

Our Ref: 2761-01/NR

23rd January 2020

Submitted with appeal documents only

The Planning Inspectorate
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Dear Sir / Madam

CHOICE OF PROCEDURE IN RESPECT OF AN APPEAL AGAINST THE DECISION BY HARROGATE BOROUGH COUNCIL TO REFUSE AN OUTLINE APPLICATION FOR A PROPOSED MOTORWAY SERVICE AREA BETWEEN JUNCTIONS 48 AND 49 OF THE A1(M), NEAR KIRBY HILL, HARROGATE, NORTH YORKSHIRE. APPLICATION REFERENCE: 18/00123/EIAMAJ

We act as the agent for Applegreen PLC in respect of the above appeal that has been submitted online, on or around today's date. The appeal is in respect of the refusal by Harrogate Borough Council (the Council) of an application for outline planning permission (reference: 18/00123/EIAMAJ) for the development of a new Motorway Service Area (MSA) between junctions 48 and 49 on the A1(M), near Kirby Hill, in North Yorkshire.

The scheme, referred to as the Vale of York MSA, is a proposed new on-line service area. The MSA facilities and vehicle parking would all be located entirely on the western side of the A1(M), but would service both directions of travel on the motorway via a new, dedicated junction with slip roads and an overbridge. The slip roads and junction arrangement serving south bound traffic would necessitate a short realignment (to the east) of the existing A168.

We write this letter to formally request on behalf of the Appellant that the appeal submitted is heard by way of a Public Inquiry.

The procedural guidance for planning appeals in England (dated August 2019) makes it clear that the most appropriate procedure will be an Inquiry where any of the following criteria are met:

1. the issues are complex (i.e. where large amounts of highly technical data are likely to be provided in evidence); or
2. there is a clearly explained need for the evidence to be treated through formal questioning by an advocate; or
3. the appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing.

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We submit that this appeal meets all of these criteria. In particular, in this regard:

1. The issues related to the appeal are inherently complex and will need to be evidenced orally by expert witnesses and examined in detail by Counsel. The reasons for refusal raise a number of complicated matters such as: landscape impact; economics; and technical issues around surface water drainage. In addition, the weight to be attached to the need for a new MSA in this location is a key and complex matter. There are also complex planning history issues arising from the fact that MSA proposals on or encompassing the appeal site have been thorough planning Inquiries on 3 previous occasions. Expert witnesses will be required to give detailed evidence to address all these matters. This evidence and, in particular, the Council's detailed response on these matters in the Officer Report to Committee, and reasons for refusal, need close examination.
2. Aspects of the complex nature and detail of the evidence need to be examined in-chief and in cross-examination by Counsel. Other aspects will be best suited to the round table approach, as advocated for Inquiries post the Rosewell Review. There are a number of significant matters of opinion and fact which are in dispute, in circumstances where the Members did not accept their Officers' recommendation on several issues. The evidence will need to be explored with the assistance of Counsel before an Inspector to ensure that the salient details are clarified. In a case where we will be submitting that the tilted balance in paragraph 11 of the NPPF 2019 will apply, this needs careful consideration through oral evidence.
3. The appeal proposal has generated substantial local interest and a significant number of representations (269) were received to the application. There is also an opposition 'organisation', which we believe is highly likely to seek Rule 6 status. The Committee hearing into the application was well attended and we therefore anticipate the attendance of significant numbers of the public who are likely to also wish to participate in the procedure.

In conclusion, we are firmly of the opinion that a Public Inquiry is the only suitable procedure through which to achieve a comprehensive and detailed consideration of the issues and a satisfactory outcome. Accordingly, we respectfully request that the appeal should be heard by way of an Inquiry.

We trust that the content of this letter is self-explanatory. However, please do not hesitate to contact the undersigned at our South Manchester Office should you have any queries or require any further information.

Yours faithfully

Nick Roberts

Nick Roberts - **Director**