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24 NOV 1998

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78(1) & (2)
APPEALS BY HALLAM LAND MANAGEMENT LTD
LAND FRONTING M1 MOTORWAY AND GADDESSEN LANE REDBOURN
APPLICATION NOS: 5/97/1430 & 4/01230/97/OUT

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Mr R H Town, CEng, MIStructE, MIHT, who held a local inquiry into your clients' appeals against:

a) The decision of the City and District of St Albans Council to refuse planning permission for the construction of a Motorway Service Area, Landscaping and Access Roads on land fronting the M1 Motorway and Gaddesden Lane, Redbourn, (Appeal A) and

b) The failure of Dacorum Borough Council to give within the prescribed period notice of their decision on an application for planning permission for the same development on the same site (Appeal B).

2. The Inspector, whose conclusions are reproduced in the Annex to this letter, recommended that the appeals be dismissed, and that planning permission be refused. A copy of his report (IR) is enclosed.

3. The Secretary of State has given careful consideration to all the arguments for and against the appeal proposals and to the Inspector's conclusions and recommendation.

4. The Environmental Statement submitted by your clients with the applications the subject of the appeals has been considered by the Inspector and taken into account by the Secretary of State in reaching his decision.

Introductory Matters and Amendments to the Appeal Proposals

5. At the inquiry, your clients explained that the applications and appeals related expressly to a proposal to construct a motorway service area (MSA) serving the M1 motorway as it was proposed to be widened to four lanes. There was therefore no proposal for them to construct the MSA with the motorway in its present dual three lane layout (IR 3.4).

6. Your clients proposed changes to the appeal proposals in respect of the access arrangements. Details of those changes are set out in paragraph 3.5 of the Inspector's report. They were shown on drawing B/96009/14B and your clients requested that that revised drawing be substituted for drawing B/96009/5 which had been submitted with the planning applications the subject of these appeals. The Inspector considered that the changes related more to matters of detail than principle and that they did not change substantially the impact of the MSA scheme on its surroundings. The revised access arrangements were fully debated at the inquiry and he was of the opinion that no interests would be prejudiced by the revised drawing being treated as the application/appeal plan. There were no objections to its substitution at the inquiry and it was on the basis that your clients' access proposals were as shown on drawing B/96009/14B that the report was drafted. The Secretary of State is satisfied that no party has been prejudiced by the substitution of the amended plan and it is on the basis of the amendments shown that he has determined your clients' appeals.

The Statutory Designations of Redbourn Church, Village and the Aubreys Hillfort

7. Part of the graveyard surrounding Redbourn Church lies adjacent to the easternmost boundary of the appeal site (IR 2.4). Part of the churchyard/graveyard is within the Redbourn Conservation Area, which also includes the Church and the historic buildings in Church End. The Church itself is listed Grade I. In considering the appeals, the Secretary of State has had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 relating to the desirability of preserving the settings of listed buildings. In view of the proximity of the appeal site to the Conservation Area, he has also paid special attention to the desirability of preserving or enhancing the character or appearance of the Redbourn Conservation Area, as required by section 72 of the 1990 Act.

8. The Aubreys Hillfort, which lies on the western side of the M1 opposite the appeal site across Gaddesden Lane, is a scheduled ancient monument (IR 2.4). The Secretary of State has therefore had regard to the desirability of preserving its setting in determining your clients' appeals.

The Development Plan

9. Under section 54A of the Town and Country Planning Act 1990 the Secretary of State is required to determine your clients' appeals in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the area comprises the Hertfordshire Structure Plan Review 1991 - 2011, the adopted Dacorum Borough Local Plan and the adopted City and District of St Albans District Local Plan Review. The Structure Plan Review 1991 - 2011 was formally adopted on 30 April 1998, after the close of the inquiry.

The Hertfordshire County Structure Plan Review incorporating Approved Alterations 1991, which was referred to at the inquiry, is no longer part of the development plan.

10. The appeal site lies within the Metropolitan Green Belt. Both Local Plans show the site within a Landscape Development Area. In determining the appeals, the Secretary of State has had particular regard to Structure Plan policies 5; 34; 38 (vii), (viii) and (ix), and 48. Policy 5 establishes the general extent of the Green Belt in the south of the county and sets out the strategic policy for development control in the Green Belt. Policy 34 relates to the provision of MSAs. It states that such development will be subject, inter alia, to provisions in the Plan relating to protection of the Green Belt, the landscape and the natural environment. It lists the five criteria against which proposals should additionally be judged. Policy 38 (vii), (viii) and (ix) seeks the protection from development of scheduled ancient monuments, listed buildings and Conservation Areas. Policy 48 requires development proposals to take full account of the need to protect and enhance the public right of way network.

11. The Secretary of State has also had regard to policies 3, 53 and 92 of the Dacorum Local Plan and policies 1, 36, 97 and 105 of the St Albans Local Plan. Details of those policies are set out in paragraph 4.2 of the Inspector's report.

Planning Policy Guidance Note 2: Green Belts

12. Government policy on Green Belts is set out in Planning Policy Guidance Note 2 (PPG2). That policy, as reflected generally in the development plan, states that there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. Paragraph 3.4 of PPG2 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for a particular purpose. Inappropriate development is, by definition, harmful to the Green Belt. It is for the Applicant to show why permission for such development should be granted.

13. PPG2 sets out the five purposes of including land in Green Belts. They are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns from merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

National Policy on MSA Provision

14. At the time of the inquiry, Government policy on MSA provision was set out in Annex A to Planning Policy Guidance Note 13 "Transport" (PPG13) and in Roads Circular 1/94.

The policy sought to improve the service offered to motorway users through an increase in the availability and choice of MSAs. The minimum gap between any two MSAs was considered normally to be 15 miles. That minimum spacing was not to be taken to mean that the Government saw a need for MSAs every 15 miles regardless of local circumstances. Its only prescriptive view was that, for safety and traffic management reasons, drivers should not have to travel for long distances without finding services on the motorway. A spacing of 30 miles remained the desirable aim from the transport point of view. MSAs were subject to the same restraint policies in sensitive areas as other major developments and approval for an MSA within the Green Belt would not be given except in very special circumstances.

15. On 31 July 1998 the Minister for Roads announced that the Government intended to return to a policy based on the provision of MSAs approximately every 30 miles in order to provide drivers with adequate opportunities to stop and rest. Services at closer intervals would not be ruled out completely but the Government would in future expect to approve them only when there were exceptional need and safety grounds for doing so. The new advice took immediate effect and where it differed from previous statements of policy, the new guidance was to be regarded as taking precedence.

The Roads Programme

16. In their evidence to the inquiry, the Highways Agency stated that the widening of the M1 from Junction 6A to Junction 10 had been identified as a discrete scheme in the Roads Report "Trunk Roads, England - into the 1990s". A strategic roads review, which included the M1 widening scheme, was announced in June 1997. The results of the review were published on 31 July 1998, in the report entitled "A New Deal for Trunk Roads in England". The widening scheme was not included in the "Targeted Programme of Improvements" or within the list of schemes associated with development. It was identified as one of several schemes to be the subject of further studies and/or consideration by the regional planning conference.

Post-inquiry Representations

17. After the inquiry closed, there had been changes to the background in respect of three of the considerations against which your clients' proposals were to be assessed: - ie the Government's policy of MSA provision, the Roads Programme and the adopted Hertfordshire Structure Plan. On 5 August 1998 the Department invited your clients and the other main parties who appeared at the inquiry to comment on the relationship between the appeal proposals and those changes. Representations were received on behalf of your clients from Alan Boreham Associates Ltd, dated 9 October 1998; the City and District of St Albans Council and Dacorum Borough Council, in the City Council's letter of 10 September 1998; David Lane Associates on behalf of "Redbourn Together", in the letter dated 25 August 1998; The Highways Agency; and Ms B Schoer, dated 15 September 1998. Ms Schoer and Mr and Mrs C P Rosen commented on your clients' representations. A response to the Department's letter of 5 August was also received from Fina PLC, dated 11 August 1998.

18. In their representations, your clients had had regard to the advice which gave guidance on those factors that should be considered when judging the need for MSA facilities.

The appeal proposals represented an infill between existing M1 facilities and an infill between the movement of traffic between the M1 and the M25 (east). The various gaps between the M1 and the M25 (west) were extensive. Even if facilities were introduced on the M25 in the western quadrant, a gap between the appeal proposals and those facilities approximating to the 30 mile spacing would remain. The factors identified in the latest policy guidance therefore related to only two of the three gaps into which the appeal site fitted. The latest policy did not preclude such infill facilities. The MSAs at Toddington and Newport Pagnell were operating at capacity. If queuing occurred on the MSA approach roads because the existing MSAs had reached capacity, safety on the motorway would be severely compromised. It was not accepted that conditions should deteriorate to that extent before a need was established based on capacity.

19. There were no national or regional statistics recorded for fatigue related accidents. It was not possible to judge whether any locally recorded fatigue related accidents were "higher than normal". However, as discussed at the inquiry, fatigue was likely to be a contributory factor to many of the accident types recorded. It was considered that fatigue contributed to many of the accidents on that section of the M1. The Department and the Highways Agency had always acknowledged that regular opportunities for rest and recuperation would reduce the potential for drivers to suffer fatigue. There would be genuine need for the appeal proposal if there were not adequate provision for motorway users. That need would arise due to a lack of capacity at existing facilities. A fundamental argument in the Highways Agency's case when promoting the widening of the M1 was that a significant proportion of traffic was of a longer distance nature. Therefore, when considering need, it had to be recognised that the M1 carried large volumes of long distance traffic.

20. The revised policy sought to ensure that MSAs did not become destinations in their own right. The appeal proposal was wholly within that policy in terms of the range of facilities and the scale of the development. The access arrangements had been agreed with the Highways Agency. The relevant illustrative drawing showed that suitable levels of parking and access could be achieved to the various facilities. At detailed stage, a Road Safety Audit could be undertaken and submitted for approval if considered necessary.

21. The appeal proposal depended on the scheme for the widening of the M1 between Junctions 6A and 10. Following the Strategic Review of the Roads Programme, the future of that scheme was uncertain. That was the situation which existed at the time of the inquiry. Your clients reserved their position until the outcome of the scheme had been determined. However, the feasibility of a similar proposal for the existing motorway had already been examined and your clients were confident that all necessary standards would be met if no improvement were made. Measures would be required to improve capacity between Junctions 6A and 10.

22. **The City and District of St Albans Council and Dacorum Borough Council** argued that the main objective of the MSA policy was to provide services at 30 mile intervals. Infill sites would only be permitted where there was a clear and compelling need. The distances between the Scratchwood and Toddington services; Scratchwood and South Mimms and Toddington and South Mimms satisfied the requirements of the new policy. There was a lack of services on the western section of the M25. An MSA at Redbourn would reduce

distances between existing services by only about 10 miles and would have little value in spacing terms. There was a number of proposals for MSA provision on the western sector of the M25. The new MSA policy recognised that the circumstances on the M25 were unique. Any M25 MSA would be more effective in meeting the needs of M25 users than a site at Redbourn.

23. It had been established at the inquiry that the services at South Mimms and Scratchwood were adequate in capacity terms and the range of facilities provided. The services at Toddington were operating satisfactorily for most of the time. Any shortfall in capacity in the foreseeable future could be accommodated either through planned development proposals or minor re-arrangement of parking areas, without the need for the site to expand or for extensive development to take place. The overall accident rate on the stretch of motorway between Junctions 8 and 9 was twice the national average for motorways. That did not justify an additional MSA, because the Highways Agency's assessment of accident history was that the high accident rate was due to traffic congestion and the design geometry of the existing highway rather than fatigue. There was nothing to suggest that there was a compelling need for an additional MSA near Redbourn on safety grounds.

24. Issues such as spacing, capacity and adequacy of existing MSAs and safety were factors which enabled a genuine need, as opposed to a demand for services, to be identified. In this case, spacing met Government policy requirements, existing MSAs provided adequate facilities, and there was sufficient capacity to cope with the needs for services. There was no evidence of a higher than normal incidents (sic) of accident attributable to fatigue, that a new MSA might help to address. A high proportion of traffic using the M1 between Junctions 8 and 9 was engaged in short journeys. There was therefore a below average need for an MSA in quantitative terms. That helped to inform judgements about the adequacy of existing facilities, including their potential to cope with future increases in demand as a result of traffic growth.

25. Following the strategic roads review, the widening of the M1 between Junctions 6A and 10 has been identified as a scheme subject to further study by the Regional Planning Conference. No time scale had been attached to that process. The appeal proposals had been put forward on the basis that the MSA would connect to a widened four-lane motorway. It was also made clear at the inquiry that the appeal application included detailed access arrangements to a four-lane motorway. No scheme was before the Secretary of State for an MSA connecting to the existing dual three-lane motorway. The appeal proposals could not be granted planning permission because they relied upon detailed access arrangements that were contingent upon a road scheme that could no longer be said with any certainty would proceed. If your clients could demonstrate a compelling case for the MSA on need and safety grounds, the appeal proposals would not be capable of satisfying the need within the foreseeable future. To allow the proposals would conflict with extant advice in Annex A of PPG13 that MSA sites should be brought forward for development quickly. If the Redbourn MSA were allowed, consideration of options by the Regional Planning Conference would be pre-empted. It would not be possible to endorse the principle of an MSA at Redbourn at some time in the future, since it was not possible to predict the potential relationship between an MSA and any future motorway improvement schemes that the Planning Conference might recommend.

26. Turning to the adoption of the Structure Plan, the wording of emerging policy 47, relating to MSAs, was before the Inspector at the inquiry. That wording was the same as that subsequently adopted.

27. **The Highways Agency** accepted that it was appropriate to take into account the changes in policy etc but had nothing to add to the arguments it put forward at the inquiry. **David Lane Associates** considered the proposals to be contrary to Government policy, as revised, on MSA provision, in that no exceptional need and safety grounds existed. The development would be premature in the absence of any proposals in "A New Deal for Trunk Roads in England" to widen the M1 to four lanes.

28. **Ms Schoer** argued that the reference to "competition and choice" in the policy guidance extant at the time of the inquiry had been treated as important components of "need". However, choice and convenience did not constitute the sort of special circumstances which might justify MSA development in the Green Belt. At the inquiry, convincing evidence had not been produced to show that an MSA between Junctions 8 and 9 could be justified on safety grounds. The Highways Agency had argued that the proposed MSA would compromise safety. The proposed MSA would give rise to a deterioration in driving conditions and road safety. A final decision on the widening of the M1 could be expected to take some time. It had been established that the appeal proposals depended on the widening of the motorway to four lanes, as a prerequisite. The Inspector had confirmed that the application before him was for access to a four-lane motorway. Access was not a reserved matter. The Inspector had agreed with the statement made by Counsel for Redbourn Together that the proposal could not be legally implemented in the event that the widening of the local section of the M1 not going ahead, even if the appeals were allowed. The revisions to the Structure Plan did not contain any significant changes from those submitted at the inquiry. The recent policy changes therefore rendered the appeal proposals even less appropriate.

29. In commenting on your clients' representations **Ms Schoer** was of the opinion that your clients' new evidence did not alter the fact that the appeal proposal did not comply with the revised Government policy on MSA provision. The Government's reasons for revising its MSA policy were clearly set out in the statement made by the Minister for Roads. Given the existing MSA spacing on the M1, additional MSA provision was not apparently considered necessary. In her evidence to the inquiry, she had shown how the appeal proposals had failed to meet the then current Government policy. An infill MSA would now apparently have to be subject to stricter scrutiny than previously, with a greater onus on the applicant to prove "a clear and compelling need and safety case for MSAs". Your clients had produced no fresh evidence on spacing, capacity, accidents, or need. At the inquiry, your clients had argued that there was a need for an MSA between Junctions 8 and 9 because of the conditions on the western quadrant of the M25. However, the Government had made it plain that it intended to satisfy the need for additional MSA provision for motorists using the M25 on the M25. It was inappropriate to use the current level of provision on the western quadrant of the M25 as the main argument on spacing for an MSA between Junctions 8 and 9 of the M1. The new policy clearly required evidence which showed that existing MSAs could not cope with the need. Such evidence - ie queuing on the MSA approach roads, or lack of parking spaces at times of peak demand - had not been provided in respect of the Toddington MSA. Convincing evidence had not been presented to demonstrate that a higher than normal incidence of

accidents was attributable to driver fatigue. The use of the report "A New System for Recording Contributory Factors in Road Accidents" had been inappropriate and misleading. About 30% of all travellers on the M1 passing the appeal site would be local commuters. 14 - 15% of all travellers on that stretch of the M1 might consider using the Redbourn MSA. In doing so, they would override the need of the 30% of all motorists to reach their destinations without encountering any additional congestion, delay or hazard. There was concern that the development itself would constitute a safety hazard by reducing motorway capacity, by increasing congestion and delays on an already overloaded and hazardous section of the motorway network.

30. **Mr and Mrs Rosen**, in commenting on your clients' representations, argued that the proposed MSA at Redbourn would be in breach of the new guidelines. One, if not two, MSAs would be built on the western quadrant of the M25, thus alleviating the need for another facility at Redbourn. The MSA at Toddington was not at capacity. There were also adequate services off-line at Junction 9 of the M1. Accidents attributable to fatigue were not abnormally high. Much of the traffic was commuter traffic, resulting in comparatively short travelling distances. Accidents were more likely to be caused by slow moving traffic and driver distraction. The current appeals were based on the M1 being widened to four lanes. The recent roads review had postponed the widening scheme for further review. It was considered that your clients had not proved sufficient need for the MSA.

31. In their response to the Department's letter of 5 August, **Fina PLC** explained that they had never expressed an opinion as to whether the proposed MSA should be built or not. They wished to ensure that, in the event of consent being granted, adequate safeguards for the cross-country pipeline adjoining the M1 in the area were incorporated into the planning consent.

32. A letter from Sigma Planning Services dated 11 November 1998 was also received by the Secretary of State. That letter drew his attention to an enclosed letter from the Highways Agency, dated 16 October 1998, which set out their interpretation of the new policy on MSAs.

33. The Secretary of State has carefully considered all the post-inquiry representations in determining your clients' appeals.

The Main Issue in the Appeals

34. It was not disputed that the proposed MSA would represent inappropriate development in the Green Belt. The Secretary of State therefore considers that the main issue in your clients' appeals is whether there are very special circumstances which would justify allowing the proposed development in the Green Belt.

35. In determining the appeals, the Secretary of State has considered first of all the degree of harm that would be caused to the Green Belt and other interests of acknowledged importance. He agrees with the Inspector that those interests are as set out in paragraph 10.7 of the report. He has then considered the need for the proposed MSA, which in your clients' opinion was the key element of the very special circumstances (IR 10.5). The Secretary of

State has finally balanced the degree of harm that would be caused against the benefits arising from the development to see if very special circumstances exist which would justify allowing inappropriate development in the Green Belt.

Harm to the Green Belt and Other Interests of Acknowledged Importance

a) The Green Belt

36. The Inspector was of the opinion that the proposed development would represent the introduction, on a major scale, of urban type development on what was now farmland, with a consequent and serious adverse impact on the openness of the Green Belt (IR 10.9). The Secretary of State agrees with the Inspector. He accepts the Inspector's view that the first purpose for including land in Green Belts - paragraph 13 above refers - did not apply in this case. The second and third purposes did apply and he shares the Inspector's conclusion that the appeal proposal would result in a serious narrowing of an already narrow Green Belt gap between Redbourn and Hemel Hempstead. He agrees that the proposal would contribute towards the coalescence of the settlements, in conflict with the second purpose (IR 10.10). He also agrees that the urbanising effect on the narrow rural gap between Redbourn and the motorway, and the open land stretching away to the west, would run counter to the third purpose (IR 10.11). He is satisfied that the appeal proposal would be harmful to the openness of the Green Belt and would conflict with the two purposes pertinent to this case (IR 10.13).

37. The Inspector was doubtful about the relevance or applicability of considering the appeal proposal against the objectives for the use of land in Green Belts (paragraph 1.6 of PPG2 refers). The Secretary of State shares those doubts and has not considered the proposal against those objectives. He does however accept that the proposals include measures which would represent an improvement to the land in nature conservation terms (IR 10.12).

b) Landscape and Visual Amenity

38. The Inspector found that the landscape of the appeal site and its surroundings on the western side of Redbourn was pleasant and, in part, particularly attractive. The Secretary of State accepts those findings. He shares the Inspector's views that, although your clients' landscaping proposals would satisfactorily screen the MSA, they would in themselves be intrusive and obtrusive in certain places. In paragraph 10.16 of his report the Inspector set out the details of the harm that he considered would be caused. The Secretary of State sees no reason to disagree with the Inspector's assessment and agrees that the visual effect of the MSA, and the associated landscaping proposals, would be seriously harmful.

39. The Secretary of State agrees with the Inspector that there would be a visual effect from the MSA during the night which would be different from that during the day. However, given that the lighting of the MSA would be seen in the context of the motorway lighting, he accepts that the visual effect at night would not represent a significant additional visual disadvantage (IR 10.17). In respect of the Landscape Development Area designations, he also agrees, for the reasons given in paragraph 10.18 of the report, that the proposed large scale urban development would conflict with the objective of improving the character and appearance of the landscape.

c) Public Footpaths

40. The Inspector considered the impact of the appeal proposal on views from public footpaths. His comments on the general visual effects of the proposal applied and he did not consider that there were any aspects of visual amenity which related exclusively to footpaths. Whilst the stopping-up of Footpath 45 would conflict with policy 97 of the St Albans Local Plan, he did not consider that there was a serious disadvantage, from the amenity or planning standpoints, to not providing a new diversion of the path (IR 10.19 & 20). The Secretary of State agrees.

d) Residential Amenity

41. This aspect included traffic noise from the MSA, construction impacts and visual intrusion. On the basis of the traffic noise predictions, the Inspector considered that the difference in traffic noise between the "with MSA" and "without MSA" situations would be so small as to be imperceptible. The Secretary of State sees no reason to disagree and accepts that from the standpoint of traffic noise, the appeal proposal was unobjectionable (IR 10.22). For the reasons given in paragraphs 10.23 and 24 of his report, the Inspector concluded that construction noise would not represent a serious intrusion on the amenity of local residents. The Secretary of State agrees. He also accepts that, as measures are available to control dust generated during earth moving, wind blown dust was unlikely to represent a serious diminution of residential amenity (IR 10.25). The Inspector summarised the Councils' assessment of visual impact in respect of property in paragraph 10.26 of his report. Although he did not disagree with that assessment, his view was that it demonstrated that visual intrusion caused by the proposed MSA would not amount to a serious threat to residential amenity. The Secretary of State shares the Inspector's view and agrees that overall the effects of the appeal proposal on residential amenity are not so adverse as to warrant its rejection.

e) Redbourn Church and Conservation Area

42. The Inspector found that the same considerations applied to both the Church and the Conservation Area (IR 10.27). The open agricultural land to the west of the churchyard/graveyard enhanced greatly the setting of the church and gave it a rural feel that was not present on the other boundaries. Views out from the churchyard and into it from the public footpaths and from Gaddesden Lane added greatly to the attractiveness of that side of the village. The Inspector was of the opinion that the creation of a high reprofiled landform in close proximity to the churchyard boundary would foreshorten views out of the churchyard and prevent some views into it. Although planting would soften the intrusive effects of the reprofiling, he concluded that substantial harm would still be caused to the setting of the Church. The Secretary of State accepts the Inspector's conclusion and agrees that the adverse effect on the setting of the Church is an important disadvantage of the appeal proposal (IR 10.28). For the reasons given in paragraph 10.29 of the report, he is satisfied that there are no grounds to reject the appeal proposal because of its likely impact on the structural integrity of the Church.

f) Aubreys Hillfort

43. The Inspector considered that the gently rising ground to the north of Gaddesden Lane formed an attractive part of the rural setting of the monument. However, he was of the opinion that there was a not insignificant degree of separation between the monument and the appeal site. From the monument, the tree planting and mounding along Gaddesden Lane would foreshorten views, but not critically. He concluded that there would be no significant diminution in the character of the setting of the monument (IR 10.30). The Secretary of State sees no reason to disagree.

g) The Highways Agency's Direction

44. By the time of the inquiry, the Highways Agency had resolved a number of their objections to the appeal proposal. Three aspects remained outstanding, of which that relating to the scheme's failure to make satisfactory provision for "weaving" on the motorway was their main concern (IR 10.32 & 33). The Secretary of State shares the Agency's concern over the loss of the open aspect between the M1 and Redbourn. As there were no proposals for widening the M1 to five lanes, he agrees with the Inspector that it would be premature and unreasonable to reject the appeal proposal on account of a highly uncertain eventuality

45. "Weaving" relates to the merging and diverging manoeuvres of traffic along a length of motorway. There are two important elements: the weaving length and the weaving width. The Agency's measurement of weaving length available if the MSA were built indicated that it would be only very marginally below the desired minimum standard. The Secretary of State agrees with the Inspector that that shortfall would not, on its own, justify the rejection of the MSA proposal (IR 10.34).

46. The assessment of the required weaving width has two main inputs: traffic flow and turn-in rate (IR 10.35). The Agency and your clients disagreed over the turn-in rate to be adopted. The Inspector considered, for the reasons given in paragraph 10.36 of his report, that the "full Toddington" rate, advocated by the Agency, was onerous as a basis for assessment. He considered the "75% of Toddington" rate was the appropriate turn-in rate for the assessment at the proposed MSA (IR 10.37). On that basis, the additional width required for weaving would range between 0.3 and 0.46 of a lane. If that precise additional width were not provided, there would be a notional or theoretical loss of capacity on the four weaving sections ranging between 7.5% and 11.5% (IR 10.38). On the basis of these figures, an assessment had to be made on whether an additional lane to facilitate weaving should be provided. The Inspector found that all the fractional parts of the lanes required for weaving were less than half a lane, and in the northbound direction were one third of a lane and slightly less, and that the weaving flow would be only some 475 vehicles per hour. In his view this suggested not providing an additional lane to facilitate weaving (IR 10.39). The Secretary of State accepts the Inspector's assessment.

47. As the Inspector commented, the loss of capacity of the four lane motorway caused by the introduction of weaving at the MSA would have the effect of bringing forward the date when congested conditions returned, subject to the amount of traffic on the motorway continuing to grow in the future (IR 10.40). Depending on which growth assumption in the

National Road Traffic Forecasts was chosen, congested conditions could be reached between 4 and 8 years earlier if the proposed MSA were constructed than if it were not (IR 10.40). Your clients argued that the "all roads low growth" assumption should be adopted. However, the Inspector preferred to adopt a "reasonable traffic growth" assumption - ie between "low" and "central all roads". On that basis, the proposed MSA would not be likely to give rise to congestion and slowing on the motorway main carriageway during the design life of the widened motorway (IR 10.42). The Secretary of State accepts the Inspector's conclusion. He also accepts his overall conclusion that the appeal proposals are acceptable in highway terms, and that widening the main carriageway to accommodate weaving was not justified (IR 10.44).

The Need for the Proposed MSA

48. Your clients argued that the need for the proposed MSA constituted very special circumstances justifying inappropriate development in the Green Belt. Their case was based on the spacing of existing MSAs, the traffic flow passing the site and the capacity of existing MSAs.

a) Spacing

49. The Government's policy is that MSAs should be provided approximately every 30 miles in order to provide drivers with adequate opportunities to stop and rest (paragraph 15 above refers). That aim has already been satisfied on this section of the M1. It has also been satisfied for M1/M25 east traffic but not for M1/M25 west movements (IR 10.46). The Secretary of State agrees that an MSA at Redbourn would not have a substantial effect in reducing the very large spacings between the Toddington Services and existing MSAs on the M25 (west) or the radial motorways to the west. He also agrees that the proposal would be no substitute for the construction of an MSA in the western sector of the M25 and that there is not a convincing need for the proposal to achieve the desirable aim of MSAs at not much more than 30 miles apart (IR 10.46). In paragraphs 10.47 and 49 of his report, the Inspector made reference to the previous national policy of increasing the availability and choice of MSAs. That aspect of MSA policy is now given substantially less prominence. The Secretary of State has therefore placed little weight on the Inspector's conclusions relating to availability and choice in determining the appeals. He agrees with the Inspector that the southern end of the M1 does not now appear to be greatly deficient in MSAs, at least in average spacing terms (IR 10.48). He is of the opinion that this factor outweighs your clients' argument, made in their post-inquiry representations, that even if MSA facilities were introduced on the western quadrant of the M25, a gap of about 30 miles would remain between the appeal proposals and those facilities. As with the previous MSA policy, account must be taken of planning restraint policies. Given the appeal site's location in an area of planning constraint - ie the Green Belt - the Secretary of State accepts the Inspector's overall conclusion (IR 10.49) that the consideration of spacing is not compelling in respect of the appeal proposal.

b) Traffic Flow

50. Current traffic flows on the M1 between junctions 8 and 9 are very high. The Councils argued at the inquiry and in their post-inquiry representations, that that traffic contained a

significant proportion of vehicles engaged in relatively short journeys and/or near their trip ends, and would consequently have a low propensity to use MSA services. The same argument was put forward by other parties in the post-inquiry representations. However, the Highways Agency's evidence to the M1 widening inquiry was that much of the traffic on that stretch of the M1 was of a long distance nature. The Inspector did not consider that the composition of traffic indicated a lesser need for the appeal proposal (IR 10.50). The Secretary of State agrees. For the reasons given in paragraph 10.51 of the report, the Inspector did not find your argument that there was a compelling need for the appeal proposal on a traffic flow basis alone was very persuasive. He concluded that the consideration of traffic flow did not lend compelling support to the case of need for the appeal proposal. The Secretary of State agrees with that conclusion. In respect of driver fatigue, the Secretary of State notes that the parties' post-inquiry representations differ over the relevance of this issue. He has considered the representations. In his opinion, the evidence is not sufficient to lend support to the arguments relating to the need for the proposed MSA.

c) The Capacity of Existing MSAs

51. The Inspector considered that parking provision and use was a good indicator of available capacity. The parking surveys undertaken by your clients and the Councils produced different results. The Inspector found that the reason for the difference in car parking demand was not clear (IR 10.57). It appeared to the Inspector from the evidence, however, that there were clearly periods where MSA users had some difficulty finding a parking space at Toddington. That situation was deduced from the planning permission granted in April 1997 for, inter alia, works to increase the car parking capacity on the southbound side and to increase HGV parking capacity (IR 10.59). The operators of the Toddington services have been considering several options to provide for increases in parking demand projected over the short and long term. Some of the options would have visual effects, others would involve expansion of the MSA into Green Belt land. It seemed to the Inspector that such options, were applications to be made, would involve a far less serious intrusion in Green Belt terms than the appeal proposal (IR 10.60). The Secretary of State does not disagree with the Inspector. However, he has reached this conclusion only in the context of these appeals and without prejudice to his consideration of any proposal at the Toddington services which might come before him for decision as an appeal or called-in application.

52. Turning to your clients' arguments relating to HGV parking at night, the Inspector set out his reservations about their observations in paragraph 10.61 of the report. He considered a distinction had to be drawn between overnight parking and normal short break parking. There was no duty for accommodation to be provided for HGV overnight parking. Although undesirable if HGV drivers were unable to take a short break at night-time because an MSA car park was full, the Inspector was not convinced that any shortage of space at the MSAs at Rothersthorpe, Newport Pagnell or Toddington would be best rectified by the construction of the appeal proposal. The Secretary of State shares the Inspector's reservations and agrees that considerations relating to the capacity of neighbouring MSAs did not constitute overriding justification for the appeal proposal.

53. The Secretary of State is satisfied that, when considered as an "infill" MSA, there is no case for concluding that the appeal proposal should be allowed on need and highway safety grounds.

The Secretary of State's Overall Conclusions

54. To establish whether very special circumstances exist which would justify the appeal proposal, the material considerations in favour of it must clearly outweigh the harm that would be caused by reason of the development's inappropriateness and any other harm. The Secretary of State has agreed that the appeal proposal would have a serious adverse impact on the openness of the Green Belt and would conflict with two of the purposes for including land in Green Belts. The visual effect of the MSA and the associated landscape proposals would be seriously harmful and there would be conflict with the Local Plan objectives of improving the character and appearance of the landscape. In addition, there would be an adverse effect on the setting of the Grade I listed Redbourn Church. Although other issues put forward by objectors were not found to weigh against the appeal proposals, the Secretary of State is of the opinion that overall the MSA would cause considerable harm to the Green Belt and to other interests of acknowledged importance. He has consequently placed substantial weight on the harm that would be caused. Your clients argued that the need for the new MSA constituted very special circumstances which overrode the harm. However, the Secretary of State has agreed with the Inspector that those arguments did not provide compelling grounds for allowing the appeal proposal. In the circumstances, he has not given them much weight in the determination of the appeals. He does not consider that your clients' post-inquiry representations lend weight to the arguments in favour of the appeal proposal. Your clients' confirmed at the inquiry that the appeal proposal related expressly to a proposal to construct an MSA serving the M1 as it was proposed to be widened to four lanes. The scheme for the widening of the M1 between Junctions 6A and 10 has been removed from the Roads Programme, and will be subject to further studies. There is therefore uncertainty as to if, and when, a widening scheme would come forward. In the Secretary of State's view that uncertainty must tell against the appeal proposal and should be given weight in the determination of the appeals.

55. The Secretary of State has weighed the harm that would be caused against the material considerations in favour of the development. He is satisfied that the harmful effects of the appeal proposal cannot be overcome by the imposition of conditions. He is also satisfied that the harmful effects, together with the uncertainty over the M1 widening scheme in the vicinity of the appeal site, heavily outweigh the proposal's benefits and the arguments in its favour. The very special circumstances necessary to justify inappropriate development in the Green Belt have therefore not been demonstrated in this case. The Secretary of State agrees with the Inspector that planning permission should not be granted.

The Secretary of State's Formal Decision

56. For the reasons given above, the Secretary of State agrees with the Inspector's conclusions and accepts his recommendation. Accordingly, he hereby dismisses your clients' appeals and, in respect of Appeal B, refuses planning permission for the development

proposed in Application No 4/01230/97/OUT, which Dacorum Borough Council failed to determine.

57. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

58. A further letter will be sent in due course about the application for an award of costs made by the City and District of St Albans Council and Dacorum Borough Council against your clients, which was made at the inquiry.

59. Copies of this letter have been sent to the City and District of St Albans Council, Dacorum Borough Council, the Highways Agency, those parties who appeared at the inquiry and the persons who asked to be notified of the Secretary of State's decision.

Yours faithfully

Andrew N Hayes

ANDREW N HAYES

Authorised by the Secretary of State
to sign in that behalf

CONCLUSIONS

Note:

Unless otherwise indicated, the figures in brackets refer to paragraph numbers in the text of my report.

The Development Plan

10.1 This comprises fairly recently adopted local plans, and a structure plan approved in 1991 which is currently being reviewed and rolled forward to 2011. This structure plan review is well advanced and therefore may be afforded considerable weight (4.1, 4.3).

10.2 Of crucial relevance and importance to these appeals is the appeal site's location within the Metropolitan Green Belt (4.2, 5.1). Several development plan policies relate to the control of development within the green belt (4.2). In addition to the usual policies for controlling development in general within the green belt are three policies which relate to either roadside services, which I and the main parties take to include MSAs (policy 53 of the Dacorum Plan and 36 of the St Albans Plan) or expressly to MSAs (policy 47 of the emerging Structure Plan Review).

10.3 These three policies reflect national planning guidance in PPG13 Annex A paragraph 13 in treating as inappropriate development proposals for roadside services and MSAs in the green belt. On its literal interpretation policy 36 would appear to rule out MSAs in the green belt in St Albans district. That is not the interpretation of St Albans Council however, who, through their planning witness at the inquiry, expressed the view that MSA proposals could be permissible under the policy if very special circumstances could be demonstrated. Policy 53 of the Decorum Plan similarly would appear to allow for planning permission to be granted for MSA development in very special circumstances. The appeal proposal would appear to fall foul of one of the criteria in policy 47 of the emerging Structure Plan Review in that it is less than 15 miles from the existing MSA at Toddington (4.3, 3.7). However the policy appears to contain some flexibility, and bearing in mind that the Highways Agency have no objection, in spacing terms, to the proposal, it appears that policy 47 is also capable of being complied with by the appeal proposal, subject to very special circumstances being demonstrated (7.14).

10.4 In summary, therefore, provided that very special circumstances can be demonstrated to justify the appeal proposal as an exception to the normal presumption against inappropriate development in the green belt, the proposal would not conflict with the development plan's policies for the green belt. There is an alleged conflict with the development plan (policy 97 of the St Albans Plan) in respect of the proposed extinguishment of a public footpath. I shall deal with that matter later in my conclusions.

Main Issues

10.5 PPG2 paragraph 3.2 advises that "very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations". The appellant considers that the need for the proposed MSA is the key element of the very special circumstances. If need is not established then the appellant acknowledges that there are no other very special circumstances on which the appeal could succeed.

10.6 In light of the extract from PPG2 paragraph 3.2 above it would appear that a balancing exercise must be carried out. On one side of the balance is the harm the appeal proposal may cause to green belt interests, and to interests other than green belt. Those other interests comprise the landscape and visual amenity, public footpaths, residential amenity, the setting of St Marys Church and Redbourn Conservation Area, the setting of Aubreys Fort, and highways interests. On the other side of the balance are the "other considerations" which comprise the benefits of the proposal in satisfying a need for an additional MSA, and any other benefits in terms of landscape enhancement and nature conservation enhancement.

10.7 I shall consider the balance under the following headings or issues: the green belt; landscape and visual amenity; public footpaths; residential amenity; St Marys Church and Redbourn Conservation Area; Aubreys Fort; the Highways Agency Direction; and the need for the proposed MSA.

The Green Belt

10.8 If an additional MSA is to be provided on the stretch of the M1 between Toddington and the M25 it will inevitably have to be located in the green belt (5.1). Swayfields' alternative MSA site at Junction 9 is also in the green belt (9.2). There is no non-green belt site option.

10.9 As to the impact of the appeal proposal, no lodge hotel is proposed, and the facilities that would be provided do not extend unnecessarily beyond the minimum required by Roads Circular 1/94; and could reasonably be considered essential on an MSA nowadays (3.2). Nevertheless the area of the site subject to development is some 20 hectares of which 7.5 hectares would be covered by buildings, parking areas and roads/access roads. This would represent the introduction, on a major scale, of urban type development on what is now farmland, with a consequent and serious adverse impact on the openness of the green belt (3.6, 2.2).

10.10 In my view Redbourn is not a large built-up area and the first purpose stated in PPG2 paragraph 1.5 for including land in green belts (i.e. to check the unrestricted sprawl of large built-up areas) does not apply in this case. The second and third purposes do apply. The appeal proposal would straddle the M1 and would effectively extend the built-up area of Redbourn some 900 metres in a westerly/southwesterly direction, roughly in the directly of Hemel Hempstead. There would be a serious narrowing of an already narrow green belt gap between the two settlements. I agree with the appellant that the appeal proposal would not, except on the outskirts of Redbourn, be apparent from the main Hemel Hempstead to Redbourn Road (B487). However this consideration of public perception of the gap does not alter significantly my opinion that the appeal proposal would contribute towards coalescence

of the settlements, and thus conflict with the second purpose, namely the prevention of neighbouring towns merging into one another (6.4).

10.11 With regard to the third purpose, leaving aside for a moment considerations of landscape quality and village amenity, the narrow rural gap between Redbourn and the motorway and the open land stretching away to the west of the motorway are important in green belt terms. The urbanising effect of the appeal proposal on these areas would run counter to the third purpose, namely the safeguarding of the countryside from encroachment.

10.12 The appellant and the LPAs have referred in their cases to how the appeal proposal would fulfil the objectives for the use of land in green belts stated in PPG2 paragraph 1.6. I am doubtful about the relevance or applicability of these objectives to a large urban-type development proposal. Be that as it may, I find that the proposal would not provide opportunities for outdoor sport and outdoor recreation (second objective); would not improve damaged and derelict land (fourth objective); and would not retain land in agriculture or forestry (sixth objective). To the extent that travellers would use the picnic area facility there would be informal recreation value, but it would be within the confines of the MSA and would not amount to an opportunity for access to the open countryside (first objective). The appeal proposal would not retain landscapes, attractive or otherwise - it would change them. The appellant argues that the proposal would enhance the landscape, but as I shall explain later I do not share that view. I do not consider that the proposal fulfils the third objective which is to retain attractive landscapes, and enhance landscapes, near to where people live. As regards the fulfilling of the objective to secure nature conservation interest (fifth objective) it appears to me that the replacement of arable farmland, with little if any nature conservation interest, by over 8 hectares of mainly deciduous, non-commercial woodland plus grass, water and wetland would be very likely to represent an improvement to the land in nature conservation terms. I note the view of the Herts and Middlesex Wildlife Trust, but do not share it, that any enhancement to nature conservation brought about by the appeal proposal would be very limited (3.6, 5.48, 6.10).

10.13 On the green belt my overall conclusion is that the appeal proposal would be harmful to openness, conflict with the two green belt purposes pertinent to this case, and not fulfil most of the objectives of the use of land in green belts, the notable exception being the one relating to nature conservation.

Landscape and Visual Amenity

10.14 The landscape of the appeal site and its surroundings on the western side of Redbourn bears no special designation in respect of its quality. It is nevertheless pleasant Hertfordshire countryside with fields and fairly small areas of woodland, and to the west of the motorway only a light scattering of houses and other buildings. The gently undulating valley form to the west of the motorway is particularly attractive in my opinion (5.47).

10.15 The appellant proposes landscaping measures, chiefly landform reprofiling (earth mounding) and tree planting to screen the MSA development and to help assimilate it into its surroundings. The landform reprofiling would be merged in with existing contours and rise, in places, to 6 or 7 metres above existing ground level (5.51, 5.52). While the LPAs and other objectors take exception to the impact of the landscaping proposals there were no suggestions at the inquiry as to how the appeal proposal could be better or more sensitively

landscaped (6.16, 6.17, 8.10, 8.11). With the MSA proposed in this location it appears to me that landscaping of the general nature of the appeal proposal is likely to be the optimum.

10.16 It appears from the cross-sections, photographs and photomontages, and my site inspection that the landscaping proposals would screen most of the amenity building, the petrol filling station and the lighting columns, and the vehicles, from most viewpoints outside the MSA. However while the landscaping proposals would, in my view, satisfactorily screen the MSA they would themselves be intrusive and obtrusive in certain places. The long earth mounding running along Gaddesden Lane to the west of the motorway, and the curved mound adjacent to the loop connecting road on the eastern side of the motorway would be particularly prominent. The substantial height and relatively steep gradients of these mounds would appear imposing and unnatural intrusions in this landscape. To the west of the motorway the screen mound along Gaddesden Lane would block off the attractive landscape to the north, and Bury Wood. To the east of the motorway the high mounding would spring out of a fairly flat landscape, and with the slip roads and connecting roads which it is intended to screen, would intrude into and occupy the southern part of the fairly narrow countryside gap between Redbourn and the motorway, which is a very important element of the setting of the village. Over time the planting would soften the visual effect of the landform reprofiling. But in my opinion the visual effect of the MSA, and associated landscaping proposals would be seriously harmful (5.52, 5.51).

10.17 The above conclusions relate to the visual effects of the MSA during daylight hours. There would also be visual effects at night-time because the access roads, vehicle parks and buildings would need to be lit. The lighting scheme put forward by the appellant is the best that technology allows to be devised to reduce light pollution, albeit that some 160 columns would be needed. Especially to the west of the motorway the landscape is a dark one, being remote from the built-up area. On the other hand the lighting of the MSA would merge with and be seen in the context of the motorway lighting. While undoubtedly there would be a visual effect at night which would be different to during the day, I do not consider the former to represent a significant additional visual disadvantage (6.20).

10.18 The location of the appeal site within a Landscape Development Area is clearly a material consideration. However none of the visual and environmental problems that led to Landscape Development Area designation (i.e. conflicting land-user interests, dereliction, vandalism, poor landscape quality and restricted opportunities for access to the countryside) are apparent on the appeal site on either side of the motorway. In that the improvement of the character and appearance of the landscape is sought, and is the objective, in Landscape Development Areas (policy 92 of the Dacorum Local Plan) I find that the large scale urban development proposed in the appeal development would conflict with that objective (2.2, 4.2, 5.48, 8.8, 8.9).

Public Footpaths

10.19 If the appeal proposal went ahead views from some public footpaths would include aspects of it, or part of it, particularly where the path is a high one, such as footpath 31 up to Flowers Farm (6.18). The screening mounds and planting would be seen from most if not all of the paths on the western side of Redbourn, to the south of Flamsteadbury Lane (8.14). I have commented on the general visual effects of the appeal proposal above. I do not consider that there are any other aspects of visual amenity relating exclusively to footpaths.

10.20 The appellant refers to the appeal proposals necessitating a footpath diversion. This is more truly an extinguishment since Footpath 45 would be stopped-up and walkers would, or could, use Footpath 9A, which runs parallel and fairly close to it, and a fairly short length of Gaddesden Lane, as an alternative. Policy 97 of the St Albans Plan says that the local planning authority will resist applications for development which would result in the loss of definitive rights of way. On the face of it the appellant's proposal to stop-up Footpath 45 would conflict with this policy. However given the closeness of Footpath 45 to Footpath 9A, and the fact that they both serve essentially the same purpose, I do not consider that there is a serious disadvantage, from the amenity or planning standpoints as opposed to the highways legislation standpoint, to not providing a new diversion of Footpath 45. I do not consider that the slightly longer walk along Gaddesden Lane, involved in using Footpath 9A, has serious highway safety disadvantages (5.44, 5.45, 6.19).

Residential Amenity

10.21 The main effects on residential amenity arise, in my opinion, from traffic noise, construction impacts and visual intrusion.

10.22 When the Highways Agency originally considered the planning application the subject of these appeals they were concerned that the MSA works would compromise, among other things, the noise screening incorporated in the M1 widening proposals (7.7). Since then the appellant has modified its proposals for noise barriers (earth bunds and screen fences) and the Highways Agency now consider that its noise screening proposals would not be compromised by the proposed MSA (5.61, 7.8). Traffic noise predictions at residential and other properties in the vicinity of the motorway and MSA have been agreed by consultants acting for the Highways Agency and consultants acting for the appellant (Document HLM7B Appendix A). These predictions indicate that the MSA proposal would increase noise at some properties, that at some (fewer) noise would be reduced, and that the maximum increase is 1.1dBA. On the basis of the predictions I consider that the difference in traffic noise between the "with MSA" and "without MSA" situations would be so small as to be imperceptible. From the standpoint of traffic noise the appeal proposal is unobjectionable in my view.

10.23 Turning to construction impacts, the main one would appear to be noise from construction plant. Predictions of noise levels carried out for the appellant indicate that the house at 16 Saberton Close would receive construction noise of 65dBA L_{Aeq} during the topsoil stripping operation. This would be 6dBA louder than the predicted noise from traffic on the widened motorway when the noise attenuation measures are in place. For the three other construction operations considered the noise generated would be less loud than the traffic noise from the motorway (5.73).

10.24 With regard to Redbourn Together's criticism of the construction noise predictions I would agree that it is unlikely that the prediction can model the precise type of plant, its speed, height or path (8.22, 8.23). The precise type of plant would probably not be known until shortly before work began. However it seems to me that the prediction gives a reasonable indication of probable construction noise impact. In this case topsoil stripping is the noisiest operation, but on the eastern side of the motorway, where construction noise is most material, the area to be stripped is not so extensive and the duration of that operation would be fairly short. Furthermore the extent of the total construction operation to the east of the motorway is also not very great. Bearing in mind these considerations and also the

reduction of construction noise impact that can be achieved by appropriate planning conditions I consider that construction noise would not represent a serious intrusion on the amenity of local residents (5.82).

10.25 Earth moving involved in the construction of the MSA could, depending on weather conditions, result in dust being generated. Only the part of the construction site to the east of the motorway would have the potential to cause serious dust nuisance to residents. However bearing in mind that measures are available to control dust, which can be secured by a planning condition, and also the fairly limited extent of the works to the east of the motorway I do not consider that wind blown dust is likely to represent a serious diminution of residential amenity (8.24, 5.82).

10.26 Finally in respect of impacts on residential amenity I refer to visual intrusion. I have referred to the general visual impact considerations earlier in my conclusions. The LPAs' landscape witness' assessment indicates a substantial visual impact at 2 semi-detached houses in Gaddesden Lane (Nos.1 & 3); and mainly slight impacts at the houses along the western edge of Redbourn, i.e. in Saberton Close, Ben Austins and Mansdale Road, where the MSA and its associated landscaping would mainly affect views from first floor windows. There would also be substantial impacts at the Aubrey's Park Hotel and Flowers Farm but those properties are a considerable distance from the MSA development (6.18, 8.21). I do not disagree with the LPAs assessment of visual impact in respect of property. In my opinion it demonstrates that visual intrusion caused by the proposed MSA development would not amount to a serious threat to residential amenity. My overall conclusion on this issue is that the effects of the appeal proposal on residential amenity are not so adverse as to warrant its rejection.

St Marys Church and Redbourn Conservation Area

10.27 Since at its western end, which adjoins the appeal site, the conservation area comprises exclusively St Marys Church and its churchyard/graveyard. I find that the same considerations apply to both subjects (5.60). The open agricultural land to the west of the churchyard/graveyard enhances greatly the setting of the church and gives it a rural feel that is not present on the other boundaries. Views out from the churchyard and, equally important, into the churchyard from the public footpaths and from Gaddesden Lane add greatly to the attractiveness of this side of the village in my opinion. My site inspections were in the winter when the trees and hedge along the western boundary of the churchyard were not in leaf. At that time attractive filtered views of the church and its tower could be seen through the trees.

10.28 The creation of a high reprofiled landform in close proximity to the churchyard boundary would foreshorten views out of the churchyard and prevent some views into the churchyard. Although the planting would soften the intrusive effects of the reprofiling, substantial harm to the setting of the church would still be caused. In my opinion the adverse effect on the setting of the church is an important disadvantage of the appeal proposal (9.10).

10.29 With regard to the diocesan architect's concern about the effects the MSA proposal would have on the structural integrity of the church, little firm evidence is available to demonstrate that any harm would be caused. The separation between the church and the

nearest point of the reprofiled landform is substantial, and the MSA development works to the east of the motorway do not involve deep excavations (5.74). On the available evidence there are no grounds to reject the appeal proposal because of its likely impact on the structural integrity of the church (5.75). The appellant suggests the imposition of conditions that would require a study of the likely impact the appeal proposal might have on the church, and the implementation of any appropriate precautionary or mitigation measures (5.82). This appears to me a prudent and reasonable approach.

Aubreys Fort

10.30 The part of the appeal site to the west of the motorway can be seen from the plateau fort, and visa versa, across Gaddesden Lane. The gently rising ground to the north of Gaddesden Lane forms an attractive part of the rural setting of the monument. The MSA landscaping proposals include a planted bund along Gaddesden Lane which would, in time as the trees grew, screen the MSA development from the monument (9.12, 5.58). I have commented earlier on the adverse impact I consider this planted bund would have on the landscape in this area. However it appears to me that there is a not insignificant degree of separation between the monument and the appeal site, and from the standpoint of the Aubreys the tree planting and mounding under it would foreshorten views but not critically (5.58). Furthermore the proposed tree planting would retain the rural character and as a result there would, in my opinion, be no significant diminution in the character of the setting of the monument.

Highways Agency Direction

10.31 Discussions between the Agency and the appellant have resulted in the formulation of modified proposals for the access arrangement to the MSA off the motorway, and also modified proposals for traffic noise attenuation measures (main line traffic and MSA traffic). The appellant has also clarified that its MSA proposal relates exclusively to the motorway as it is proposed to be widened to four lanes (7.9, 7.10, 7.11, 7.12).

10.32 These developments have resolved a number of points of objection contained in the direction. Three points of objection remain however, namely: the open aspect between the motorway and Redbourn would be lost for the area of the MSA site; possible future widening to five lanes, which was a flexibility included in the proposed widening scheme, would be made more difficult and expensive at this location owing to the presence of the MSA and the need to maintain suitable access to it; and the MSA scheme's failure to make satisfactory provision for weaving (7.11, 7.12, 7.13).

10.33 I have dealt with the open aspect issue earlier in my conclusions. I share the Highways Agency's concerns in that respect. As to the future widening of the motorway to five lanes there are no proposals for any such widening, and in my view it would be premature and unreasonable for the appeal proposal to be rejected on account of a highly uncertain eventuality of this nature (5.61). The remaining matter to be resolved is therefore weaving which is the Agency's main concern (7.13).

10.34 There is a disagreement between the Agency and the appellant on the precise measurement of one of the weaving lengths (Junction 9 to MSA southbound). However even on the Agency's method of establishing it the length is only very marginally below the desirable minimum standard. I share the Agency's view that the shortfall would not, on its

own, justify rejection of the MSA proposal (7.16). If the proposed widening and the MSA both go ahead it may be possible for the new Junction 9 layout to be designed to permit the desirable minimum weaving length to be achieved.

10.35 The assessment of required weaving width has two main inputs, traffic flow and turn-in rate. The appellant and the Highways Agency are in agreement on the appropriate values of design traffic flow, but not the future year when it will occur. They disagree on the turn-in rate to be adopted, the Agency advocating the turn-in rate now prevailing at Toddington while the appellant the daily rate inherent in Roads Circular 1/94 factored to allow for the peak hour (5.62). A further scenario debated at the inquiry is to adjust the Toddington rate (reduce by 25%) to allow for the fact that Redbourn would be an infill site in spacing terms, whereas Toddington is infill spacing to the north but 30 mile, roughly, to the south (5.62).

10.36 In my opinion the full Toddington rate is onerous as a basis for assessment. Although Redbourn would replace Toddington's role as the first MSA for traffic leaving the M25 at Junction 6A and joining the M1, I consider that a reduction to allow for Redbourn being an infill site is justified. If and when an MSA is constructed on the western sector of the M25 there would also be the likelihood of the turn-in rate at Redbourn reducing to some extent.

10.37 For the north bound direction the Roads Circular 1/94 and 75% of Toddington rate are broadly similar (5.6% v 5.1%) while southbound the Roads Circular 1/94 rate is lower (5.6% v 6.6%). In that the factored Toddington rate takes account of local circumstances at the southern end of the M1 I consider that it is more robust than the rate derived from Roads Circular 1/94 which is designed for general application. In my view 75% of Toddington is the appropriate turn-in rate for the assessment of turn-in rate at the proposed MSA at Redbourn.

10.38 On the basis of this turn-in rate, and the agreed design traffic flow, the additional width required for weaving would range, on the four weaving sections, between 0.3 and 0.46 of a lane (5.62). Were this precise additional width not to be provided there would be a notional or theoretical loss of capacity on the four weaving sections ranging between 7.5% and 11.5%. It falls to be considered therefore as to whether the fractional part of a lane required for weaving should be rounded up or rounded down.

10.39 Departmental advice note TA48/92 states that where the fractional part is small and is combined with low weaving flow rounding down is suggested, whereas a high fractional part with a high weaving volume suggests rounding up. All the fractional parts in this case are less than half a lane and in the northbound direction are one third of a lane and slightly less. The fractional part, to my mind, strongly suggests rounding down. As to weaving flow, the minor weaving flow, i.e. the flow into or out of the MSA, is more significant than the major weaving flow in the formula for calculating weaving width. In this case minor weaving flow would be only some 475 vehicles per hour which in my view also suggests rounding down, or in other words not providing an additional lane to facilitate weaving. The proposed provision of auxiliary lanes at the MSA merges and diverges and the calculation of weaving width to cater for peak hour flow also support the argument for rounding down.

10.40 The loss of capacity of the four lane motorway caused by the introduction of weaving at the MSA would have the effect of bringing forward the date when congested conditions (CRF) return, subject of course to the amount of traffic on the motorway continuing to grow in the future. Depending on which growth assumption in the National Road Traffic Forecasts

(NRTF) is chosen CRF could be reached between 4 and 8 years earlier if the proposed MSA development is constructed than if it is not (7.22). Some of the NRTF assumptions would suggest that CRF would be reached within the design life of the motorway (i.e. by 2015) whether the MSA is constructed or not (7.24).

10.41 Having regard to the Government's traffic reduction policy and road traffic reduction legislation, both on the statute book and passing through Parliament, the appellant advocates the NRTF all roads low growth assumption (5.69). On that assumption the widened motorway would reach CRF by about 2023 with the MSA and beyond 2031 without it (5.70). On the other hand if traffic growth were at the all roads central forecast CRF would be reached by 2010 with the MSA (i.e. within the design life of the motorway) and 2016 (i.e. beyond the design life) without it (7.22). It is noticeable here that a relatively small theoretical loss of capacity caused by weaving appears to have a disproportionate influence on the predicted year at which CRF might return.

10.42 Roads Circular 1/94 paragraph 14 says that at all MSAs it will be particularly important to avoid the risk of congestion or slowing on the main carriageway. The consideration of theoretical loss of capacity at the MSA caused by weaving at the MSA is therefore an important one. However I consider that on the basis of a reasonable traffic growth assumption, between low and central all roads, the proposed MSA would not be likely to give rise to congestion and slowing on the motorway main carriageway during the design life of the widened motorway. Adopting higher rates of growth would appear to me to amount to the acceptance of continual upgrading of motorway capacity which clearly would be unsustainable.

10.43 A further consideration that supports the case for not constructing an additional lane is the guidelines document on the control of development adjacent to trunk roads (5.71). In my opinion widening to five lanes would be contrary to two of the criteria in that document because: a five lane motorway would be out of balance in capacity terms with the proposed four lane sections south of Junction 8 and north of Junction 9; and the scale of a five lane motorway and its environmental impact are something the Highways Agency would not promote itself to cater simply for weaving at the proposed MSA (5.71).

10.44 My conclusion on the Highways Agency direction is that the planning application proposals, as modified during the inquiry, are acceptable in highway terms. Widening of the main carriageway to accommodate weaving is not justified.

The need for the proposed MSA

10.45 For the purpose of my conclusions I shall consider the factors which the appellant regards as the main indicators of need, namely the spacing of existing MSAs, the traffic flow passing the site, and the capacity of existing MSAs (5.9). They provide a satisfactory framework for assessing need.

10.46 With regard to spacing, the two existing M1 MSAs to the north and south of the appeal site are about 26.5 miles apart (5.10). The desirable general aim from the transport point of view, namely that MSAs should not be much more than 30 miles apart (Roads Circular 1/94, paragraph 6) is therefore already satisfied on this section of the M1. The desirable general aim is also satisfied for M1/M25 east traffic where the spacing between Toddington and South Mimms is 26 miles (5.11). The desirable general aim is not satisfied

for M1/M25 west movements, where the spacing between Toddington and existing MSAs on the M25 or the radial motorways is very large, for example Toddington to Fleet (M3) is 60 miles and Toddington to Pease Pottage (M23) is 82 miles (5.13). However an MSA at Redbourn would not have a substantial effect in reducing those spacings and only one of the 8 gaps between Toddington and the existing MSAs on M25 and the radial motorways would be reduced from above 30 miles to about 30 miles (7.27.6). While the appeal proposal would, in my opinion, undoubtedly be of value to motorists travelling on M1/M25 west journeys it would be no substitute for the construction of an MSA in the western sector of the M25. While it is clear that all MSAs serve a road safety function it appears to me that there is not a convincing need for the appeal proposal to achieve the desirable aim of MSAs at not much more than 30 miles apart (5.16).

10.47 Improving the service offered to motorway users through an increase in the availability and choice of MSAs is a Government commitment. The reduction in the minimum interval between MSAs from around 30 miles to about 15, introduced with MSA de-regulation, is central to the Government's aim of delivering more services more quickly (5.15). In that the introduction of the MSA at Redbourn would improve availability and choice for motorists on journeys on the very southern part of the M1 and M1/M25, it would appear to be consistent with the commitment and aim of Government.

10.48 On the other hand the southern end of the M1 does not now appear to be greatly deficient in MSAs, at least in average spacing terms. Between the MSAs at Watford Gap and Scratchwood, a distance of 63 miles, the average spacing of MSAs at 15.75 miles is roughly equal to the availability and choice spacing of 15 miles (7.27.2).

10.49 Providing additional availability and choice must also be viewed, where relevant, in the context of restraint policies. PPG13 Annex A paragraph 13 points out that MSAs are subject to the same restraint policies in sensitive areas as other major developments. Roads Circular 1/94, paragraph 6 makes a similar point where it says that the achievement of the general aim of having MSAs not much more than 30 miles apart cannot be a hard and fast rule in areas of planning restraint. The Green Belt location of the appeal site is obviously a sensitive area in policy terms and subject to restraint policies. Having regard to this PPG and Roads Circular policy advice and the existing spacing of MSAs on the southern part of the M1, I do not consider that the appeal proposal is justified on availability and choice grounds. My conclusion is that the consideration of spacing is not compelling in respect of the appeal proposal.

10.50 I refer now to traffic flow. Current flows of the order of 150,000 AADT between M1 junctions 8 and 9 are indeed very high, especially having regard to the capacity of the existing dual 3-lane carriageway. The LPAs have sought to demonstrate that this traffic contains a significant proportion of vehicles engaged in relatively short journeys and/or near their trip ends, and therefore will have a low propensity to use MSA services (6.31, 6.32). In contrast the evidence of the Highways Agency to the M1 widening inquiry was that much of the traffic on this stretch of the M1 is of a long distance nature with 69% of the traffic north of Junction 10 reaching Junction 6A (M1/M25) and vice versa without using the intermediate junctions (5.22). On the basis of the evidence I do not find that the composition of traffic (ie short trips versus long trips) indicates a lesser need for the appeal proposal. I also note that there is no policy advice which distinguishes between longer and shorter trips in respect of their need for MSA services.

10.51 The appellant has advanced evidence which seeks to demonstrate that there is a directly proportional relationship between traffic flow and MSA spacing. On the basis of that evidence the appellant argues that there is a compelling need for the appeal proposal on a traffic flow basis alone (5.19). While I accept the statistical basis of the appellant's evidence in terms of average MSA spacing and traffic flow I do not find it very persuasive. Traffic flow is not identified in published policy guidance as an indicator or a determinant of need for an MSA (6.29). Moreover provided that the traffic is reasonably free-flowing there would appear to me to be no greater need or desire for motorists to stop at shorter time and distance intervals on highly trafficked motorways than on lightly trafficked ones. In this regard it is perhaps pertinent to note that the proposed M1 widening scheme will greatly improve flow conditions between M1 junctions 6A and 10. I conclude that the consideration of traffic flow does not lend compelling support to the case of need for the appeal proposal.

10.52 Finally, I refer to the capacity of neighbouring MSAs. None of the parties raise the capacity of the MSA at Scratchwood as an issue. I share the view of the appellant that Scratchwood is too close to London, a major trip end, to be of particular relevance in this case (5.26).

10.53 I also share the appellant's view that if need for MSA services is not satisfied by existing capacity, or capacity in the foreseeable future, there is a prima facie case for it being satisfied in another way, such as by the construction of a new infill MSA (5.24). Parking provision and use is a good indicator of available capacity, and has safety implications if traffic trying to park backs up on the slip roads on anything more than rare occasions.

10.54 Parking surveys have been undertaken for the appellant at Toddington MSA (April and August 1997), and at Newport Pagnell MSA (August 1997) (5.27). The LPAs had a parking survey carried out at Toddington over the Easter weekend in 1997 (6.36). The appellant's and LPAs' surveys at Toddington show significantly different levels of parking demand. The appellants survey in August 1997 indicates a maximum degree of saturation of 95% in the northbound car park and 110% southbound (5.30). On the other hand the LPAs' survey indicates that car parking demand did not exceed 65% of capacity on any of the 4 days surveyed, and that was in the southbound car park (6.37). On the same basis as the appellant has adopted (ie practical capacity being 90% of actual capacity) the 65% observed by the LPAs' survey would equate to a maximum degree of saturation of 72%. Substantial differences in demand are also indicated for HGV parking at Toddington by the two surveys with the appellant's survey observing a much higher demand (5.30, 6.37).

10.55 No surveys were undertaken by the LPAs at Newport Pagnell. The appellant's survey at that MSA indicates a maximum degree of saturation in the car parks of 96% (southbound) and for HGVs 76% (northbound) (5.30).

10.56 The graph submitted of catering sales indicates that these were at about the same level last year at Easter and in the week of the appellant's August survey (9.6). The experience of Granada, the operator at Toddington, is that catering sales correlate with use of the MSA, and hence parking levels (9.6). This view on correlation is shared by the LPAs' witness on MSA matters, but not by the appellant (5.36, 6.43).

10.57 While on a non-holiday August Friday the amount of HGV and other commercial traffic would be likely to be higher than over an Easter weekend, the reason for the difference in car parking demand is not clear. The appellant's survey technique of counting

cars in and out of the MSA and tabulating them at 15 minute intervals, but not counting the actual number of cars in the car parks, could quite likely have omitted to observe the Granada headquarters staff who do not park in the public car parks, and also the drop and pick-up journeys where the car park is not used (9.5). Even taking these factors into account the level of parking demand observed by the appellant's survey would, in my view, still be likely to be substantially higher than the LPAs' survey would suggest.

10.58 It may be noted however that the maximum levels of parking demand observed by the surveys of both the appellant and the LPAs do not apply over long periods. This is particularly noticeable in the appellants survey (Document HLM2 Appendix H) where parking demand falls fairly rapidly either side of the peak which occurs at about 13.30 hours.

10.59 It would appear to me, nevertheless, from the evidence that there are clearly periods, which the appellant's survey has observed, where MSA users have some difficulty in finding a parking space at Toddington. This situation may perhaps be deduced from the planning permission, granted in April 1997, for, among other things, works to increase car parking capacity on the southbound side from 230 to 282 spaces and to increase HGV parking capacity from 94 to 99 spaces (6.38). A theoretical assessment indicates that on the basis of Roads Circular 1/94 parking requirements and forecast traffic flow 5 years hence the car parking provision at Toddington would be deficient by between 78 and 101 spaces (southbound car park), and to a smaller extent in the northbound car park depending on the rate of growth of traffic, even allowing for the 1997 planning permission being implemented by then (6.40).

10.60 Granada say that in addition to recent refurbishment of the amenity buildings and re-allocation of parking spaces at Toddington they have been considering several options to provide for increases in parking demand projected over the short and longer term (9.7). These options are detailed in Document 10. Some of the options involve decked parking, which would have visual effects, and some would involve expansion of the MSA into green belt land. These options would obviously require the grant of planning permission, and very special circumstances would need to be demonstrated. While the grant of planning permission for any of these options, were an application to be made, cannot be taken for granted it seems to me that they would involve a far less serious intrusion in green belt terms than the appeal proposal.

10.61 With regard to heavy goods vehicle parking at night, the appellant has taken single observations, on one night, of each of the six heavy goods vehicle parking areas at the Toddington, Newport Pagnell and Rothersthorpe MSAs. These observations noted that in four of the six parking areas more lorries were parked than the theoretical actual capacity (5.33). It cannot be deduced from this survey how many of the HGVs were parked up over night, how many were parked for a normal fairly short break to rest and use the services available at the MSA, and how many, if any, left a parking area because there was no space available. The Highways Agency say that they are not aware of any operational difficulties being caused by any shortage of spaces at night-time at Toddington (7.27.5).

10.62 It appears to me that a distinction ought to be drawn between overnight parking and normal short break parking. There is no duty imposed by Roads Circular 1/94 or by other means, for accommodation to be provided for HGV overnight parking (6.46). Clearly it would be undesirable if HGV drivers wanting, or needing, to take a short break at night-time could not do so because the MSA car park was full. I am not convinced however that any

shortage of space at Rothersthorpe and Newport Pagnell, or even Toddington, would be best rectified by the construction of the appeal proposal. In my opinion the considerations relating to the capacity of neighbouring MSAs, like the considerations relating to spacing and traffic flow, do not constitute overriding justification for the appeal proposal.

Overall Conclusion on Main Issues

10.63 Having regard to my conclusions on the green belt, landscape and visual amenity, public footpaths, residential amenity, St Mary Church and Redbourn Conservation Area, Aubreys Fort, the Highways Agency Direction and the need for the proposed MSA, I find that the harmful effects of the appeal proposal heavily outweigh its benefits. The very special circumstances necessary to justify inappropriate development in the green belt have not been demonstrated, and in my opinion planning permission should not be granted.

Conditions

10.64 If the Secretary of State decides that the appeals ought to be allowed the issue of conditions falls to be considered. I support the adoption of LPA Conditions 1-12 inclusive, and 16 modified as per the Hertfordshire County Council model, subject to Condition 9 being modified to relate to "internal" roadways and Condition 10 being modified to refer to the "first phase" of the parking areas (Document LPA14). These conditions satisfy the six tests in Circular 11/95.

10.65 From the standpoint of residential and general amenity I consider the slightly more restrictive construction working hours proposed in LPA Condition 13 to be preferable to the appellant's Condition 14 (HLM38). However I do not consider that there is any need, on amenity or other grounds, for construction working hours to be restricted at all on the part of the site to the west of the motorway. I also do not consider that material difficulty would arise in distinguishing between construction work carried out to the west and to the east of the motorway.

10.66 LPA Condition 14 and appellant Conditions 17 and 18 go to the same point on access. Although 17 and 18 are longer and amount to "belt and braces" I consider it desirable, for the avoidance of doubt, for the principal access restrictions to be spelled out in detail.

10.67 I do not support LPA Condition 15, firstly because its enforcement could mean having someone monitoring construction noise at six receptor points during all working hours. Secondly it presupposes that any construction noise even slightly above predicted would be unacceptable. That may not be so when all factors are taken into account, including the duration of any particular noisy operations. I prefer the appellant's suggested Condition 15 and 16 which call for a scheme of noise attenuation measures. Conditions 15 and 16 may need some modification to make clear that measures to attenuate construction noise should be in place at the outset of the development/construction process.

10.68 Turning to the appellant's suggested conditions I support as additions to my recommendations on the LPAs' list, Conditions 13, 15 and 16, 17 and 18, 20 and 21. I consider Condition 19 to be unnecessary. I also support the appellant's suggested conditions relating to St Marys Church and Fina-Line.

10.69 All but one of the conditions suggested by the Highways Agency (7.29) are necessary and justified, in my opinion, suitably modified to make plain that any approvals should be by the LPA. I do not support the provision of additional lanes for weaving for the reasons I gave earlier in my conclusions. A condition requiring additional lanes would be onerous and negate the benefit of the planning permission.

10.70 Finally, with regard to Redbourn Together's submissions and conditions, I do not support the inclusion of a condition stipulating that the landscaping shall be in accordance with the appellant's illustrative masterplan (Figure 2C) notwithstanding that the appellant appears to have no objection (8.27, 5.84). Such a condition would be tantamount to making landscaping a firm proposal, and not a reserved matter as proposed in the subject planning applications. Tying the landscaping to Figure 2C would also effectively dictate another reserved matter, namely siting. It may be that the appellant might wish to adopt Figure 2C at reserved matters stage, but that is not to say that some changes to Figure 2C would be equally or more acceptable. I refer now to Redbourn Together's proposal that the traffic noise from the MSA slip roads, connecting roads and motorway main carriageway should, by condition, not exceed the predicted levels (8.28). It appears to me that the predicted noise levels, which take into account the noise attenuation measures proposed by the appellant, are a useful indicator of one of the impacts of the appeal scheme. In my view it would be inappropriate to extend this role to a proxy for the maximum permissible or acceptable noise levels. The appellant cannot control traffic on public roads or the noise it makes. I consider that a condition requiring a scheme of noise attenuation measures to be implemented, as in the appellant's proposed Conditions 15 and 16, is preferable to the stipulation of maximum noise levels at receptor properties.