EXISTING
WSRR DCC PI #22	WVL-AEC-XX-XX-DR-CE-00023-P2 PROW POST-DEVELOPMENT
WSRR DCC PI #23	WVL-AEC-XX-XX-DR-CE-00026-P2 PROW POST-DEVELOPMENT
WSRR DCC PI #24	WVL-AEC-XX-XX-DR-LP-00003 LOCATION PLAN
WSRR DCC PI #25	WVL-AEC-XX-XX-DR-LA-00001 Rev B (26-03-18) LANDSCAPING MASTERPLAN
WSRR DCC PI #26	Landscape rationale 260318
WSRR DCC PI #27	Report PEA Woodville Nov 2017
WSRR DCC PI #28	Woodville_eDNA_30.10

WSRR DCC PI #29	Woodville Phase 1 Habitat Survey_20171121
WSRR DCC PI #30	Coal Mining Risk Assessment (CMRA) 60541293-CMRA_REV01_Part 1
WSRR DCC PI #31	60541293-CMRA_ REV01_Part 2 – Appendix A
WSRR DCC PI #32	60541293-CMRA_ REV01_Part 3 – Appendix C
WSRR DCC PI #33	60541293-CMRA_VPart 4 – Appendix B - Envirocheck Information
WSRR DCC PI #34	60541293-CMRA_ REV01_Part 5 – Appendix B - Envirocheck Information
WSRR DCC PI #35	60541293-CMRA_ REV01_Part 6 – Appendix B - Envirocheck Information
WSRR DCC PI #36	Granted Permit Boundary - 16333
WSRR DCC PI #37	Permit Certificate - 16333
WSRR DCC PI #38	60541293-Written Scheme of Investigation FINALV2
WSRR DCC PI #39	2019 04 18 Screening Opinion 03 SCRD-9-125
WSRR DCC PI #40	Woodville Regeneration Route 200519 - Habitats Regulation Assessment
WSRR DCC PI #41	Woodville Link Road Landscape and Visual Appraisal
WSRR DCC PI #42	190214 Photo Montage
WSRR DCC PI #43	Swadlincote Regeneration Route Preliminary Geotechnical Report, Scott Wilson Ltd. On behalf of Derbyshire County Council, March 2006
WSRR DCC PI #44	Swadlincote Regeneration Route Preliminary Geotechnical Interpretative Report (Interim draft for information), October 2007
WSRR DCC PI #45	Planning Permission dated 23 September 2019 granted by Derbyshire County Council
WSRR DCC PI #46	NOT USED
WSRR DCC PI #47	Swadlincote Regeneration Route – Preliminary Report – Highway Alignment (2007)
WSRR DCC PI #48	Swadlincote Regeneration Route – Alternative Junction Designs – A514 Derby Road Junction (2008)
WSRR DCC PI #49	Swadlincote Regeneration Route Preliminary Sources Study Report ("PSSR"), March 2006
WSRR DCC PI #50	Curtins Transport Assessment – Site at Woodville
WSRR DCC PI #51	GIP Factual report on the Site Investigation at the Former Dyson Site, Occupation Lane, Woodville (July 2013)
WSRR DCC PI #52	St. Modwen Developments Ltd, Woodville – Preliminary Geo-environmental Assessment Report (July 2013)
WSRR DCC PI #53	Sirius Geoenvironmental Appraisal of Land off Occupation Lane, Woodville, Swadlincote (May 2007)
WSRR DCC PI #54	Woodville Road Phase II Investigation Report , Aecom (May 2019)
WSRR DCC PI #55	Woodville, South Derbyshire: Ground Investigation report for Harworth Group/Curtins (July 2019)
WSRR DCC PI #56	Derbyshire Local Transport Plan LTP2 2006-2011
WSRR DCC PI #57	Derbyshire Local Transport Plan 2011-2026 (April 2011)
Highway Design Statement	
WSRR HDS #1	60541293-FINAL Highway Design Statement

Design Manual for Roads and Bridges (DMRB)	
WSRR DMRB #1	TD9/93 Highway Link Design
WSRR DMRB #2	TD 27/05 Cross-sections and Headrooms
WSRR DMRB #3	TD 16/07 Geometric Design of Roundabouts
WSRR DMRB #4	TD 42/95 Geometric Design of Major/Minor Priority Junctions
WSRR DMRB #5	TA 90/05 The Geometric Design of Pedestrian, Cycle and Equestrian Routes
WSRR DMRB #6	TA 91/05 Provision for Non-motorised users
Noise Impact Assessment	
WSRR NIA #1	WVL-AEC-XX-XX-RP-NS-00001 P01 - Noise Impact Assessment
	Figure1_NoiseLocationPlan_Optimized
	Figure2_2020_DoMinTrafficNoiseLevels_Optimized
	Figure3_2035_DoMinTrafficNoiseLevels_Optimized
	Figure4_DoMinLongTermChange_Optimized
	Figure5_2020_DoSomethingTrafficNoiseLevels_Optimized
	Figure6_2035_DoSomethingTrafficNoiseLevels_Optimized
	Figure7_DoSomethingShortTermChange_Optimized
WSRR NIA #2	Figure8_DoSomethingLongTermChange_Optimized
	181204 Noise Discussion Notes from Andy Pagett (Aecom)
	SK.1a Short Term Change (North)
	SK.1b Short Term Change (South)
	SK.1c Short Term Change (East)
	SK.2a Noise Insulation (North)
WSRR NIA #3	SK.2b Noise Insulation (South)
	Calculation of Road Traffic Noise
Road Safety Audit – Stage 1	
WSRR RSA #1	Stage 1 Road Safety Audit Woodville Link Road DRAFT – Designer's Response
Turning Assessments	
WSRR TA #1	autotrack-exhibit - 4 Derby Road
WSRR TA #2	WVL-AEC-XX-XX-DR-CE-00016 VEHICLE TRACKING-ROUNDABOUTS
WSRR TA #3	WVL-AEC-XX-XX-DR-CE-00017 VEHICLE TRACKING-ROUNDABOUTS
WSRR TA #4	WVL-AEC-XX-XX-DR-CE-00025 VEHICLE TRACKING-JUNCTIONS
WSRR TA #5	WMR-AEC-XX-XX-DR-CE-00027 MIDLAND LEAD TURNING MOVEMENTS
WSRR TA #6	WVL-AEC-XX-XX-DR-CE-00030 M + M TURNING MOVEMENT
WSRR TA #7	TP WVL-AEC-XX-XX-DR-CE-00031 M + M TURNING MOVEMENT
WSRR TA #8	WVL-AEC-XX-XX-DR-CE-00032 M + M TURNING MOVEMENT

WSRR TA #9	WVL-AEC-XX-XX-DR-CE-00033 M + M TURNING MOVEMENT
WSRR TA #10	WVL-AEC-XX-XX-DR-CE-00050 John Finnegan Turning Movements
South Derbyshire District Council Local Plan – Part 1 (2016)	
WSRR SDDC LP P1 #1	Local Plan Part 1 Chapters 1 - 4
	Local Plan Part 1 Chapter 5 Policy 1 - 10
	Local Plan Part 1 Chapter 5 Policy 11 - 22
	Local Plan Part 1 Chapters 6 - Appendices
WSRR SDDC LP P1 #2	South Derbyshire Local Plan - Inspector's Report (May 2016)
WSRR SDDC LP P1 #3	South Derbyshire Regulation 22 Consultation Statement (July 2014)
WSRR SDDC LP P1 #4	South Derbyshire Local Plan Pre-Submission Consultation Statement (March 2014)
South Derbyshire District Council Local Plan – Part 2 (2017)	
WSRR SDDC LP P2 #1	Local Plan Part 2
WSRR SDDC LP P2 #2	Local Plan Part 2 Policies Maps
South Derbyshire District Council – Business Case/Funding Applications	
WSRR SDDC BC/FA #1	D2N2_GPF_EOI_Sept 2013 - Woodville Regeneration Area incorporating Swadlincote Regeneration Route v2 - FINAL DCC
WSRR SDDC BC/FA #2	DDEP Application Form - Woodville 30-08-06
WSRR SDDC BC/FA #3	Growing Places Fund EOI - South Derbyshire v4
WSRR SDDC BC/FA #4	Growing Places Fund - Woodville Regeneration Area - April 2012
WSRR SDDC BC/FA #5	LGF 3 application form final - Woodville-Swadlincote Regeneration Route + Tollgate Park 28-10-15
WSRR SDDC BC/FA #6	Woodville Swadlincote Part B
South Derbyshire District Council – Other Background Information/Reports	
WSRR SDDC OBI/R #1	Ecology Appraisal 2015 by Ramm Sanderson
WSRR SDDC OBI/R #2	Historical & Archaeological Appraisal December 2006
WSRR SDDC OBI/R #3	Historical & Archaeological Appraisal MAP December 2006
WSRR SDDC OBI/R #4	Infrastructure Delivery Plan 2018
WSRR SDDC OBI/R #5	Land off Occupation Lane, Swadlincote - updated species surveys 2014
WSRR SDDC OBI/R #6	LP SOCG between SDDC and St Modwen Planning Prospects Nov 2014
WSRR SDDC OBI/R #7	Preferred Growth Strategy (Local Plan) October 2012
WSRR SDDC OBI/R #8	South Derbyshire District Council Employment Land Review Executive Summary 2007
WSRR SDDC OBI/R #9	South Derbyshire District Council Employment Land Review final report 2007
WSRR SDDC OBI/R #10	Updated Extended Phase 1 Habitat Survey of land off Occupation Lane, Woodville, Derbyshire
WSRR SDDC OBI/R #11	Woodville AAP final option report
WSRR SDDC OBI/R #12	Woodville AAP Issues and Options Consultation Feb 2007
WSRR SDDC OBI/R #13	SDDC Economic Development Strategy 2016-2020

WSRR SDDC OBI/R #14	South Derbyshire 2001 Cycling Strategy (March 2001)
WSRR SDDC OBI/R #15	Derby HMA Employment Land – Review Forecasts Update (March 2013)
WSRR SDDC OBI/R #16	Derby Housing Market Area Employment land Review (March 2008)
Associated Policy Documents	
WSRR APD #1	2904569_nidp_deliveryplan
WSRR APD #2	D2N2_Strategic Economic Plan - March_31st
WSRR APD #3	Derbyshire-economic-strategy-statement
WSRR APD #4	Derbyshire-local-transport-plan-three-ltp3 -2011-to-2026-full-document
WSRR APD #5	Midlands_Engine_Strategy
WSRR APD #6	midlands-connect-strategy-march-2017
WSRR APD #7	NIDP_methodology_note
WSRR APD #8	uk-industrial-strategy-international-brochure
WSRR APD #9	The National Forest Strategy 2014-2024
Side Roads Order (SRO) Drawings & Schedule	
WSRR SRO #1	Woodville - SRO 1 Plan Folio
WSRR SRO #2	WVL-AEC-XX-XX-DR-CE-00034 SRO Plan 1
WSRR SRO #3	WVL-AEC-XX-XX-DR-CE-00035 SRO Plan 2
WSRR SRO #4	WVL-AEC-XX-XX-DR-CE-00038 SRO Plan 3
WSRR SRO #5	Side Roads Order Schedule (Final)
Compulsory Purchase Order (CPO) Drawings & Schedule	
WSRR CPO #1	WVL-AEC-XX-XX-DR-CE-00036 CPO Plan 1
WSRR CPO #2	WVL-AEC-XX-XX-DR-CE-00037 CPO Plan 2
WSRR CPO #3	CPO Schedule
WSRR CPO #4	Statement of Reasons
Guidance on Compulsory Purchase Process and the Crichel Down Rules (July 2019)	
WSRR CPO/CDR #1	Guidance on Compulsory Purchase Process and the Crichel Down Rules (July 2019)
National Planning Policy Framework (February 2019)	
WSRR NPPF #1	National Planning Policy Framework (February 2019)
Highways Act 1980	
WSRR HA #1	Section 14
	Section 125
	Section 239
	Section 240
	Section 246
	Section 250
	Section 260
	Schedule 1
	Schedule 18
Acquisition of Land Act 1981	
WSRR ALA #1	Acquisition of Land Act 1981

New Roads and Street Works Act 1991	
WSRR NRSWA #1	New Roads and Street Works Act 1991
Human Rights Act 1980	
WSRR HRA #1	Human Rights Act 1998
DCC Cabinet Reports and Minutes	
WSRR CR/M #1	2015-05-26 Potential Growth Deal Projects _tcm44-264950
WSRR CR/M #2	26-5-2015-cabinet-mins
WSRR CR/M #3	2018-09-20 12b Confidential Woodville Swadlincote Regeneration Route Land Acquisition and Legal Orders
WSRR CR/M #4	Minutes 2018-09-20 Exempt
WSRR CR/M #5	190131 11a Confidential Woodville Swadlincote Regeneration Route Land Acquisition and Legal Orders
WSRR CR/M #6	190131 Cabinet Minutes
WSRR CR/M #7	Minute 242/17 of DCC's Cabinet Meeting of 14 September 2017
WSRR CR/M #8	Derbyshire County Council Regulatory – Planning Committee 23 September 2019 – Report to the Executive Director – ETE; Construction of an all-purpose single carriageway complete with verges, cycleways and footways – Report to Committee
Open Space Exchange Land Application	
WSRR OSELA #1	Application dated 6 September 2019 submitted under s.19 of the Acquisition of Land Act
WSRR OSELA #2	WVL-AEC-XX-XX-DR-CE-00060 P1 POS Change in Public Open Space Areas as a Result of the Scheme
WSRR OSELA #3	WVL-AEC-XX-XX-DR-CE-00061 P1 POS Other Public Open Space available in the Vicinity of the Scheme

APPENDIX 3 – INQUIRY DOCUMENTS (including documents submitted during the Inquiry)

INSPECTOR'S DOCUMENTS	
INSP/1	Pre-Inquiry Note, dated 20 December 2019
GENERAL INQUIRY DOCUMENTS	
INQ/1	Ring binder provided for the Inspector by the DfT's National Transport Casework Team, containing: <ol style="list-style-type: none"> 1) The Inquiry Notice 2) Original SRO and CPO and Drawings 3) Woodville to Swadlincote Scheme Drawings 4) Acquiring Authority's Statement of Reasons 5) Acquiring Authority's Statement of Case 6) Copy of Objections to the Orders 7) Modifications suggested by DfT
INQ/2	Certificate under Section 19(1)(a) of the ALA 1981, Reference S19-10 A-D, issued by the SSHCLG, dated 17 January 2020

PROOFS OF EVIDENCE SUBMITTED BY THE ACQUIRING AUTHORITY	
DCC/1/1	Summary Proof of Evidence – Richard Groves (<i>Planning</i>)
DCC/1/2	Proof of Evidence – Richard Groves
DCC/1/3	Appendices – Richard Groves
DCC/1/4	Rebuttal Proof of Evidence in relation to Kirkvaley Limited – Richard Groves
DCC/2/1	Summary Proof of Evidence – Andy Pagett (<i>Noise Impact</i>)
DCC/2/2	Proof of Evidence – Andy Pagett
DCC/3/1	Summary Proof of Evidence – David Cragg (<i>Geotechnical and Contamination Ground Conditions</i>)
DCC/3/2	Proof of Evidence – David Cragg
DCC/3/3	Appendices – David Cragg
DCC/4/1	Summary Proof of Evidence – Scott Harris (<i>Highway Engineering</i>)
DCC/4/2	Proof of Evidence – Scott Harris
DCC/4/3	Appendices – Scott Harris
DCC/4/4	Rebuttal Proof of Evidence in relation to Midland Lead – Scott Harris
DCC/4/5	Appendices to Rebuttal Proof of Evidence in relation to Midland Lead – Scott Harris
DCC/4/6	Rebuttal Proof of Evidence in relation to Kirkvaley Limited – Scott Harris
DCC/5/1	Summary Proof of Evidence – James Seymour (<i>Scheme Overview and Delivery</i>)
DCC/5/2	Proof of Evidence – James Seymour
DCC/5/3	Rebuttal Proof of Evidence in relation to Midland Lead – James Seymour
DCC/5/4	Appendices to Rebuttal Proof of Evidence in relation to Midland Lead – James Seymour
DCC/6/1	Summary Proof of Evidence – Jeffrey Leighton (<i>Land Negotiations</i>)
DCC/6/2	Proof of Evidence – Jeffrey Leighton
DCC/7/1	Summary Proof of Evidence – Daniel Godfrey (<i>Traffic and Transport</i>)
DCC/7/2	Proof of Evidence – Daniel Godfrey
DOCUMENTS SUBMITTED BY THE ACQUIRING AUTHORITY	
DCC/8	Opening Statement on behalf of DCC as Acquiring Authority
DCC/9	Transport Orders – Advice for Inspectors
DCC/10	Pre-Inquiry Procedure File
DCC/11	Land Ownership Plan – Midland Lead and OAC
DCC/12	Site Visit Itinerary and Plans
DCC/13	Proposed Modifications to the SRO and CPO
DCC/14	SRO Site Plan No 1 & 1A – with Acquiring Authority's Modifications
DCC/15	SRO Site Plan No 2 – with Acquiring Authority's Modifications
DCC/16	SRO Site Plan No 3 & 3A – with Acquiring Authority's Modifications
DCC/17	CPO Map No 1 – with Acquiring Authority's Modifications
DCC/18	Tracker, identifying DCC's written responses to points made by Objectors
DCC/19	Closing Submissions on behalf of DCC as Acquiring Authority
DOCUMENTS SUBMITTED BY STATUTORY OBJECTORS	
OBJ01/1	Proof of Evidence – Andrew Chapman on behalf of Midland Lead
OBJ01/2	Appendices – Andrew Chapman
OBJ01/3	Rebuttal Proof of Evidence – Andrew Chapman
OBJ01/4	Proof of Evidence, Figures, Drawings and Appendices – Paul Wilson on behalf of Midland Lead
OBJ01/5	Rebuttal Proof of Evidence – Paul Wilson

OBJ01/6	Technical Note 1 – Paul Wilson
OBJ01/7	Witness Statement - Cornelis Tuinenburg on behalf of Midland Lead
OBJ01/8	Draft Undertaking between Midland Lead and DCC
OBJ02/1	Written Statement of Kirkvale Limited, with Annexes
WITHDRAWAL LETTERS	
WL/1	Withdrawal Letter from Western Power Distribution (East Midlands) PLC (OBJ03), dated 17 January 2020
WL/2	Withdrawal Letter from Beepart Limited and Harworth Estates Investments Limited (OBJ06), dated 20 January 2020
WL/3	Withdrawal Letter from Midland Lead (OBJ01), dated 24 January 2020
WL/4	Withdrawal Letter from First Fence Limited (OBJ05), dated 24 January 2020