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[Via email]

1<sup>st</sup> March 2023

Dear Phil,

**Appeal Ref. APP/D2320/W/22/3295556**

Further to the 'minded to grant' decision made by Lee Rowley MP on behalf of the Secretary of State (SoS) on 19<sup>th</sup> January 2023 with regards to appeal ref. APP/D2320/W/22/3295556, this letter acts as cover to the additional information requested by the SoS with regards to the identified highway safety issues.

The following information is submitted:

1. Additional Highways Evidence, prepared by Atkins
2. Revised Section 106 agreement

The Additional Highways Evidence report responds in turn to each of the matters raised by the Inspector and SoS. A number of drawings are appended to the report, as well as a Joint Statement with Lancashire County Council (as Highway Authority), a Stage 1 Road Safety Audit and a Designer's Response to the Stage 1 Road Safety Audit.

Comments are provided below on the revised section 106 (s106) agreement and the amended versions of conditions 3 and 4 to be applied. In reviewing this, the Secretary of State should be aware that the Appellant now proposes to deliver the highway mitigation works at the Ulnes Walton Lane/ A581 junction via a section 278 (s278) agreement. This is instead of a section 106 contribution towards the Highway Authority's 'A581 Corridor Improvement Scheme'. This approach is detailed within the Additional Highways Evidence report.

Section 106 Agreement

Following the above described revised approach to the mitigation at the Ulnes Walton Lane/ A581 junction, the s106 agreement has been revised as follows:

- Remove all references to the 'A581 Corridor Improvement Scheme Contribution'
- Add a definition for the 'Original S106 Agreement' and an additional clause (3.4) to make clear that this revised S106 agreement will, once complete, supersede the Original S106 in totality.

The opportunity has also been taken to correct the reference to Schedule 5 within the definition of Development, as previously commented upon by the Inspector.

Delivering the proposed junction mitigation at the Ulnes Walton Lane/ A581 junction via a s278 agreement instead of a s106 agreement offers greater certainty and confidence that all of the off-site highways mitigation can be delivered by the Appellant in advance of phase 4 of the proposed development commencing. The scheme of off-site highway mitigation is not dependent upon a scheme being delivered by another party or further funding being secured.

Due to the limited time that was available, the updated version of the section 106 agreement has been circulated to the relevant signatories (the Appellant, Chorley Borough Council and Lancashire County Council) but not yet agreed and signed. The draft revised version is submitted with this letter and a signed version will be submitted as soon as possible.

#### Planning Conditions

As a consequence of the further work undertaken regarding the impact of construction traffic, the Appellant concludes that mitigation at the Ulnes Walton Lane/ A581 junction is required ahead of construction of phase 4 of the proposed development.

As such, the Appellant agrees to the imposition of Condition 4B subject to the necessary amendment to remove the reference to the A581 Corridor Improvement Scheme (reflecting the amended approach to the highways mitigation at the Ulnes Walton Lane/ A581 junction as previously described).

For the avoidance of doubt, it is proposed that Condition 4 should read as follows:

*“(a) No part of the development under phase 4 hereby approved shall be commenced until the approved scheme for the construction of the off-site works of highway improvement has been constructed and completed in accordance with the scheme details.*

*“(b) No part of the development under phase 4 hereby approved shall be occupied until the approved scheme for the construction of the operational site access has been constructed and completed in accordance with the scheme details.”*

Condition 4 refers to an approved scheme of the “off-site works of highway improvement” which is a cross reference to a scheme to be approved under proposed condition 3. The Appellant proposes that condition 3 should be amended so that there cannot be any doubt that the “off-site works of highway improvement” referred to in condition 4 includes the highways mitigation at the Ulnes Walton Lane/ A581 junction.

We therefore propose that Condition 3 should read as follows (additional text underlined):

*“No part of the development under phase 4 hereby approved shall commence until a scheme for the off-site works of highway improvement has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.*

*For the avoidance of doubt, this shall include the highways mitigation at the Ulmes Walton Lane/A581 junction.”*

### Conclusion

The Appellant strongly considers that the revised information now submitted demonstrates that the highway safety issues identified by the Inspector and Secretary of State can be satisfactorily resolved and addressed.

It is pertinent to note that Lancashire County Council, as Highway Authority, have reviewed this information and maintain the position set out in their statutory consultee response in that they do not object to the proposals. A joint statement between the Appellant and Lancashire County Council is appended to the Additional Highways Evidence.

We look forward to receiving the final appeal decision in due course.

Yours sincerely



**Claire Pegg MRTPI MRICS**  
**Associate, Cushman & Wakefield Planning**