



Department for
Communities and
Local Government

Richard Purser
DPP
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Our Ref: APP/U4230/A/12/2170252
Your Ref: 10946

8 May 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY BATLEYS LTD
SITE AT BATLEYS PLC, OHIO AVENUE, SALFORD, M50 2GT
APPLICATION REF: 11/60031/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, S R G Baird BA (Hons) MRTPI, who held a public local inquiry on 9 days between 16 October and 26 November 2012 into your clients' appeal against the failure of Salford City Council to determine an application for outline planning permission for the development of new offices, retail, leisure, restaurant/café, hotels with conference facilities, medical centre and associated car parking, landscaping, ancillary works and highways improvements at Ohio Avenue, Salford, Greater Manchester in accordance with application ref: 11/60031/OUT.
2. On 24 February 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for development of major importance having more than local significance.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The application for costs (IR1.1) made by the Council at the Inquiry is the subject of a decision letter which is being issued separately by the Secretary of State.

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Lawfulness of imposing a condition or amending the description to reduce the amount of B1 floorspace

5. The Secretary of State has had regard to the request by your clients that, in determining the appeal, he should reduce the amount of office (B1) by some 25% (from 70,126 sq m to 51,690 sq m) either by imposing a condition or by amending the application description (IR1.12-1.13). He has carefully considered the submissions put forward by the parties (IR1.14-1.25) and the Inspector's conclusions (IR1.26-1.31), and agrees with the Inspector's overall conclusion at IR1.32 that the change would represent a substantial alteration that would deprive those who should be consulted of the opportunity for meaningful consultation. Therefore, he also agrees that, having regard to the principle established in *Bernard Wheatcroft Limited v Secretary of State for the Environment and Another* (1982), it would be inappropriate either to impose a condition or to amend the description of the application in the manner requested.

Policy considerations

6. Nevertheless, like the Inspector, the Secretary of State has gone on to consider the planning merits of the application to which the appeal relates, both as submitted and as the appellants propose that it could be amended. In so doing, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case, the development plan comprises the saved policies of the Salford UDP and, until the North West (Revocation) Order 2013 comes into force on 20th May 2013, the Regional Strategy for the North West. However, the Secretary of State does not consider that the revocation of the RSS raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.
8. Other material considerations which the Secretary of State has taken into account include *The National Planning Policy Framework* (the Framework); *Technical Guidance to the National Planning Policy Framework* (March 2012); Circular 11/1995: *Use of Conditions in Planning Permission*; the *Community Infrastructure Levy (CIL) Regulations 2010*; *MediaCity:uk* - supplementary planning guidance approved in 2007; and *Shaping Salford – Supplementary Planning Document: Design*.

Main issues

Development Plan

9. For the reasons given at IR10.1-10.4, the Secretary of State agrees with the Inspector that proposals for the regeneration of Salford Quays need to take account of UDP policies requiring a co-ordinated and visionary approach and therefore also agrees with him (IR10.5) that the appeal scheme needs to be addressed in the context of its implications for (i) the operation of the highway network including public transport operations and (ii) the development and regeneration of the MediaCity:uk and Quays Point area. The Secretary of State also agrees with the Inspector (IR10.6-10.7) that, as the use of up-to-date employment densities mean that the number of vehicle trips generated would be significantly higher than tested in the appellants' Traffic Assessment (TA), the proposals as submitted are fatally flawed, leading to the conclusion in paragraph 5 above. Nevertheless, like the Inspector (IR10.8-10.54), he

has gone on to consider the planning merits of the proposal on the basis of the reduced floorspace.

Impact on highway network including public transport operations

10. For the reasons given at IR10.9-10.17, the Secretary of State agrees with the Inspector (IR10.18) that there is compelling evidence to suggest that the appellants' TA materially underestimates the likely traffic generated both by the appeal scheme and other committed developments and the likely impact on the operation of the local highway network. He therefore also agrees with the Inspector that, for the reasons given at IR10.18-10.29, even taking account of the proposed mitigation measures, the reduced area of office-space now proposed by the appellants and would still have a significant and unacceptable effect on the operation of the local highway and public transport network.

Impact on the development and regeneration of the MediaCity:uk and Quays Point area

11. For the reasons given at IR10.30-10.35, the Secretary of State agrees with the Inspector that granting planning permission for the appeal scheme now, albeit with the reduced level office floorspace proposed by the appellants, would unacceptably hamper the development of Salford Quays, contrary to the overall objectives of the development plan, and for similar reasons he also agrees (IR10.45) that granting permission would be inappropriate in advance of the Infrastructure Strategy and Delivery Plan which the Council has commissioned. The Secretary of State also agrees with the Inspector (IR10.42-10.44) that the design defects resulting from the compromises that would have to be made as a result of constructing the appeal scheme in isolation would not meet the policy aspirations of UDP Policy MX1 and would reduce the potential of the scheme to function well or create an overall strong sense of place. However, for the reasons given at IR10.37-10.41, the Secretary of State agrees with the Inspector that the scale and nature of the retail/leisure element of the appeal scheme would not be in conflict with the development plan..

Conditions and obligations

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out at IR10.55, and is satisfied that the conditions recommended by the Inspector and set out in Annex D to the IR are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that they would overcome his reasons for refusing the appeal.
13. The Secretary of State has also considered the Inspector's reasoning and conclusions on the Unilateral Undertaking at IR10.56. He agrees with the Inspector that the terms of the obligations in the Unilateral Undertaking are necessary and fairly and reasonably related to the development and that they are therefore in accordance with section 122 of the CIL Regulations and paragraph 204 of the Framework. However, he does not consider that these provisions are sufficient to overcome the concerns with these appeal proposals identified in this decision letter.

Overall Conclusions

14. The Secretary of State concludes that the significance of Salford Quays to the local, regional and national economy is not in doubt but that, as reflected in the UDP, that

makes it all the more important to maximise the effective and efficient use of the opportunities that remain. However, although Salford Quays has the potential for further significant development, the local infrastructure - particularly the capacity of the local highway network and the implications of that for public transport - is a constraint; and the development or redevelopment of sites needs to be co-ordinated to ensure that the appropriate infrastructure is in place. Furthermore, although the appellants accept that they cannot demonstrate that the amount of office space in their application as submitted would not have an unacceptable effect on the local highway network, the Secretary of State does not consider that it would be appropriate to adopt either of their proposed options for modifying it without consultation and, in any case, such a reduced scheme considered in isolation would remain contrary to the overall objectives of the development plan.

Formal Decision

15. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby dismisses your clients' appeal and refuses outline planning permission for the development of new offices, retail, leisure, restaurant/café, hotels with conference facilities, medical centre and associated car parking, landscaping, ancillary works and highways improvements at Ohio Avenue, Salford, Greater Manchester in accordance with application ref: 11/60031/OUT.

Right to challenge the decision

16. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

17. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf



The Planning
Inspectorate

Report to the Secretary of State for Communities and Local Government

by S R G Baird BA (Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 15 February 2013

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

BATLEYS LIMITED

SALFORD CITY COUNCIL

Inquiry held on 16 October 2012

Ohio Avenue, Salford, Greater Manchester M50 2GT

File Ref(s): APP/U4230/A/12/2170252

CONTENTS

Section	Page
1. Preliminary Matters.	1
2. The Site and Surroundings.	8
3. The Proposals.	10
4. Planning Policy.	11
5. The Case for Batleys.	15
6. The Case for Salford City Council.	26
7. The Case for Peel Media Limited.	38
8. Consultations and Written Representations.	54
9. Conditions and S106 Undertaking.	57
10. Conclusions and Recommendations.	59

ANNEXES

Annex A	Appearances.	74
Annex B	Submitted Documents.	76
Annex C	Core Documents List.	80
Annex F	List of Conditions.	85

GLOSSARY

AWTP	Area Wide Travel Plan
CD	Core Document
CS	Core Strategy
DfT	Department for Transport
HA	Highways Agency
LPA	Local Planning Authority
MSC	Manchester Ship Canal
MC	Media City
NND	Nil Net Detriment
NPPF	National Planning Policy Framework
OA	Ove Arup
PM	Peel Media Limited
PIM	Pre-Inquiry Meeting
PPS	Planning Policy Statement
PPG	Planning Policy Guidance
RfR	Reason for Refusal
RSS	Regional Spatial Strategy
SCC	Salford City Council
SC	Suggested Condition
SOCG	Statement of Common Ground
SoS	Secretary of State
SPD	Supplementary Planning Document
TA	Transport Assessment
TfGM	Transport for Greater Manchester
UDP	Unitary Development Plan
UU	Unilateral Undertaking

File Ref: APP/U4230/A/12/2170252

Ohio Avenue, Salford, Greater Manchester M50 2GT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Baltleys Limited against Salford City Council.
- The application Ref 11/60031/OUT is dated 29 July 2011.
- The development proposed is an outline planning application including details of access with reserved matters of scale, appearance, landscaping relating to the development of new offices, retail, leisure, restaurant/café, hotels with conference facilities and medical centre and associated car parking, landscaping, ancillary works and highways improvements.

Summary of Recommendation: The appeal be dismissed and planning permission refused.

1. Procedural Matters

- 1.1. An application for costs was made by Salford City Council (SCC) against Batleys Limited. This application is the subject of a separate Report.
- 1.2. The Inquiry sat for 9 days from 16 to 19 October, 23 to 26 October and on the 26 November. Unaccompanied site visits were made before and during the Inquiry. An accompanied site visit was made on 27 November 2012.
- 1.3. The appeal form¹ and the Planning Statement of Common Ground (SOCG) (CD7) describes the proposed development as an outline application including details of access for the erection of a mixed use development comprising 70,126 sq m of office space, 2 hotels, 1,148 sq m of leisure provision, 1,419 sq m of retail and ancillary units, a maximum of 75 apartments, a medical centre and a 1,331 space multi-storey car park.
- 1.4. The application was submitted in outline with all matters other than means of access reserved for subsequent applications. Means of access is shown on Drawing No. 1023/GA/01 Rev D Broadway/Ohio Avenue & Site Access.
- 1.5. On the 24 February 2012, in exercise of his powers under S79 and paragraph 3 of Schedule 6 of the above Act, the Secretary of State (SoS) directed that he would determine this appeal. The reason for the direction is that the appeal involves proposals for development of major importance having more than local significance.
- 1.6. On the 20 September 2012 following consideration of a Part 2 report² under Schedule 12A(5) of the Local Government Act 1972, the Planning and Transportation Regulatory Panel of SCC resolved that the local planning authority (lpa) would have refused the application for the following reasons;
 1. The proposed development would take up available capacity in the local highway network to the extent that approval of the application would be contrary to the proper planning of the area resulting in the concentration of new development in one small area divorced from the main centres of

¹ The Planning SOCG (CD7) notes that there was a typographical error in the description of the extent of the foodstore and ancillary retail units contained in the appeal form.

² Meeting held in private session.

activity in the area thereby representing unsustainable development of the area contrary to the National Planning Policy Framework and policies MX 1 and DEV 6 of the City of Salford Unitary Development Plan and the MediaCity:uk and Quays Point Planning Guidance.

2. As a result of the lack of capacity on the highway network the proposed development on this site would unacceptably hamper and reduce the development options for the wider area contrary to policy DEV 6 of the City of Salford Unitary Development Plan and the MediaCity:uk and Quays Point Planning Guidance.
 3. The proposed development would be a poor form of development in that it would fail to relate to neighbouring sites due to the fact that the significant quantum of development on a single site would take up all available capacity on the local highway network. This would be contrary to policies DES 1 and MX 1 of the City of Salford Unitary Development Plan, the National Planning Policy Framework and the Design Supplementary Planning Document.
- 1.7. A Pre-Inquiry Meeting (PIM) was held on the 16 July 2012 (ID3). Based on the information before him at that time, the Inspector conducting the PIM indicated that the parties should address 6 main topics. These were, building a strong competitive economy; ensuring the vitality of town centres; promoting sustainable transport; requiring good design; prematurity and conditions and obligations.
 - 1.8. At the opening of the Inquiry, I requested that, in addition to the above general topics, the parties addressed 2 specific matters. These were the implications of the proposed development on (i) the operation of the highway network including public transport operations; and (ii) the development and regeneration of the MediaCity:uk and Quays Point area. In my view, these add flesh and direction to the 2 general topics above of building a strong competitive economy and promoting sustainable transport.
 - 1.9. At the opening of the Inquiry, I queried the status of the SOCG on Transport Matters signed by the Ipa and Batleys, (ID4). This was on the basis that the Ipa's highways proof of evidence (SC1/1) was in conflict with the contents of the SOCG. Counsel for the Ipa indicated that although the SOCG was signed by a former officer of SCC, its content did not represent the Ipa's position. The Ipa's position on highways matters would be reflected in the evidence given at the Inquiry. Although Counsel for the Ipa indicated that the SOCG was to be withdrawn, no Committee resolution was provided to confirm this.
 - 1.10. A certified copy of a S106 Unilateral Undertaking (UU) made by Batleys and a Deed of Guarantee signed by HSBC Bank plc were submitted (B A.13 & A14). The S106 UU provides for contributions to public transport works and the provision of a travel plan.
 - 1.11. The list of documents includes opening and closing submissions and proofs of evidence from the 4 main parties. The proofs of evidence are as originally submitted and do not take account of how that evidence may have been affected by cross-examination or subsequent discussions and agreement between the various parties. In reporting the cases for the main parties, I have used as the basis for their cases the opening and closing submissions.

Reduction in the Amount of B1 Floorspace

- 1.12. Towards the end of the Inquiry and during the presentation of its highways/planning evidence, Batleys indicated that it would suggest a planning condition to limit the amount of office (B1) floorspace by some 25% from 70,126 sq m to 51,690 sq m (B.A2, Condition 5). Batleys submit that this reduction is necessary following a change in published employee density ratios since the Transport Assessment (TA) was produced. The new floorspace level is necessary to bring it into line with the number of employee trips used in the TA (B.A13 paragraph 62).
- 1.13. Counsel for Batleys confirmed that his submissions on the ability of the SoS to impose a condition or to amend the description of the application to effect a reduction in B1 office floorspace was not a formal request to the SoS for an amendment of the application description (B.A13 paragraph 68). The Ipa and Peel Media (PM) object to the suggested condition or an amendment to the application description. The parties made submissions on the lawfulness of imposing such a condition or amending the description of the development.

Submission by Batleys

- 1.14. The quantum of development proposed is described in the application by reference to broad categories. Given that the buildings have not been the subject of any detailed design these figures are intended to operate as maxima. The reduction in B1 floorspace would be achieved by reducing the height of several of the blocks but without having an impact on the overall form or layout of the proposed development³. The questions then become: is there any reason why Batleys should not be permitted to make a reduction to this element of the scheme and would any party be prejudiced doing so? Any party who relied on the quoted level of floorspace when commenting on the application would have no reason to change their position.
- 1.15. Changing the description of the development or imposing a condition would be lawful. In *Wheatcroft*⁴, Forbes J was clear that the SoS has the power to impose conditions, which would have the effect of reducing the permitted development below the level of development applied for. In doing so the test to apply is, would the substance of the development be so changed that to grant it would deprive those who should have been consulted on the changed development the opportunity of such consultation? It is wrong to suggest that the reduction should be seen as a waste of a development opportunity. The capacity of the road network puts a limit on the scale of the development opportunity. Here, that ceiling has been reached and the development is reduced in scale so that the opportunity can be fully grasped.
- 1.16. In November 2012, Batleys contacted those consulted on the application enquiring whether the reduction in floorspace had any impact on previous responses regarding the application (B.A4). Of the 18 consultees contacted, 7 responded (B.A4a-h). This was a simple exercise and there was no necessity

³ Evidence-in-Chief of Mr Rose.

⁴ *Bernard Wheatcroft Limited v Secretary of State for the Environment and Another*, (1982) P&CR 233, Forbes J (B.A13)

to provide details of all that occurred at the Inquiry. The exercise has not identified any party whose interests would be prejudiced by the reduction.

- 1.17. If the SoS determines that no party would be prejudiced by a reduction in the amount of B1 floorspace, the reduction can be achieved in 2 ways. First, by imposing a condition beginning with the words "*Notwithstanding the submitted details...*" and placing a ceiling on the amount of B1 floorspace. This action would be acceptable and lawful and is a type of condition in common use. Alternatively, if it is determined that the floorspace reduction would not alter the substance of the application as per Wheatcroft then the SoS could amend the description of the development to reflect the lower floorspace figure. Batleys commend either alternative to the SoS recognising that there may be a policy preference for one course above the other.

Submission by Salford City Council

- 1.18. In some instances it is possible to grant permission for less than that which is applied for. The test is essentially whether the scaled down proposal would represent a substantial alteration of what had been proposed by the application. An important criterion in considering this question is whether the development is so changed that to grant permission would deprive those who should have been consulted the opportunity of consultation (Wheatcroft). This is essentially a matter of judgment for the decision maker; for example, the Court refused to interfere with an Inspector's decision that a 37 house layout would be substantially different from a 48 house layout⁵.
- 1.19. The proposed amendment is a substantial alteration and should not be accepted. The alteration is so substantial it would be necessary to undertake consultation with all of those who were originally consulted. Importantly, for any such consultation to be meaningful the consultees would need to be provided with the full information that was presented to the Inquiry including, the different trip generation rates, the highway implications of the proposal and the wider implications of the proposal.
- 1.20. In determining the appropriateness of Batleys' submission it is important to remember that the issue goes beyond highway and traffic impacts. Salford Quays is widely recognised as presenting a rare strategic development opportunity that needs to be fully exploited. The amendment would result in a lesser scale of development than was previously proposed and is otherwise achievable. The amendment would result in a failure to take full advantage of the opportunities presented on the appeal site. Furthermore not only would there be a reduction in development and importantly the employment and economic potential of the site, but it is now accepted by Batleys that the appeal proposal would make development of the remainder of Salford Quays more difficult and expensive. Plainly consultees would need to be properly appraised of this situation.
- 1.21. It is important to note the manner in which Batleys ask the SoS to address the matter. Batleys resists any alteration to the description of the development but seek a condition which contradicts the description of the development proposed. Whilst it is possible for conditions to modify or restrict the

⁵ Wycombe DC v SOSE (1992 unreported) and Breckland DC v SOSE (1992) 65 P&CR 34

permitted development, a condition may not take away the substance of the permission or constitute a fundamental alteration of the proposal. Such a condition would be invalid⁶. It is important to note that Wheatcroft proceeded on concessions by Counsel that it was possible to restrict a planning permission by a condition, it was not a matter decided by the Court.

- 1.22. Here, the proposed condition would be an invalid restriction that effectively takes away the substance of the permission or constitutes a fundamental alteration of the proposal. Indeed, the lpa is left with the conclusion that Batleys resists amendment of the description of the proposal and seeks to address the matter by condition because it recognises that the alteration is a substantial alteration that should be subject to proper consultation and accordingly cannot properly be undertaken at the appeal stage. The lpa submit that the proposed amendment/condition cannot properly be imposed.

Submission by Peel Media

- 1.23. The imposition of a condition to limit the amount of B1 floorspace is inappropriate and cannot be lawfully imposed. This action would result in a form of development that would be inconsistent with the condition which is being sought to be imposed. In effect what is being sought is an internally inconsistent planning permission. The tactical reason why the description of development is not being amended is because Batleys is well aware that the SoS is profoundly reluctant to exercise his power so as to grant consent for something different to that which was applied for.
- 1.24. Wheatcroft establishes that the decision maker is empowered to grant consent for something different to that which was applied for, provided that persons who should be consulted have had the opportunity to be consulted; and that such persons are not prejudiced thereby. Here, whilst the level of public interest may have been low, the Highways Agency (HA), SCC as the highway authority and Transport for Greater Manchester (TfGM) all need to be properly consulted⁷ on the consequences of a materially different proposal that would give rise to a lower level of benefits supported by a wholly flawed TA. Consistently, all 3 have expressed profound dissatisfaction with aspects of the highways work done so far and the final pre-Inquiry position of both TfGM and the HA is that serious flaws remain in the TA.
- 1.25. The SoS does not know what the informed views of those parties would be. Whilst some views on the question posed by Batleys are known, the SoS should be cautious (B.A4). PM has serious concerns about this process (B.A4i). Batleys' letter does not accurately or fairly reflect the highways evidence, particularly the flaws in Batley's TA. Those flaws have increased in scope during the course of the Inquiry and the benefits have diminished. Indeed, the lpa's position is that the evidence at the Inquiry has altered such that it no longer considers it appropriate to be party to a S106 Agreement given the failure to take full advantage of the opportunities presented on the appeal site and the serious flaws in the evidence base (SC A3). Thus, if the

⁶ Kent CC v SOSE (1976) 33 P&CR 70

⁷ Mr Purser, in Re-Examination was invited to note that that the number of jobs that the revised scheme would give rise to would be the same as assessed by TfGM in August 2012. Whilst this is true, it misses the point that TfGM were assessing a scheme for 70,126 sq m of Class B1 floorspace

lpa has altered its position, there is no reason to suppose that others would not do the same if they were properly informed.

Inspector's Conclusion

- 1.26. In coming to a conclusion on this particular matter, I have been guided by the judgement of Forbes J in the Wheatcroft case. In that judgement, the relevant passage setting out the test that the decision maker needs to apply is *"is the effect of the conditional planning permission to allow development that is in substance not that which was applied for? The main, but not the only, criterion on which that judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.... There may, of course, be, in addition, purely planning reasons for concluding that a change makes a substantial difference...."*
- 1.27. Had Forbes J stopped at the end of the first sentence then the proposed condition or amendment to the description of the proposal would not, in my view, change the substance of the development. However, Forbes J went much further by identifying the main criterion to assist in making the necessary judgement i.e. would anyone be deprived of being consulted and therefore prejudiced and that there may be purely planning reasons to conclude that the development would be so changed.
- 1.28. Forbes J introduces the question of consultation and guidance on this is set out at paragraph 1.9.3 of PINS 01/2009⁸. During the adjournment, Batleys asked those who had been consulted on the application *"would the lower quantum of office floorspace now proposed (51,690 sq m rather than 70,126 sq m) have an impact on your previous response and position in regard to the development proposal?"* (B.A4). The question was prefaced with an explanation that the use of a density of 1 employee per 12 sq m to calculate traffic generation was now more appropriate than the 1 employee per 16.3 sq m used in the TA. The letter indicated that other than the reduction of B1 floorspace there were no other changes to the nature of the scheme, no change to the likely level of employment to be generated or the proposed transport mitigation measures. Eighteen organisations and individuals were contacted of whom 7 responded. Six responded indicating that the reduction made no difference to their stated position (B.A4a-g) and one, PM, queried the basis of the consultation (B.A4h).
- 1.29. In light of the above, those who should have been consulted have been consulted and responses have been obtained. However, for the process to be meaningful, I consider that those who need to be consulted have to be informed with the latest information regarding the proposed change, the reason(s) for the change and the evidential context, particularly the wider implications of the change in floorspace. This is particularly so given the acknowledgement by Batleys that in estimating the base plus committed development position it had only assessed the impact of MCUK 1 and not the permitted MCUK1-3 development (6.30ii & 7.23), the concerns raised about the nature of the trip rates used and the potential wider implications of future highway capacity. In brief, for the Wheatcroft principle to be satisfied not only

⁸ Procedural Guidance: Planning Appeals & Called-In Planning Applications – Planning Inspectorate.

is it important to determine who is consulted but also how they are consulted. Whilst there is no reason why an applicant/appellant should not initiate and carry out the consultation, it is relevant to note that paragraph 1.9.3 of PINS 01/2009 indicates that "*any necessary consultation to be carried out in accordance with their consultation arrangements....*". In this sentence, *their* means the lpa and there is nothing to indicate that this advice was followed.

- 1.30. The Inquiry heard evidence that contradicts the basis on which the TA was undertaken and challenges the effectiveness of the mitigation measures. Examples of the former is the concession by Batleys⁹ that the TA only took into account MediaCity:uk 1 (MCUK) rather than MCUK 1-3 which has planning permission and the appropriateness of the trip generation rates used. In my view, these are all matters that go to the heart of the case and would need to form part of any consultation process.
- 1.31. Wheatcroft also refers to there being planning reasons for judging that a change amounts to a substantial difference. The efficient and effective use of land particularly that to be used for employment and wealth generating activities is an important element of sustainable development and economic growth. The evidence of the lpa and Batleys indicates that Salford Quays does play and has the potential to play a very significant part in the economic health of Salford and the wider city region. The Batleys' site and surrounding land is recognised by all as key opportunities in the Salford Quays area. In this context, the proposed reduction in floorspace could well represent a failure to take full advantage of a significant economic opportunity. In this context, I agree with the submission of the lpa that consultees would need to be properly appraised of this potential effect (SC A4 paragraph 51).
- 1.32. Based on the above submissions and conclusions, I consider the change would represent a substantial alteration that would deprive those who should be consulted of the opportunity for meaningful consultation. Having regard to the principle established by Wheatcroft, I consider that it would be inappropriate to either impose a condition or amend the description of the application to reduce the B1 floorspace from 70,126 sq m to 51,690 sq m.

⁹ X-Examination of Mr White.

2. The Site and Surroundings (SC2.4a-d & PM3/2 Appendix MH1B)

- 2.1. The site is located between Broadway to the north, Ohio Avenue to the west, the Eccles Metrolink and The Quays to the south and Chandlers Point a group of 3 modern multi-storey office blocks to the east (B3.2 Appendix page 6 Photograph 8). The site, extending to some 2.7ha, comprises an extensive area of surface level car parking and a 9,300 sq m, single-storey Cash & Carry Warehouse (B3.2 Appendix page 6 Photograph 6). Vehicular access is from Ohio Avenue. The northern boundary with the Broadway and parts of the Ohio Avenue frontage are densely planted with semi-mature trees and shrubs.
- 2.2. To the west of Ohio Avenue and the Metrolink line between The Quays and the junction with South Langworthy Road is an area of low-rise commercial development, cleared sites and a multi-storey car park (B3.2 Appendix page 6 Photographs 1, 2 & 3). Access is from Michigan Avenue and Ohio Avenue. The southern part of this area which comprises a cleared site has recently been granted planning permission for an extension of time for implementation of planning permission for four, 26-storey buildings comprising 1,036 apartments and 5,433 sq m of Class A1 to A5, B1, D1 and D2 uses (PM7).
- 2.3. The area between Ohio Avenue and the Metrolink line to the west is the subject of an outline planning application made by PM for a scheme known as MediaCity:uk (MCUK) 4-5 (SC2.1 paragraph 5.4). This area, the appeal site and the Chandlers Point area are also the subject of an outline planning application by PM. This larger site is known MCUK 4-7 (SC2.1 paragraph 5.4)
- 2.4. To the north of Broadway and opposite Batleys are 3 blocks of 6-storey flats (B3.2 Appendix page 6 Photographs 1, 2 & 3). The area to the north-east is a dense, low rise housing estate. To the north-west, is a substantial area of commercial buildings and open storage.
- 2.5. To the south between The Quays and Dock 9 and running along the water frontage are a series of multi-storey buildings. To the eastern end of this strip the buildings are mainly used for offices whilst towards the western end the buildings are mainly residential (B3.2 Appendix page 6 Photograph 4). Immediately to the south and west of the Batleys' site are the Metrolink Harbour City platforms. West of the Metrolink line is an area referred to as MCUK 1-3 which has a frontage to Dock 9 and the Manchester Ship Canal (MSC). There are further Metrolink stops at MediaCity (MC) and south of the Broadway. This area contains a variety of multi-storey buildings providing office and studio space for the BBC, office space for ITV and SIS who are independent outside broadcasters, facilities for the University of Salford, a hotel, supermarket, cafes and multi-storey car parking (PM4.2 Appendix 5). This area is not fully developed and details of the permitted uses and floorspace are shown in PM1/7.
- 2.6. MediaCity:uk and the developments on the edge of Dock 9 are linked to the southern side of the dock and the southern side of the canal by 2 footbridges and a road bridge. The southern side of Dock 9, which contains the Lowry Arts Centre and the Lowry Outlet Mall (PM A.6), various office buildings, cafes and bars, is linked to the southern side of the canal by a third footbridge. To the east of the Lowry Outlet Mall is an area of low rise modern houses. On the southern side of the canal and located within the Trafford Metropolitan Borough Council area is the Imperial War Museum North, ITV studios and

outdoor sets and several multi-storey offices beyond which are industrial/storage units and the Manchester United Football Club stadium.

- 2.7. The main vehicular, pedestrian and public transports links to and within Salford Quays area are shown in the Design and Access Statement (CD7 page 7).

3. The Proposal

Inspector's Note

The detail contained in this section relates to the application as submitted and described in the Design and Access Statement (CD1.8). Section 1 of this report refers to Batleys' suggestion that the proposed B1 floorspace should be restricted to 50,196 sq m. No indication of how this floorspace would be distributed amongst the suggested phases was given.

- 3.1. The proposal was submitted in outline for new offices, leisure, retail, residential, restaurant, hotel and community uses with associated car parking including access with matters of scale, appearance, layout and landscaping reserved for subsequent applications. Plan B shows a potential distribution of the uses. The Design & Access Statement at pages 12 to 15 contains visuals of the various levels (B3.2 Appendix 3).
- 3.2. The following is a breakdown of the floorspace:
 - Office floorspace, up to 70,216 sq m
 - Leisure provision, up to 1,148 sq m, including a gymnasium
 - Small scale foodstore up to 1,419 sq m gross
 - Other small retail units to serve the development (up to 400 sq m per unit but totalling no more than 781 sq m)
 - Up to 75 apartments (mix of 1, 2 and 3 bedrooms)
 - Restaurant and café facilities up to 1,887 sq m
 - 2 hotels including provision for a 3* hotel and a budget hotel with hotel conferencing facilities
 - Medical centre, up to 20 consulting rooms, around 771 sq m
 - Multi storey car parking with a total of up to 1,331 spaces
- 3.3. The scheme would be phased and designed to allow Phase 1 (Block A) to be developed with the Batleys Cash and Carry use operating on the site. Improvements to and signalisation of the Ohio Avenue/Broadway would form part of the Phase 1 works. Block A would consist of an office development (up to 15,420 sq m), a small retail foodstore (up to 1,419 sq m gross); a medical centre; and up to 1,179 car parking spaces. Later phases of the development would be brought forward after the existing cash and carry use has relocated within the area. Off site highway improvements to the Trafford Road/Broadway junction to relieve capacity would be triggered by later phases.
- 3.4. Block B would consist of some 5,681 sq m of office floorspace over 9 floors. The ground floor eastern elevation would contain retail uses (Class A1 or A3) of around 525 sq m over 2 areas. Block C would comprise some 22,740 sq m of office floorspace over 10 storeys with retail and leisure uses (Class A1 or A3) of around 835 sq m on the ground floor with parking for around 152 cars.
- 3.5. Block D would accommodate some 16,377 sq m of office floorspace over 9-storeys with some 1,308 sq m of retail floorspace at ground level. Block E would house some 75 flats over 5 storeys with a gymnasium of around 1,148 sq m. Block F would accommodate the hotel developments and conference facilities. It is anticipated the block would house 2 hotels with a total of some 13,482 sq m over 20 storeys.

4. Planning Policy and Other Planning Guidance

Development Plan Policy

- 4.1. The development plan comprises the North West of England Plan Regional Spatial Strategy to 2021 (RSS) and saved policies in the City of Salford Unitary Development Plan 2004-2016 (UDP). Relevant development plan policies are set out in Section 4 of the Planning Statement of Common Ground (CD7). This section concentrates on those policies considered to be the most relevant.
- 4.2. The Ipa had prepared a Core Strategy which, at the time of the Inquiry, was undergoing examination (CD5.11). However, following concerns raised during the examination (SC2.5) and before the Inquiry closed, the Ipa resolved to discontinue preparation of the CS. All parties agreed that the CS had no relevance in deciding this appeal.

North West of England Plan Regional Spatial Strategy to 2021 (CD5.3)

- 4.3. Policy RDF 1 indicates that the first priority for growth and development should be in the regional centres of Manchester and Liverpool. Salford is within the Manchester City Region (MCR) and acknowledged as the largest sub-regional economy. This area is identified as having the greatest potential for boosting economic performance in the North West and the North of England. Policy W 1 indicates that plans and strategies should promote opportunities for economic development by building on the strengths of its city regions. Those strengths identified for the MCR include financial and professional services, media, creative and cultural industries.
- 4.4. The objectives of the above policies are reflected in Policies MCR 1 and 2, which set out the priorities for the MCR. The supporting text to Policy MCR 1 reflects that it will be necessary to create and sustain the conditions necessary to realise the vision for the MCR by simultaneously exploiting its current assets and greatest opportunities to deliver accelerated economic growth. The RSS aims to see the MCR deliver its full potential by ensuring that policies connect areas of greatest economic opportunity to areas of greatest need, with particular focus on those areas in need of economic, social and physical restructuring and regeneration. The supporting text to Policy MCR 2 reflects that the Regional Centre of the MCR, which includes Salford Quays, is fundamental to the success of the MCR and will continue to be the primary economic driver in the North West.
- 4.5. Although the Localism Act 2011 provides for the revocation of the RSS, until the Strategic Environmental Assessment process is completed the RSS remains part of the development plan.

Saved Policies, City of Salford Unitary Development Plan 2004-2016 (CD5.4)

- 4.6. The Spatial Framework for the UDP locates the site within an area covered by Central Salford, the Regional Centre and the Western Gateway with Central Salford the major focus for regeneration and investment. The Regional Centre is a dynamic and vibrant area of European wide importance and forms the main focus for investment, economic developments and leisure and tourism development. The UDP describes the Western Gateway as stretching along the MSC from the city boundary to the Regional Centre. Further economic development particularly through the development of Dock 9 at Salford Quays

is encouraged. The UDP notes that new development will need to have regard to the capacity of the existing motorway and road network and will require additional investment in transport infrastructure.

- 4.7. Policy MX 1 shows Salford Quays as an area to be developed as a vibrant mixed-use area with a broad range of uses and activities, including residential, offices, hotels, retail and food and drink uses consistent with retail and leisure policies. In determining the appropriate mix of uses regard is to be had to 5 criteria. Of these the most relevant are, (i) the positive impact that the development could have on the regeneration of the wider area and (ii) the use on adjoining sites and the extent to which the development would support the objective of maintaining a mix and balance of uses throughout the policy area.
- 4.8. The supporting text notes that Salford Quays, as part of the Regional Centre, is a dynamic and competitive area and that the success and popularity of the area derives partly from the mix of uses within it, which should be retained and developed (CD5.4 paragraph 5.3). Dock 9 is identified as a strategically important development opportunity that calls for coordinated development to strengthen the success of Salford Quays and provide new landmarks that take advantage of the waterfront and complement assets such as the Lowry (CD5.4 paragraph 5.6). Paragraph 5.6 asserts that the area will continue to develop as an internationally important visitor destination and one of the region's primary office locations attracting some of the highest quality architecture in the region (CD 5.5 paragraph 5.6)
- 4.9. Policy ST 1 requires development to contribute towards the creation and maintenance of sustainable urban neighbourhoods, which lies at the heart of the Plan's strategy and to be the basis upon which the city's regeneration will be successfully secured (CD5.4 paragraph 4.1). Policy DES 1 is a broad, overarching policy which requires development to respond to its physical context, respect the positive character of the local area in which it is situated, and contribute towards local identity and distinctiveness. The policy requires regard to be had to a list of 10 factors which include (iii) relationship to existing buildings and other features that contribute to townscape quality, (v) scale of the proposed development in relationship to its surroundings, (vi) potential impact of the proposed development on the redevelopment of an adjacent site, and (x) the functional compatibility with adjoining land uses.
- 4.10. Policy DEV 6 says that on sites within major development areas, permission will not be granted for incremental development that would unacceptably hamper or reduce the development options for the wider area. The supporting text says that in some circumstances, it may be appropriate for development to be resisted until a masterplan has been produced for the wider site.

National Planning Policy (The Framework)

- 4.11. Central to The Framework is a presumption in favour of sustainable development, that development should be planned positively and individual proposals should be approved wherever possible. Sustainable development has 3 roles, economic through building a strong, responsive and competitive economy; social through supporting strong, vibrant and healthy communities and an environmental role through contributing to protecting and enhancing the natural, built and historic environment.

- 4.12. Paragraph 17 of The Framework sets out 12 core principles to underpin decision making. The most relevant indicate that planning should:
- proactively drive and support sustainable economic development;
 - secure high quality design;
 - take account of the different roles and character of different areas and promote the vitality of main urban areas;
 - encourage the reuse of existing resources;
 - encourage the effective use of land;
 - promote missed use developments;
 - actively manage the pattern of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations that are or which can be made sustainable.
- 4.13. Paragraphs 18 to 22 set out the commitment to securing growth, reflecting objectives set out in the Ministerial Statements Planning for Growth and Housing and Growth (B2/2 Appendices A9 & A10). Paragraphs 24 and 26 says that a sequential and impact tests should be applied to applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date local plan. Applications that fail to satisfy the sequential or impact tests should be refused.
- 4.14. Paragraphs 29 to 41 relate to the promotion of sustainable transport. Paragraph 32 says that decisions on developments that generate significant amounts of traffic should take account of whether opportunities for sustainable transport modes have been taken up thus reducing the need for major transport infrastructure; that safe and suitable access to the site can be achieved and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 32 makes it clear that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. Paragraph 56 says that good design is, a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.
- 4.15. The UDP was adopted before the Planning and Compulsory Purchase Act 2004 and guidance in paragraph 215, which says that due weight should be given to relevant policies in existing plans according to the degree of consistency with The Framework applies.

Other Planning Guidance

MediaCity:uk & Quays Point Planning Guidance (CD5.9)

- 4.16. The MediaCity:uk Supplementary Planning Guidance (SPG) approved in 2007 covers some 220 ha mostly on the northern side of the MSC and includes the core Quays Point area (15 ha) (CD5.9 Figure 1.1). The vision is to create a globally significant new media city capable of competing with similar emerging location in places such as Copenhagen, Seoul and Singapore. The intention is to create a modern digital city for the UK, where creative talent is drawn by the quality and excitement of the environment and the range and mix of people. Paragraph 1.3 explains that the lpa and PM are to work collaboratively to produce a Masterplan so as to provide a context within which individual

projects are brought forward to shape and define an exciting and diverse new part of the Regional Centre. No Masterplan has been produced.

- 4.17. Section 2 sets out how the design policies of the UDP and Policy MX 1 form the basis of the proposals contained in the SPG. The key aim for Quays Point is to deliver the comprehensive regeneration of this core site to form the heart of a wider new media quarter. The appeal site lies within the wider MediaCity:uk area and the PM schemes, (MCUK 4-5 & 4-7) lie adjacent to Quays Point.
- 4.18. Key principles and strategic objectives for the area within which the Batleys' site lies are set out in paragraph 3.4 of the SPG and include:
 - to be a cohesive, vibrant, mixed use area, with a distinctive sense of place and character, drawing energy and activity from the core Quays Point site;
 - creating clear physical linkages between the core Quays Point site and its essential hinterland, to encourage economic and social integration with surrounding industrial, commercial and residential areas, including other parts of the Quays, with the heart of central Salford to the north and, via new and existing bridge links, to Trafford Wharfside;
 - promoting a well-conceived movement pattern and structure, urban in scale and of exceptional design quality, with flexibility to evolve and change over time, providing an environment where people can meet and interact in a secure and inviting environment;
 - achieving a series of core infrastructure and public realm interventions which together will ensure that MediaCity:uk can function as a thriving part of the Regional Centre.
- 4.19. Section 4 provides area specific guidance for the core Quays Point and wider MediaCity:uk areas. Policy MC:UK2 sets out the mix of uses that will be promoted in the wider area. These include commercial, leisure and tourism developments with the area recognised as having the potential to contribute to a mix of leisure, retail and visitor attraction opportunities; residential development, although it is not envisaged that residential uses would be the dominant component and community facilities. This policy recognises that improved public transport facilities need to be completed. The remaining SPG policies relate to urban form, the public realm and pedestrian connectivity. The SPG makes clear the importance of development being properly coordinated and linking in to the core area of MediaCity:uk so as to take advantage of this important opportunity.

Shaping Salford – Supplementary Planning Document: Design (SPD) (CD5.8)

- 4.20. Supplementing, amongst others, UDP Policy DES 1, this SPD seeks a high standard of design. The SPD promotes the provision of good connections, particularly people to places with pedestrian friendly paths providing easy links to and from shops, public transport and other focuses for activity. Buildings should not be set in isolation but must be well connected with their neighbours.

5. The Case for Batleys Limited

The material points are:-

The Proposed Development

- 5.1. Encouraged and supported by a range of statutory bodies, Batleys has sought to redevelop and regenerate this site since 2007 (B2/1 paragraphs 2.19-2.24). The Ipa agrees¹⁰ that the existing use makes little contribution to the regeneration of Salford Quays and does not create a significant number of jobs nor a dynamic gateway to the area. Redevelopment would bring about the regeneration of a major and grossly underused site at Salford Quays.
- 5.2. This outline application provides for a comprehensive mixed use redevelopment of the site. Indicative illustrations of the proposed form of the development are part of the application (CD1.8). The quantum of development is described by reference to broad categories of use. As these buildings have not yet been the subject of any detailed design, the quantum referred to is intended to operate as maxima, (CD1.1 & CD7). Batleys is committed to the area and the intention is to relocate its cash and carry operation within the local area with no loss of jobs (B2/1 paragraph 6.31).
- 5.3. During the Inquiry, it became clear that the maximum volume of B1 development proposed should be reduced from 70,196 sq m to 51,690 sq m in order to bring this quantum of floorspace in line with number of employee trips used in the TA (CD1.12). The reduction would be achieved with no impact on the overall form or layout by reducing the height of some buildings¹¹.
- 5.4. The portrayal of the Batleys' scheme as a rival to other proposals for regeneration at Salford Quays is a complete misconception. The scheme represents an opportunity to deliver substantial development at a very well located site with the Quays, immediately adjacent to the principal point of vehicular access and one of the best served tram stations on the Quays, which, in contrast to MC, benefits from the full range of Metrolink services. The redevelopment would involve a multi-million pound investment by Batleys in Salford Quays with the creation of thousands of new job opportunities and a wholly new urban environment, opening up pedestrian access and active frontages. Redevelopment would, because of the site's prominent location, act as a beacon for regeneration and reinforce the work already undertaken by many public bodies and Peel in driving forwards the redevelopment of this area. Far from detracting from PM's plans, this scheme would consolidate the image of redevelopment and investment which has been fostered in recent years.
- 5.5. PM is part of The Peel Group and its interest is both as a commercial objector to the Batleys' scheme and as landlord. It is relevant that there is a history of dispute between Peel and Batleys (B2/1 paragraphs 2.48.1-2.48.7). The fact the appeal scheme is not sponsored by PM is no reason to deny it planning permission. Although PM has undertaken much worthwhile and regenerative development at Salford Quays, it is no more than another private developer and there is a real danger that it seeks to use its influence in an anti-

¹⁰ X-Examination of Mr Partington

¹¹ Evidence of Mr Rose

competitive way to obstruct development which it does not control or which does not conform to its own masterplan. The submission of purely tactical planning applications, made with no intention whatsoever of implementation within a current timescale, but solely in order to seek to frustrate the Batleys' scheme is highly regrettable, and a ruse which should not be allowed to succeed. Here, the planning system is being used for purposes for which it was not intended and that run counter to the objectives of The Framework.

Building a Strong and Competitive Economy

- 5.6. The appeal scheme involves a massive investment by Batleys to generate a mixed use development at a location where such development is already positively promoted by the development plan (UDP Policy MX 1). The lpa's view¹² is that Policy MX 1 is consistent with The Framework, and that the list of uses on the Batleys' site is consistent with the list of uses supported by the development plan (CD11, pages 9-10 Principle of the Development).
- 5.7. The site was also proposed as part of the new Salford Quays Town Centre in the CS. However, the CS has been completely withdrawn in its entirety and no weight can attach to it. However, support for development on the Batleys' site exists independently of the withdrawn CS and is multi-layered. Paragraph 19 of The Framework counsels that "*significant weight should be placed upon the need to support economic growth through the planning system*".
- 5.8. It is argued that allowing the appeal will constrain economic growth elsewhere, by using up highways and transportation capacity upon which PM is said to have first call. This claim has 2 separate elements: firstly, in respect of the so-called MCK 4-5 proposals and secondly, as developed during the Inquiry, in respect of the extant MCK 1-3 planning permission.
- 5.9. PM has made it clear that MCK 4-5 is a tactical planning application¹³, submitted purely in order to protect its position and that there is no intention whatsoever of implementing a consent on this site in the short to medium term (PM1/1 paragraph 4.2.1). Thus, PM's economic and employment evidence¹⁴ is irrelevant. There is nothing to indicate that the jobs predicted from the MCK 4-5 and 4-7 sites are likely to come forward within a given timescale. Indeed, PM accepted¹⁵ that the predicted economic benefits at MCK 4-5 plus those at the appeal site equate broadly to those predicted at the total MCK 4-7 site. Thus, on this evidence there is no net loss arising from that pattern of development and no employment or economic gain to be had from waiting to develop the MCK 4-7 block as one: even if that were possible. Meanwhile, the lpa has launched an ambitious exercise to look comprehensively at highways and transportation capacity issues at Salford Quays (B1.6). It seems highly likely that this work will not be concluded for some years, but is likely to be available by the time when PM genuinely intends to bring forward the MCK 4-5 site.
- 5.10. MCK 1-3 is an ambitious 15 ha scheme and has a vastly greater quantum of development than is envisaged by Batleys (PM1.5, condition 6). MCK 1-3 is

¹² Evidence of Mr Partington

¹³ X-Examination of Mr Hibbert

¹⁴ Evidence of Mr Russell

¹⁵ X-Examination of Mr Russell

apparently envisaged to come forward over 15 years. This was the basis upon which the Ove Arup (OA) TA was submitted and the permission granted (B1.7). The OA TA at Table 12 indicates that a substantial proportion of development generated traffic would not arise until 2023; i.e. 11 years hence. Moreover, it expressly cautioned that after 2013 changes to the network are required *"in order to provide sufficient capacity at certain junctions"* and says *"a detailed assessment of the viability of implementing these improvements has not been undertaken at this stage."* (B1.7 page 1). All the available public information confirms that this remains the position.

- 5.11. The lpa, when granting consent, must have done so on the basis that these matters remained outstanding and would need to be addressed post 2013. The TA already builds in the capacity effects of the Broadway Link and no subsequent assessments were produced in 2006 (or subsequently) establishing that Metrolink improvements, for example, would remove the need for further highways works. PM confirms¹⁶ that, quite independently of the Batleys' scheme, the effect of loading all the MCK 1-3 traffic to 2023 onto the network now has significant adverse impacts on the network (PM3.2 Table MH10A; Figures MH10B & MH10F). This is hardly surprising given that PM, told the lpa and statutory consultees that this would be the effect of MCK 1-3 in later years, without additional junction improvements.
- 5.12. The situation is complicated because the financial commitments agreed to by PM in connection with the MCK 1-3 development are not contained within a S106 planning obligation, which would be available for public inspection, but are shrouded in secrecy as part of a Strategic Framework Agreement (SFA). Despite making a Freedom of Information request, sight of this document has still been denied to Batleys. What is clear is that the lpa was expressly alerted to the fact that the Broadway Link would not be sufficient to accommodate predicted MCK 1-3 development traffic in 2018 or 2023. Thus, it must be assumed that this is provided for in the SFA, or, if it is not, then PM must themselves be very well aware, as their own consultants OA say so in terms, that placing a vast quantum of development on a 15 ha site at the end of cul-de-sac would require additional infrastructure works in later phases.
- 5.13. PM's oft repeated response has been that it has spent significantly on highways and transportation works in connection with MCK 1-3. However, PM's own TA expressly states that further junction works will be required in later phases to accommodate their development generated flows. The reference to viability testing in the OA TA suggests that these would be substantial works. However, these are precisely the works which were in contemplation at the time of the submission of the MC planning application. It is critically important to note PM's evidence¹⁷ that: it is inconceivable that the MC investment would have taken place *"without a clear strategy for the continuing provision of satisfactory access"*. This is no doubt the basis upon which PM has planned.
- 5.14. PM's highways work for this Inquiry now brings all the MCK 1-3 development traffic to 2023 forward to 2012 and then uses it to assert that the Batleys' scheme would give rise to unacceptable impacts without mitigating the base flows as plainly envisaged by the MCK 1-3 TA. It is submitted that PM,

¹⁶ X-Examination of Mr Hibbert

¹⁷ Evidence-in-Chief of Mr Wild

having received the advice reported in the OA TA, must be very well aware that further mitigation must be introduced by them at later stages to accommodate their substantial additional development flows in 2018 and 2023. This is further confirmed by the fact that the 2023 2-ways flows (4,256 in AM peak) exceed even the link capacity of Broadway (BA.7).

- 5.15. It is clear that PM has not, so far, invested sufficiently to provide adequate highway capacity for its MCK 1-3 development in its middle and later phases. Notwithstanding the fact that Batleys has proposed junction works which accommodate the additional traffic generated by its proposal, PM complains that Batleys is seeking to soak up *"its"* highway capacity. The congestion predicted by PM results from inadequately mitigated MCK 1-3 flows to 2023 which have been frontloaded in PM's model runs. Thus, the SoS should not be deceived by this smoke and mirrors exercise. It is also important to note that, whilst PM has undoubtedly made investments to enable or improve access to the *"cul-de-sac"* elements of the MC site, the public highways and the Metrolink were pre-existing elements of publicly available infrastructure at Salford Quays to which PM has no superior claim. Thus, in economic terms, it would be wholly wrong to suggest that the Batleys' scheme would amount to anything other than a powerful net gain to the local and sub-regional economy.

Promoting Sustainable Transport and the Implications of the Development on the Operation of the Public Transport System

- 5.16. Paragraph 32 of The Framework requires that when assessing developments that generate significant amounts of movement, decisions should take account of whether: the opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 5.17. The last passage is entirely new to The Framework and indicates that the Government does not want to see highway impacts being used as an obstacle to development coming forward unless the residual cumulative impacts are severe. PM agreed¹⁸ that this represented a new test, which moves away from nil net detriment (NND) and even further away from predict and provide. The TA preceded The Framework and applies a NND approach. It is accepted that consideration of this issue must proceed from the starting point of a reliable TA. Here, the TA has been signed off by both SCC as highways authority and by the Highways Agency (HA) in relation any trunk road impacts.
- 5.18. The Ipa's case is not based upon any alleged highways impact arising from the proposed development per se. The Ipa evidence says: *"the original conclusion [of the Council] that there are no highways grounds for the refusal of planning permission is still appropriate"* (SC1/1 paragraph 8.3 & X-Examination of Mr Green). By contrast, the Ipa's case relies upon the alleged consequential

¹⁸ X-Examination of Mr Hibbert

impact of the scheme in precluding the notional redevelopment of the MCUK 4-5 site application, without further substantial infrastructure. This is an approach that is without precedent. It is a recipe for stagnation and sterilisation, as tactical applications could be submitted on any number of adjoining or nearby sites simply in order to frustrate an earlier undetermined application. This is something the lpa accepted could occur.

Public Transport Mode Share

- 5.19. The scheme is located immediately adjacent to the Harbour City Metrolink stop, which has one of the highest levels of service within Salford Quays. This juxtaposition allows comparison to be made with the survey data used in the OA TA for MCUK 1-3, which used surveys taken at the Victoria and Alexandra office buildings immediately opposite the appeal site. There really is no basis for doing anything other than applying the data collected for B1 office development directly to the appeal site. This gives an AM public transport mode share of 41% and a PM public transport mode share of 39%. It is important not to confuse this with the data reported in Table 13 of the OA TA, which contains blended averages for the MCUK 1-3 development as a whole. Of course, MCUK 1-3 includes a far greater proportion of residential use (2,249 flats) and other uses with lower public transport mode shares, so the blended average is bound to be lower than that for the Batleys' scheme (75 flats).
- 5.20. PM attacks Batley's TA on the basis of the particular means of calculating the public transport mode share is not sound. However, argument on this point is of academic interest only as the figure generated, based upon the B1 space directly opposite the site, is so close to that used for MC. PM questions the basis upon which the Area Wide Travel Plan (AWTP) and other initiatives may be relied upon in order to deliver the predicted public transport mode share. PM accepts¹⁹ that there is no standard which can be applied numerically in these circumstances to generate a defined effect and that professional judgment is involved. Department for Transport (DfT) analysis of the impacts of AWTPs supports a significant reduction in car trips across an area (B1.10). The email exchange between the HA and Batleys provides considerable detail about how this would work at Salford Quays, as it already has in adjoining Trafford (B1/4 Appendix B). This debate is of academic interest only, given that the Batleys predicted public transport mode share (39%) mimics so closely that surveyed by PM nearby even without comparable car parking restraint or an AWTP. Moreover, as PM agreed²⁰, Metrolink capacity has increased significantly since the OA surveys in 2006.
- 5.21. PM has sought to question the capacity of the Metrolink, even though this has been tested with worst case assumptions relating to MC, i.e. loading all the 2023 traffic now, and found to have sufficient capacity. Much emphasis is been placed upon Transport for Greater Manchester's (TfGM) throwaway reference to "*crush levels*", in an effort to conjure up images of type of conditions which are a daily feature of life on the London Underground. However, it is clear that these conditions are far removed from what does and will continue to prevail in the altogether more civilised North West. Peak

¹⁹ X-Examination of Mr Hibbert

²⁰ X-Examination of Mr Hibbert

predicted loads are still well below maximum capacity (88.6%, 237 empty spaces) and only occur for a matter of minutes between 2 stops.

Trip Rates

- 5.22. The Ipa²¹ both in evidence-in-chief and cross-examination agreed that the trip rates used were "*not unreasonably low*" and "*not unreasonable figures*". This should not have come as a surprise as these figures as well as trip distribution and assignment were all recorded as agreed in the Highways Statement of Common Ground (HSOCG) between SCC and Batleys (ID4). Of course, in the light of the adjustment made for the revised employment density ratio, the consequential actual trip rate is over 1 trip per 100 sq m for the AM peak in contrast to the 0.76 trips/100 sq m used in the TA and 0.93 trips/100 sq m used in the Ipa's exercise.

Committed Development

- 5.23. The approach to committed development was also agreed with SCC and this incorporated both the list of developments which should be included within the base case and also the flows to be assigned to the various developments. In particular, the flows to be assigned to MCKUK 1-3 were expressly agreed, using a methodology which the Ipa agreed was suitable to reflect the impact of the development. It is interesting to note that the trips associated with MC in the Batleys' TA (660) align very closely with the 2013 development flows in the OA TA (i.e. 2013 With Development at 1,023 less 2013 Reference at 366 = 657). This is consistent with the position set out elsewhere in relation to the improvements required before later phases of MCKUK 1-3 could be accommodated satisfactorily on the network.

Analysis – Nil Net Detriment

- 5.24. Issues such as the precise levels of committed development are effectively neutral so long as a newly proposed development can be shown, by virtue of physical mitigation measures, to consume its own smoke. This concept requires for its operation that, when development traffic is added to base flows, the physical mitigation measures take effect so that the net effect in terms of congestion is either no worse or better than the original base case.
- 5.25. The Batleys' scheme does consume its own smoke by virtue of the junction improvements proposed within the agreed study area. Thus, at the Trafford Road/Broadway Junction, the base case for the AM peak right turn to Trafford Road (N) is a Mean Maximum Queue (MMQ) of 53 PCUs; with the development it would be 121.3 PCUs; and with the development and improvements it would be 23.8 PCUs (CD1.12 Tables 9.4 & 10.2). Thus, the junction would perform significantly better with the development than in the base case.
- 5.26. Batleys' exercise was repeated but with additional developments added in to the base, including the lapsed MANYOO scheme, even before the eventual renewal of the permission (B1/2 Appendix D & PMA.7). Examining the same junction and movement as above, it is clear that the base plus committed MMQ stands at 156 PCUs, much higher than above; with the increase to 244 PCUs,

²¹ Mr Green

but with the mitigation added, this reduces to 135 PCUs, which is less than the base flow. Thus, in both cases, the proposed development effectively consumes its own smoke.

- 5.27. PM's queue diagrams do not reflect the approach agreed with SCC as highway authority, but utilise different trip rates and different geometry (PM3/2 Appendix MH10B to I). These have not been endorsed by SCC or the HA Agency. It certainly does not lie in the mouth of the Ipa now to tinker with agreed assumptions in order to prop up its case. Batleys' TA was also reviewed independently by JMP for the HA. The HA does not object to the development (ID1). TfGM mutter about uncertainties within TA, but fails to specify or particularise these in any detail so that its position can be tested and still maintain an overarching position of "*no objection*".

Mitigation

- 5.28. Batleys has taken steps to secure all that has been required of it in terms of mitigation - by both SCC as highways authority and the HA. These steps can be secured either by Grampian condition or by a planning obligation. There is no outstanding complaint about the mechanism in place to secure the monies required for the AWTP. A constant refrain from PM has been that it has committed great expense, but that Batleys has not and that this is somehow unfair. However, Batleys has not been asked to secure any more extensive element of mitigation, or to contribute to the same. The Ipa complains that Batleys makes no meaningful proposals for assisting public transport (SCA4). However, Batleys has made provision for all that has been sought by the highway authorities.

The Ipa's complaint

- 5.29. The Ipa's objection is confined to the outputs of the JMP exercise, whereby the M50 4-5 flows were loaded onto the network with no attempt at additional mitigation to accommodate these flows. It appears that the decision to undertake this exercise was taken by a former Director of Engineering at SCC, although the basis for this decision is not set out anywhere²². The Ipa asserts that measures to mitigate these flows could render such development, if it were ever to be proposed genuinely rather than purely tactically, unviable. The Ipa confirmed²³ that no analysis whatsoever underpinned that assertion. Moreover, little significance can properly attach to whether or not a purely tactical application is viable or not, as no effort will have been expended achieving viability.
- 5.30. The Ipa's case also relies on the production of a Salford Quays Transport Infrastructure Strategy and Delivery Plan (B1.6). The Ipa²⁴ accepted that this was a massive undertaking, looking 20 years ahead across an extensive geographical area, estimating development quantum and incorporating economic appraisal of a wide variety of sites and infrastructure projects. Although the work was commissioned in April 2012, the Ipa has indicated that there will be a significant delay until at least to mid 2013 whilst the Highways

²² X-Examination of Mr Partington

²³ X-Examination of Mr Green

²⁴ X-Examination of Mr Green

Forecasting and Analytical Services (HFAS) models are brought up to date (B1.6 Bullet Point 7). Even then the lpa accepted that mid 2013 was possibly unrealistic²⁵ and very optimistic²⁶ for the production of this exercise. Thus, over a year will have slipped past simply making the base models fit for purpose. In reality this is one of those exercises for which major slippage is inevitable and it could, given the complexity of the exercise and the variety of the transportation and economic parameters which require to be manipulated, be a very long way off indeed. Thus, significant development projects would be held up waiting for an output which may never appear or may be so late as to have put off all prospective commercial development interests. This is no basis upon which to hold up sustainable development and the lpa has erred in its approach.

The Development and Regeneration of Media City and the Quays Point Area

- 5.31. The lpa's entire case is based upon an allegation that allowing the Batleys' development would preclude the MCK 4-5 tactical application. It is submitted that refusal of permission for one live application, which has been in the system for nearly 2 years, on the basis of another admittedly tactical application, which PM has no intention of implementing would be unprecedented and contrary to good planning.
- 5.32. The lpa's approach to Batleys' scheme has been far from transparent. PM suggest that the lpa asked for the MCK 4-7 application to be made, although the precise circumstances in which this occurred are shrouded in mystery. The first consideration of Batleys scheme was in May 2012 and was a Part 2 matter, as was the entire report which led to the production of the reasons for refusal upon which the lpa has fought its case. In fact the entire consideration of the appeal scheme by the lpa has been behind closed doors; transparency has never been more opaque.
- 5.33. The lpa confirmed²⁷ that there was nothing in UDP Policy MX 1 or elsewhere in the development plan that requires the redevelopment of Salford Quays to come forward in a particular sequence. All of this land is encouraged to come forward for regenerative development. PM's self serving prescriptive concentric circles concept is not enshrined in any development plan policy and does not sit well with the existence of public transport nodes outside the circles as presently drawn which have a greater level of service than the MediaCity tram stop e.g. Harbour City. It is difficult to see what harm could possibly arise from development progressing in part from east to west, as well as from west to east. If a concentric approach is regarded as mandatory, then, on present form, it could be decades before the circles reach the appeal site, which would be sterilised in its potential to deliver much needed regeneration, along with most of the land at the Gateway to Salford Quays. There can be no rational planning basis for prescribing this form of development in an area to which land use allocation UDP Policy MX 1 applies consistently.

²⁵ X-Examination of Mr Green

²⁶ X-Examination of Mr Partington

²⁷ X-Examination of Mr Partington

- 5.34. In the light of the above, it is not surprising that the lpa²⁸ conceded that there was nothing about the development of the Batleys' site independently in spatial terms which gave rise to an obstacle to the grant of planning permission and that that conclusion could be reached in the absence of guarantees about other land coming forward and the timescale for that. The lpa also agreed²⁹ that there was no adverse spatial impact or planning consequence in terms of adjoining sites: in particular, the MCK 4-5 site could come forward satisfactorily. Thus, UDP Policy DEV 6, which seeks to avoid piecemeal development, is not offended. This was the conclusion expressly reached by the lpa's officers in finalising the August Panel Report (CD11, foot of page 13). As such, there is no sensible basis for revisiting that spatial analysis a month later and Reason for Refusal (RfR) No. 2 has no force.
- 5.35. RfR No.3 effectively assumes that there will be no other infrastructure or sustainable transport provision at Salford Quays in the next 20 years. This is not a credible starting point. Different parts of Salford Quays have come forward for redevelopment at different times over the past 20 years. It is plainly envisaged that other parts will come forward over the next 20 years. Indeed, the lpa's assessment exercise is directed to examining the options over the period (B1.6). Moreover it is clear that PM has extensive further land identified for redevelopment at Salford Quays and is planning extensive additional infrastructure (PM4/2 Appendix 4, Project Friday Site Transport and Linkages Plan). Whilst Batleys' planning evidence does indeed refer to MCK 4-7 block as "*the last major opportunity in the Quays*" (B2/1 paragraph) this was written³⁰ without knowledge of the many additional development opportunities open to PM as reflected in its evidence. What is clear is that The Framework does not anticipate a moratorium on development whilst such issues are explored and resolved. A current scheme which is acceptable on its own merits should not be held up simply because a broader review of development and infrastructure options is in its early stages and very far from complete.
- 5.36. The SPG does not derogate from the UDP and SPG covers a much more extensive area than UDP Policy MX 1. PM attempts to gain comfort from Policy MC:UK 2, which lists all the uses proposed and then states below that it is "*not envisaged that retail facilities will be a significant component of the mix the wider mc:uk area*". Batleys' proposal is not inconsistent with that aim.
- 5.37. As for the detailed design points pursued by PM, these were wholly unconvincing and collapsed when tested. PM accepted³¹ it had not established that the development of the Batleys' site would preclude a satisfactory design coming forward on the adjoining MCK 4-5 site. Moreover, when the context was properly examined, it was acknowledged that there was nothing inconsistent about the height of buildings proposed and that none of the proposed public open space or pedestrian routes could give rise to complaint. PM conceded³² that the grain of the Batleys' scheme was consistent with that of PM's indicative proposals for MCK 4-5.

²⁸ X-Examination of Mr Partington

²⁹ X-Examination of Mr Partington

³⁰ Re-Examination of Mr Purser.

³¹ X-Examination of Mr Grace

³² X-Examination of Mr Grace

- 5.38. Batley's evidence³³ confirms that, even at this outline stage, all design issues have been fully and properly considered by its advisers. The reduction in B1 floorspace could be achieved by limited amendments to the height of some of the blocks and the overall appearance of the development would be unchanged. This point was not challenged.

Ensuring the Vitality of Town Centres

- 5.39. This is an issue raised solely by PM, which itself is seeking to establish new retail development at Salford Quays. The lpa has been fully aware of the proposed mix and quantum of retail and other uses from the outset and has at no stage suggested that these are other than acceptable on the appeal site. The site lies within a Regional Centre (RSS) and lies within an area promoted for mixed use development (UDP). There is no evidence that, given the limited scale proposed and the complete withdrawal the Draft CS, the retail and leisure elements of the scheme would give rise to harmful impacts to defined town centres and it is consistent with the development plan.
- 5.40. Paragraphs 24 and 26 of The Framework require sequential testing and impact assessment for proposals which are "*not in accordance with an up-to-date Local Plan*". The scheme accords with UDP policy and the issue does not arise. However, out of caution, retail issues have been considered against the background of proposals for a new town centre at Salford Quays, which will now require to be considered again as part of the new Salford Plan process.
- 5.41. The retail unit is planned to provide small scale food and grocery needs i.e. top-up shopping for local residents, workers and visitors. Thus, it is unlikely that customers would travel past existing large foodstores to shop at the proposed store. Thus, the catchment of the store would be limited to Salford Quays and residential areas in Ordsall. Whilst no defined centres exist within the catchment area and therefore no sequentially preferable site for the proposed retail development 5 other sites have been assessed (B2/2 Appendix A1 paragraph 3.10). All are in out-of-centre locations and none offer any sequential advantage over the site. It is accepted that for the smaller retail units there are alternative locations available but these are located at least 10 minutes walk from the site and would not meet the needs of the development, provide active frontages or contribute to a mixed use development.
- 5.42. The outcome of Batleys' assessment is the local retail facility proposed for the site would not impact unacceptably on any other retail facility (B2/2 Appendix A1 & B4/1). Trade draw from the proposed development would be negligible and would have no discernable impact on the nearest designated centre at Regent Road. Moreover, the unit is ideally suited to a discounter operation, of which there are none in the area (B4/1 paragraphs 5.12 & 5.13). Whilst it is not part of Batleys' case that the unit should be limited to a discounter operation, if the SoS felt it to be necessary, then a condition could lawfully be imposed restricting the use in that way (BA.2 Condition 10).

³³ Mr Rose

Requiring Good Design

- 5.43. As this is an outline planning application, there is no detailed design to criticise, so this issue can only relate to the ill-conceived points raised by PM and to a lesser extent the lpa. Essentially the allegation appears to be twofold: firstly, that redeveloping the site would continue to leave an undeveloped area between the appeal site and MC; second that there is a design concern apparently arising from the layout shown on the plan with the application, particularly in relation to the east to west links.

Prematurity

- 5.44. This issue, i.e. predetermining an important issue which should be resolved by the development plan process, has not been pursued with any enthusiasm by either PM or the lpa. Guidance states that, other than in the context outlined above, prematurity will not normally be a reason for refusal of planning permission. Given the withdrawal of the draft CS, this issue is irrelevant.

Conclusions

- 5.45. Batleys' proposal accords with the development plan particularly UDP Policies MX 1 and DEV 6. The lpa confirmed in evidence that the only obstacle to the grant of consent was that Batleys had not been able to prove that there was adequate highways capacity to accommodate both the appeal scheme and the MCK 4-5 application. This is not the appropriate test. Indeed, it is an approach which, if allowed to succeed, would leave a developer at the mercy of an uncooperative neighbour, who could make a tactical application at any time purely to protect their position despite there being no intention to implement such a scheme in the short or medium term. This cannot be what The Framework envisaged in requiring the approval of development proposals which accord with the development plan without delay.
- 5.46. PM has left no stone unturned in an attempt to defeat the appeal. PM's advisor³⁴ was called away from looking at early concept feasibility for MC 3 to give evidence against Batleys' scheme. PM and its parent are highly successful and commercial organisations. It should come as no surprise that they are seeking purely to protect their commercial position. However, this should not be allowed to happen at the expense of other parties who are willing and able to participate in the regeneration of Salford Quays, who control key sites at the entrance to the area and who have, with the active encouragement of SCC for over 5 years, been seeking to play part in this success story. This appeal should be allowed.

³⁴ Mr Grace

6. The Case for Salford City Council

The material points are:-

- 6.1. This is a major application in an area that has seen substantial development and where further substantial development is proposed (SC2.1 paragraphs 12.8-12.12). Thus, it was proper for the lpa to require information on the traffic and highway implications of the proposal and how it might impact upon future development of the area. Consideration of the application was complicated by subsequent applications made by PM in November 2011 for a mixed use scheme on a wider area of land, which included the application site (SC2/1 paragraphs 5.2 & 5.3).
- 6.2. At Salford Quays, the lpa's aim is to encourage and facilitate appropriate development and to be in a position where the development of the Batleys' and PM's sites could be approved (SC2/1 paragraphs 12.2 & 12.3). In January 2012, the lpa asked Batleys for information so that it could assess whether the Batleys and PM applications were compatible and to assess their transportation impacts (CDs 3.17 & 3.18). However, instead of addressing these issues, Batleys appealed against non-determination.
- 6.3. Consideration of the application was further complicated by Batleys' approach to assessing the highway and traffic implications. Concern was expressed by SCC as highway authority regarding the parameters of some of the junctions used in the modelling and the HA did not accept the trip generation figures used by Batleys. Re-modelling was required to address these issues. The normal expectation would have been for Batleys to undertake the re-modelling correcting both matters at the same time. Surprisingly Batleys elected to undertake 2 different sets of modelling; one set involved modelling of the local highway network with the junction parameters corrected, but with the original trip generation figures, whilst the other involved modelling of the strategic network alone with the increased trip generation figures required by the HA. Not surprisingly the lpa was advised that the modelling should be undertaken on a consistent basis and that the local highway network should be modelled with the trip generation figures required by the HA.
- 6.4. By May 2012, the lpa had one outstanding issue which involved the highway and traffic implications and indicated that it required further information with respect to the impacts associated with the proposal on the basis of a more realistic trip generation rate and a more reliable assessment of the impact of the proposal on the public transport networks. That was effectively the position adopted by the lpa in its Rule 6 statement (CD9).
- 6.5. By refusing to carry out any further modelling Batleys did not co-operate in the manner which could reasonably have been expected. Thus, to move matters forward the lpa offered to undertake the modelling at its own expense and requested the necessary data from Batleys³⁵ (SC2/1 paragraph 12.4). For reasons which the Batleys' witnesses were unable to explain the information was only received at the end of July, which placed considerable constraints upon the lpa given the timetable for the Inquiry.

³⁵ X Examination of Mr Purser

- 6.6. Batleys has made a second application for essentially the same development (SC2/1 paragraph 5.1). Despite the lateness in providing the information required by the lpa, Batleys were pressing for a determination of the second application. PM also made a second application which was essentially for mixed use development of the land which did not fall within the appeal application (SC2/1 paragraph 5.4). The lpa was optimistic that it would be possible for both the Batleys' and PM applications to be approved and officers reported to the Committee on this mistaken basis in August (CD11 pages 24 & 25). As a result of the difficulties encountered with obtaining the necessary information from Batleys this report was prepared before the results of the highways remodelling were available. Fortunately the matter was not determined by the lpa, because when the results of the remodelling were received it was apparent that the proposal could not be accommodated with the PM proposal and that approval of the Batleys' scheme in isolation would have serious and harmful implications for the development of the wider area (SC2/1 paragraphs 12.4–12.8). The lpa notified all parties of this position as soon as it became aware of this information (CDs14 & 15).
- 6.7. At the Inquiry it became clear that Batleys and importantly its witnesses agree with the lpa's position. Batleys accepts that its highway work used inappropriately low traffic generation figures. As a result of this they accept that they cannot pursue an appeal for the development proposed in the application. As a result, Batleys now seek to persuade the SoS to adopt the unusual approach of granting planning permission for some 70,216 sq m of office space but at the same time impose a condition restricting the office space to 51,690 sq m. This is the clearest possible acceptance that the lpa's position at the time Batleys made the appeal and the preparation of its case that more information was needed and that the appeal proposal was not acceptable on the information available was correct. It is a clear acceptance that it was wholly inappropriate to appeal against non-determination in the manner followed by Batleys. Batleys' witnesses also accept that the consequence of granting permission for an amended scheme would also be as the lpa contends, and as set out in the putative reasons for refusal, namely that it would hamper and reduce the development options of the wider area.
- 6.8. Salford Quays has been transformed from derelict docklands into a vibrant mixed-use area with well-established tourism, employment, retail and residential uses. The area has seen significant levels of investment, which has resulted in a resident population of some 4,900 and an employment of population of some 25,761 (SC2/1 paragraph 12.9). Currently Salford Quays provides 20%, about £1 billion, of Salford's total economic contribution, both in terms of job figures and in Gross Value Added contribution. It has seen the recent and high profile BBC development in MC in close proximity to the appeal site. Salford Quays represents a once in a lifetime opportunity for Salford to take advantage of the diverse and innovative sectors which are clustering in and around the MediaCity:uk development (SC2/1 paragraph 12.10–12.12 & Appendix 1). However, there is more to be done. Salford Quays presents a major opportunity for Salford, the conurbation and the region and it is therefore vitally important that full advantage is taken of this opportunity. The wider area is in need of regeneration and redevelopment. There is vacant and under-used land within this area, it does not relate well to the wider developed

area and there are barriers to movement (B2/1 paragraphs 3.6–3.11. In Batleys' assessment, *"the contrast is stark"* (B2/1 paragraph 3.8).

6.9. The development opportunities present at Salford Quays are important for the economic health of the immediate area, Salford and the wider city. As Batleys acknowledges, *"the appeal site, and the wider Pier 9 block within which it sits, is a considerable opportunity for redevelopment. Indeed it is the last major opportunity within the Salford Quays"* (B2/1 paragraph 3.11).

6.10. Batleys³⁶ agreed the following:

- i) The Government's top priority is to get the economy growing (B2/1 paragraph 4.12);
- ii) Significant weight attaches to the need to secure economic growth and employment (B2/1 paragraph 4.13 and CD5.1 paragraph 19);
- iii) The importance of job-creation cannot be over-emphasised (B2/1 paragraph 6.19);
- iv) The importance of job-creation particularly applies to Salford because it is enduring greater hardship comparatively to the region and nationally, and it was also important for the conurbation (B2/1 paragraph 6.27).
- v) At the heart of The Framework is the presumption in favour of sustainable development (CD5.1 paragraph 14).
- vi) There are 3 dimensions to sustainable development. The first is an economic dimension or role. This involves contributing to building a strong, responsive and competitive economy by ensuring sufficient land of the right type is available in the right places and the right time. It involves identifying and co-ordinating development requirements including the provision of infrastructure (CD5.1 paragraph 7).
- vii) The above is what Policy MX 1 identifies and provides for and full weight is to be given to it in accordance with The Framework paragraph 215.
- viii) A core planning principle is to proactively drive and support sustainable economic development (CD5.1 paragraph 17).
- ix) Local planning policies support and conform to this approach. They seek investment and opportunities for jobs in Salford Quays and the location of the appeal site (B2.1 paragraph 6.9).
- x) Policy MX 1 provides for mixed use development of Salford Quays. In determining the appropriate mix, policy requires the decision maker to have regard to the positive impact the proposed development could have on the regeneration of the wider area. This requires the decision maker to look at impacts on regeneration off site in Salford Quays as a whole and the uses on adjoining areas and the extent to which

³⁶ X-Examination of Mr Purser

development would support maintaining a mix and balance throughout Salford Quays. This requires the decision maker to look at the impact of the proposal on Salford Quays as whole.

- xi) The supporting text to Policy MX 1 identifies Dock 9 as a strategically important development opportunity and Batleys consider it one of the most important (CD5.4 paragraph 5.6. This policy requires the co-ordinated development of the area. It is clear from the policy that whatever may have been the past experience of ad hoc or incremental development the policy is requiring a co-ordinated approach and this is further provided for in the SPG.
- xii) Policy MX 1 is up to date, consistent with The Framework and has significant weight (B2.1 paragraphs 7.10, 7.18, 10.2, 11.7 & 11.10).
- xiii) Salford Quays is a highly sustainable location (B2.1 paragraphs 8.4 & 8.5). Indeed there can be few more sustainable locations than the block within which the appeal site sits.
- xiv) Given the imperative of economic development and the sustainable location of the block within which the appeal site sits, it is very important that full use is made of the opportunity presented.
- xv) Far greater use could be made of the block.
- xvi) Given the economic policy, NPPF and Policy MX 1 and given that the block within which the appeal site sits represents the last major opportunity in Salford Quays, it is important that full use is made of the opportunity it presents.
- xvii) If a proposal hindered that opportunity it would conflict with the above policies. Indeed, if it had that effect it would not be sustainable.
- xviii) The Metrolink provides a barrier to access in this area and the block is inward looking (B2.1 paragraph 3.7). These are detrimental factors which need to be addressed.
- xix) There is a distinct difference between the block and the wider developed area – this difference needs to be addressed.

6.11. In addition Batleys also identified and accepted³⁷;

- i) That it is important that development of the appeal site should relate well and have strong legible links to the surrounding area;
- ii) It is important that it should link to and relate well to MediaCity.
- iii) The DAS identifies a desire line to MediaCity (CD1.8 paragraph 3.29.

³⁷ X-Examination of Mr Rose

- iv) It is a principle of the proposal that it should emphasise linkages with MediaCity (CD1.8 paragraph 3.2).
 - v) The appeal site is constrained by barriers to movement presented by crossing of Broadway, Ohio Avenue and Quays Road (CD1.8 paragraph 2.11).
 - vi) The fragmented urban fabric, which is particularly apparent on the street frontage, is a constraint that needs addressing (CD1.8 paragraph 2.11).
 - vii) The weak definition on Quays Road and Ohio Avenue needs addressing (CD1.8 paragraph 2.11).
- 6.12. It is clear both from the evidence in respect to the history of Salford Quays, the current state of the site and surrounding area and from the policy background that the site is part of a wider area which presents significant development opportunities but also requires a number of important issues to be satisfactorily resolved in any future development of the area. It is also clear that the successful development of the wider area is very important to Salford and the conurbation. It is particularly important that full advantage is taken of what is a limited and rare opportunity. It is also clear that in order to take full advantage of the opportunity requires a degree of coordination in any development and proper consideration being given to the wider implications of the proposed development.
- 6.13. In April 2012 the Ipa appointed JMP as consultants to develop an Infrastructure Strategy and Delivery Plan for Salford Quays (B1.6). The Strategy will consider the long (20 years), medium (10 years) and short (5 years) term development of Salford Quays and identify the transport infrastructure required to support that development. This is a significant and extensive piece of work that requires existing traffic models³⁸ for the Quays and wider area to be updated. Given the complexities of the traffic model, the updating is unlikely to be achieved before mid 2013 whilst the HFAS models are updated.

Highway and Traffic Impacts

- 6.14. It is axiomatic that development of the scale proposed by Batleys would generate substantial traffic volumes. Therefore, it is important that the highway and traffic impacts are properly assessed, that the area should function properly in traffic and access terms and that the proposal should not hinder further development in the area. At all times the Ipa has been anxious to facilitate development and has not taken a strict approach of objecting to proposals simply because traffic or highway impacts have been identified. The Ipa has been anxious to secure that not only the site but also the adjoining land between the appeal site and MC should be capable of development.
- 6.15. The agreed position by the end of Batleys' evidence was that the highway and traffic impacts of the appeal proposal alone would be unacceptable and that development of the adjoining land would not be possible with the appeal proposals as currently proposed. That is enough to dispose of the appeal.

³⁸ Highways Forecasting and Analytical Services (HFAS)

- 6.16. A fundamental issue between Batleys and all other parties who have considered the highway and traffic implications of the proposal has been the trip rates which could be expected to be associated with the proposal, particularly from the office development. The normal approach is to use data from the TRICS database to calculate trip rates³⁹. However, Batleys, for whatever reason, adopted an unusual approach of calculating trip rates from assumed employment density. This resulted in Batleys adopting what can only be described as an unusually low trip rate which is markedly out of step with everybody else and the data in TRICS.
- 6.17. The comparative trip rates used by the different consultants are summarised in SC1/1 Table 6.1. For the AM peak hour the rate used by Batleys for office movements to the development was 0.76 per 100 sq m. When testing for the lpa, JMP used a rate of 0.93 whilst the other consultants (JMP for the HA) used figures in the range of 1.13 to 1.16 and the TRICS town centre average would be 1.04 (PM3/4 paragraph 2.5 Table).
- 6.18. The explanation for the striking disparity between the figures is provided by Batleys' evidence which establishes that the figure used was artificially low. Batleys⁴⁰ that the trip generation figures were founded on an assumption that employment density within the office development would average 16.3 sq m per employee and this was multiplied against the net office floorspace (CD1.12 paragraphs 7.3.1–7.3.4). However, Batleys' evidence is that a conservative i.e. cautiously low figure would be 12 sq m per employee whilst 10 sq m per employee is a realistically achievable figure (B2/1 Table 6.1 & paragraphs 6.20-6.22). The acknowledged implication of this is that the trip generation figures should be 36% higher using the conservative figure, or 63% higher using the alternative figure. When converted to comparable trip rates per 100 sq m the resulting rates would be 1.03 for the conservative figure and 1.24 for the alternative. The conservative figure is essentially the same as the TRICS town centre average, whilst the alternative figure is higher than anybody used.
- 6.19. Thus, from Batleys' evidence the TA proceeded on artificially low trip generation figures and cannot be relied upon. Indeed Batleys did not seek to rely upon the figures and abandoned any attempt to defend or promote the development as set out in the application. Indeed, it is clear that in assessing the proposal the lpa had erred on the side of being too accommodating. The trip generation rates used by JMP for the lpa were likewise too low. What this does show is that the lpa had been eager to encourage development of the area, contrary to the picture that Batleys sought to portray.
- 6.20. Batleys have not undertaken any testing against the trip generation rates which they now contend to be correct. Furthermore the lpa's evidence was based on a lower trip generation rate than that which Batleys now agree should be used. There is therefore no evidence to show that the appeal proposal would be acceptable on the highway network even taking into account the highways works proposed by Batleys. In addition, there is evidence which positively establishes, even on Batleys' case, that the proposal would have unacceptable highway impacts.

³⁹ X-Examination of Mr White

⁴⁰ X-Examination of Mr White

- 6.21. Batleys' highway witness undertook a sensitivity test which included additional committed development (B1/2 Appendix D). The total additional AM arrivals in this sensitivity test were 177⁴¹ (B1/2 Appendix D paragraphs 1.2.3, 1.2.6 & 1.2.9). Batleys agreed that this would be less than the increase which would be necessary to take into account the higher trip generation rate which should have been applied to the appeal proposal. This means that the sensitivity test modelled less than would simply be associated with the appeal proposal using an appropriate trip generation rate. Using the conservative trip generation rate one would need to add 191 additional arrivals with the figure being proportionately higher using the alternative rate⁴². B1/2 Appendix D shows that at Trafford Road/Broadway junction even with the proposed road improvements the road would be operating seriously over capacity with Degrees of Saturation (DoS) of 129.1, 134.2 and 123.4. The resultant queues would exceed the length of road available and would queue back beyond M602 Junction 3, which would not be acceptable⁴³.
- 6.22. In B1/2 Appendix D, the above impact is justified on the basis that the impact of the additional traffic from the appeal proposal with the improved junction is no worse than the impact of the other traffic without the junction improvement. However, this argument cannot apply to the situation of increased traffic from the appeal proposal as a result of using the correct and higher trip generation rates. In such circumstances, the base comparison is not the existing junction with the other traffic (B1/2 Appendix D Table paragraph 1.3.5) but rather the base position without any additional traffic as Batleys agreed⁴⁴. The attempt in re-examination to argue that this comparison was inappropriate was misconceived. If one wished to undertake a comparison of appeal proposal with additional commitments it would have been necessary to add even more traffic to the modelling. When this comparison is undertaken it reveals that the appeal proposal would have unacceptable harmful impacts even with the highway improvements proposed. Accordingly the advice of Batleys' highways witness is that the appeal proposal would have residual severe impacts, in Framework terms, which would be unacceptable and require refusal.
- 6.23. It was furthermore clear from the lpa's evidence that development with the levels of traffic associated with the correct trip generation rates would be unacceptable. The lpa evidence used lower trip generation rates and produced very high impacts (SC1/1 Tables 7.11 & 7.12). For example at the Broadway/South Langworthy Road junction there would be a DoS of 119%⁴⁵ and 120%⁴⁶ and queues of 69 passenger car units (pcu) (400m) and 180 pcu (1,035m) respectively (SC1/1 Table 7.11). Whilst the lpa had been prepared to contemplate these results when there was scope for argument as to which trip generation rates to use, once this issue is removed there can be no grounds for accepting what would inevitably be worse results. In this respect it is important to recall that South Langworthy Road carries the Metrolink and

⁴¹ X-Examination of Mr White

⁴² X-Examination of Mr White

⁴³ X-Examination of Mr White

⁴⁴ X-Examination of Mr White

⁴⁵ Broadway West

⁴⁶ South Langworthy Road

that the predicted queue would go back beyond the junction with Eccles New Road; a junction that has not been modelled.

- 6.24. Batleys sought to contest the lpa's results on the basis that its consultant (JMP) had used a different method for distributing trips. This does not assist Batleys for reasons accepted by its highways witness⁴⁷. JMP used DEVTRIPS, which is a more sophisticated method and the one normally used that is likely to provide an accurate trip distribution than the method adopted by Batleys. In any event there are only 2 possible routes open to traffic which involves either using the Broadway/South Langworthy Road junction or the Trafford Road/Broadway junction. The result of re-distributing traffic would simply mean the impact on one junction would be marginally improved at the expense of the other. Given that both junctions are predicted to experience unacceptable impacts, tinkering at the edges provides no answer.
- 6.25. Batleys accept the outcome of this analysis and they have abandoned the appeal proposals. Batleys now seeks to promote a development of essentially 51,690 sq m on the basis that this would have a similar absolute level of trip generation as that which they had previously assumed for the appeal proposal. It is important to note that this has not been modelled and is merely an assumption. It is also important to note that this assumes that one should use the conservative employment density of 12 sq m per employee rather than the figure of 10 sq m per employee which Batleys' planning witness had considered was realistic. There is no evidence to support the conclusion that 51,690 sq m would be acceptable and evidence to cast serious doubt about the reliability of using this figure. The evidence clearly establishes that the proposal alone and even if amended would have unacceptable severe impacts which warrant refusal of the application.
- 6.26. There are, however, further serious highway and traffic issues associated with this proposal. It is common ground⁴⁸ that (i) the highway network, even with the proposed highway works, would be unable to accommodate development of both the appeal site and the MCK 4-5 scheme and (ii) the proposed highway works are the only remaining practicable highway improvements which could be made within the existing highway network. Any improvements to accommodate additional development would require substantial and expensive additional infrastructure works.
- 6.27. Batleys accepts the lpa's fundamental concern that development of the appeal site would effectively leave any future development in the area with the burden of providing for substantial additional infrastructure. This would result in an unequal sharing of the cost of providing for necessary infrastructure and would create serious doubt about the viability and practicality of developing the wider area.
- 6.28. In addition to the impact upon the highway, there are serious concerns with respect to the ability of the public transport system to cope with the demands of the appeal proposal. Batleys at B1/2 Appendix B undertook an analysis of Metrolink capacity, suggesting that in the AM peak the service from the city centre would be operating at approaching 89% capacity in places. However,

⁴⁷ X-Examination of Mr White

⁴⁸ X Examination of Mr White & Inspector's questions

this was again founded on the unrealistically low employment density. Once the correct figure is used the same calculation would suggest that the tram would be operating at 100% capacity throughout the peak hour which in practical terms would mean that all passengers would not be able to use a tram during the peak hour⁴⁹. This would inevitably impact upon the attractiveness of public transport and discourage the use of public transport which is completely contrary to all policy objectives and the aims of sustainability. Batleys have no meaningful proposals for assisting public transport to cope with the demands of the development proposals.

Acceptability of the proposal

- 6.29. Batleys accept that the appeal proposal as submitted could not be allowed. Accordingly if the proposal is not altered either by amendment or imposing a condition it would logically follow that the appeal should be dismissed. These submissions go on to consider the other reasons why the appeal should be dismissed even if the condition proposed by Batleys is accepted by the SoS or the description or the application is amended.
- 6.30. The amendment proposed by Batleys is supposed to address the fundamental highway objections to the proposal which Batleys accepts would otherwise require rejection of the appeal. However, the evidence does not establish that reduction in scale of the proposal to 51,690 sq m would satisfactorily remove these highway objections. Indeed the evidence establishes that there are a number of grounds for concluding that the fundamental highway objections would remain. These grounds include:
- i) The amendment relies upon use of the conservative employment density of 12 sq m per employee. Batley's planning witness acknowledges that a density of 10 sq m per employee would be realistic. Clearly if such a density were to occur the trip rates would be significantly higher than any figure considered. The amendment would not have achieved its purpose and the highway objection would remain;
 - ii) Batleys' highways witness revealed that the traffic associated with the base position had been under-estimated. The TA was supposed to have been undertaken on the basis of MCUK 1-3, which is committed development, as part of the base position. However, in Batleys' base position had only included MCUK 1⁵⁰ and that it was unable to assess the additional contribution from Phases 2 and 3. This is plainly contrary to the understanding of all those who had considered the position and importantly it means that the base position has been underestimated. It follows that there will inevitably be more traffic on the relevant network than has been modelled and hence reducing the proposal to 51,690 sq m alone would not address the issue, even if it were acceptable to use the conservative density of 12 sq m per employee.

⁴⁹ X-Examination of Mr White

⁵⁰ X-Examination of Mr White

- iii) Batleys rely on very challenging reductions in car trips. Batleys' own evidence and that of PM raise serious doubts about whether those reductions have been calculated on an appropriate and reliable basis.
- 6.31. As the evidence does not establish that reduction of the office floorspace to 51,690 sq m will address the highway problems, indeed it positively suggests that it will not, this fundamental objection remains to the proposal even if reduced to 51,690 sq metres.
- 6.32. Even if it were concluded that a reduction in the amount of office floorspace resolved the highway issues there are other fundamental objections to the proposal. Batleys' witnesses recognised the unsatisfactory relationship of the appeal site and the wider block to the surrounding area and the importance that any development should improve linkages and be outward looking. They recognised the importance of the relationship of the appeal site to the surrounding area. Batleys' planning witness agreed that the appeal proposal does not address these issues⁵¹ and agreed with the lpa's evidence on this issue (SC2/1 paragraph 12.10). The failure to address this issue is a further fundamental objection to the appeal proposal.
- 6.33. A further objection to the appeal proposal is the failure to make full use of the opportunities presented by the both the appeal site and the wider area. Batleys agreed⁵² that the reduction in floorspace proposed meant that the appeal site itself was not being developed to its full potential. The revised development would involve a loss of almost 30% of the office floorspace. Given Batleys' agreement that this location presented a strategically important location for economic development and that it was important that full use was made of this opportunity, the failure to make full use of the opportunity is a fundamental objection to the scheme.
- 6.34. The lpa's objections to the proposal centres on the implications of development of the appeal site as proposed for the wider area. The agreed position is that even if the appeal proposal were amended, to 51,690 sq m there would not be any capacity on the highway network for any further development. It is agreed that there are no remaining alterations or improvements which could be made to the existing highway network in order to provide the necessary additional capacity. It is agreed that substantial infrastructure works would be required to provide the necessary additional capacity and that this would be expensive.
- 6.35. UDP policy seeks substantial additional development in this area. It is important that full use is made of this *"once in a lifetime opportunity"* and that full use is made of this *"last major opportunity within the Salford Quays"* (B2/1 paragraph 3.11). UDP Policies MX 1 and Dev 6 require co-ordinated development in order to take full advantage of this important strategic opportunity. The appeal proposal is not co-ordinated; indeed it fails to have any regard to the impacts upon the wider area. The appeal proposal uses up all the additional capacity which can be created on the highway network and makes no contribution to the future major infrastructure requirements. It has no regard to whether any further development in the area would be viable and practical without any contribution or sharing of infrastructure costs from the

⁵¹ X-Examination of Mr Purser

⁵² X-Examination of Mr Purser

appeal site. It is plainly contrary to UDP Policies MX 1, DEV 6, ST 1 and DES 6 and the SPG.

- 6.36. Batleys addresses the lpa's reasons for refusal in B2/1 paragraphs 8.26, 9.2, 9.37 and 11.23 and following. The reasons for refusal are not addressed anywhere else, is any further evidence provided in response to them⁵³. Batleys agreed that in each case its response to the reasons for refusal was that the highways information on which the lpa relied is flawed and therefore the reasons fall away. No other grounds for resisting or contesting the reasons for refusal were provided. Batleys accept that if the highways evidence supported them, the lpa's reasons for refusal were substantial. It was accepted that if the highways evidence supported the conclusion that development of the appeal proposals would use up all the potential highway capacity the proposal would be contrary to UDP Policy MX 1 and objective of The Framework to allow the appeal proposal. It was accepted that Batleys' evidence now, is that it is not possible to have development of the appeal site and the adjoining PM land and that without major infrastructure works it would not be possible to develop the PM land if the appeal proposal were allowed on its own. Batleys' planning witness was unable to identify what works would enable future development to proceed. In all the circumstances, Batleys had to agree that the highways evidence upon which the lpa relied was not flawed.
- 6.37. In the light of Batleys' agreement on all of the above points the only logical position for it to adopt would have been that the lpa's reasons for refusal were justified and that the appeal should be dismissed. Somewhat surprisingly, and totally illogically, Batleys declined⁵⁴ to agree that this was the position the evidence had reached. The difficulty, indeed the illogicality, of this position was illustrated by consideration of the position with respect to the PM application for development of MCUK 4 - 5. Batleys accepted that the lpa could be in a position to determine this application before a decision on the appeal scheme was issued by the SoS. In such circumstances Batleys' position is that the lpa should refuse the PM proposal on the same grounds as it applied to the appeal proposal. Batleys' acceptance that such grounds for refusal would properly apply to the PM application is a striking acceptance of the lpa's general case.

Building a strong competitive economy

- 6.38. This is one way in which The Framework says sustainable development is delivered. In light of the highway evidence, approval of the Batleys' scheme would run counter to the Government's commitment to secure economic growth in order to create jobs and prosperity as the short term benefits of growth secured on this particular site, which are acknowledged, are far outweighed by the inability for other significant development to take place in the local area in a sustainable manner. The lpa has sought to work with both Batleys and PM to achieve permissions on both sites. The lpa has encouraged growth as required by The Framework. However, in the face of the compelling highway evidence, to continue to support one development as opposed to a comprehensive development of the wider area, which would stifle the development of the wider area, would act as an impediment to sustainable

⁵³ X-Examination of Mr Purser

⁵⁴ X-Examination of Mr Purser

growth rather than supporting it. It is considered that the inability of Batleys and PM to work together is acting as more of an impediment to growth than any action of the Ipa.

Ensuring the vitality of town centres

- 6.39. The Ipa does not object to the proposed development on the ground that it would have a detrimental effect on any town or neighbourhood centre. In reaching this decision, the Ipa is mindful that the now withdrawn Draft CS proposed designating the appeal site and the neighbouring core Quays Point site as a town centre. The Ipa takes the view that the proposal would not be harmful to any town or neighbourhood centres but whilst the site lies within the Regional Centre the Ipa acknowledges that the development plan does not specifically designate the location as a town or neighbourhood centre (CD5.4 paragraphs 3.3, 3.8 & 3.9).

Requiring Good Design

- 6.40. Given the highway impacts of the proposal, development of this site would be in isolation and a similar scale of development in the immediate vicinity of the appeal site is put in doubt. Thus, the scale, layout and positioning of the proposed development isolated from the main centre of activity does not represent good design as required by The Framework. The development would be out of keeping with neighbouring development and would fail to be cohesive or well connected to its environs and represent unsustainable development.

Prematurity

- 6.41. The Ipa does not consider the proposal is premature. Rather, planning permission should not be granted in the absence of comprehensive development that fulfils the key principles and strategic objectives of the MediaCity:uk and Quays Point Planning Guidance for the sustainable development of the area.

Conclusion

- 6.42. The Batleys' proposal would prejudice future development of the remainder of Salford Quays by taking up the available and potential capacity in the local highway network. This would unacceptably hamper and reduce the development options of the wider area. It would concentrate development in one small area divorced from the main centres of activity in the area, representing an unsustainable form of development. The appeal proposal fails to relate properly to the surrounding area and fails to address identified constraints and problems in the area. The proposed reduction in floorspace would result in a development that would not make full use of the potential of the appeal site. The proposal would represent an incremental and inadequate development solution that would fail to deliver sustainable development in the local area. Development would hamper future development in the area and harm the economic growth of the area. The proposal is contrary to UDP Policies MX 1, DEV 6, ST 1 and DES 1, the SPG and the requirements of The Framework. The appeal should be dismissed.

7. The Case for Peel Media Limited

The material points are:-

Overview

- 7.1. PM is firmly committed to bringing forward the MC project and has invested heavily in the area over the last decade. Not only is the continued delivery of MC fully supported by policy it is in the commercial best interests of PM and its parent company and the economic best interests of the public of Salford and Greater Manchester. To date, MC has achieved some extraordinary results, most notably the relocation of important parts of the BBC, ITV and Salford University to the area. MC has the potential to compete in an international market with other such projects around the world, in Singapore, Dubai and the United States. Ten years ago it may have been inconceivable, but now in partnership with the public sector, national media bodies and education bodies, Salford could become a world leader in the media and digital sectors.
- 7.2. Whilst MC is the nucleus of a large-scale urban regeneration centred on the digital and technological sector, the project is in its formative stages and it is critical that the planning system fosters and does not frustrate the next critical stages of the delivery. MC currently provides 20% of the jobs in Salford, and is home to some 5,000 people. MC is also an opportunity to resurrect what may have otherwise become the moribund Lowry Outlet Centre. The vision is to create an area at the heart of Salford Quays centred upon the Lowry and Quays Point which will provide the focus for town centre activities and service its amenity requirements⁵⁵.
- 7.3. Transportation and congestion issues have long been a concern in the delivery of the project. For that reason, huge sums have been invested to deliver the routing of the Metrolink to MC as an integral element of the early phases of the development. To date, MC comprises 87,086 sq m of Class B1 space, 2,892 sq m of retail, 2,194 sq m of food and drink uses and an 11,170 sq m hotel, totalling 98,256 sq m floor space. The comparable figure for such uses in the Batleys' scheme in terms of overall quantum is 86,676 sq m. MC also includes 378 apartments (circa 300 more than Batleys' scheme) and 24,223 sq m of studio space. The transport mitigation measures which have been put in place for MCUK 1-3 comprise: the construction of Broadway Link to provide an additional road link from the west into the Quays area, greatly increasing highway capacity to deal with MCUK 1-3; the Media City Metrolink extension into Media City, including construction of the new tram stop and the purchase of 4 new tram kits to allow the doubling of the frequency of trams, as well as turn back facilities at Cornbrook Station, thereby greatly increasing tram capacity to deal with MCUK 1-3; a new pedestrian footbridge over the MSC to provide the opportunity for people to walk into MC from the Trafford side of the MSC; delivery of an enhanced bus service and network, including supporting a circular bus shuttle between MC and various rail stations and provision of SCOOT to Trafford Road corridor, improving highway capacity to deal with MCUK 1-3. The contrast with Batleys could not be starker. What has been built out so far at MC is broadly comparable to that proposed by Batleys; yet the former involved millions of pounds of investment to increase both road

⁵⁵ Evidence of Mr Wild

capacity and public transport accessibility, whereas the latter involves only limited highway works together with a few hundred thousand pounds to fund an AWTP in the hope that a massive modal shift would occur.

- 7.4. So as to understand exactly what infrastructure and public transport capacity is needed for the regeneration of Salford Quays there is a need to undertake a large scale transport modelling exercise (Area Transport Study) in order to ascertain its existing and future transportation requirements. That work was proposed to be done as part of the MCUK 4-7 application, but was put on hold when SCC advised that it was undertaking such an exercise. Whilst the modelling exercise has been commissioned it is not due to be completed until mid-2013. Only at that point will it be possible to identify the extent of necessary infrastructure requirements, and the necessary contributions from developers. Only then will there be sufficient information to enable meaningful decisions to be taken in respect of development proposals such as those put forward by Batleys and PM.
- 7.5. It is suggested that such an approach cuts across the fundamental principle that applications must be determined on their individual merits and that if Batleys can show that there is enough road capacity for its scheme then irrespective of what else happens around the area permission should be granted. Commercially it is entirely understandable that Batleys would wish to seek a consent which was not tied to the requirement to pay a fair share of future infrastructure costs rather than bringing forward proposals as part of a coordinated approach for this area. However, to do so would put at risk the remainder of the undeveloped part of MC including those areas which have been consented.
- 7.6. On its own case, the Batleys' scheme seeks to take advantage of the limited road capacity which exists. To do so would seriously hamper accessibility to un-built parts of the consented MC and burden the as yet un-consented parts with what are potentially huge infrastructure costs⁵⁶. These major infrastructure costs, which would benefit Batleys, will instead have to be borne by the owners of Chandlers Point and PM when bringing their sites forward. The as yet unknown costs of such infrastructure would impact upon the viability of such developments and may make them unviable. The result would be substantial congestion and severe highway and transportation impacts. Thus, the delivery of the remainder of MCUK 1-3 (a commitment) would be made much more difficult because the Metrolink would be full at peak hour and the roads would be over capacity. This is not an attractive proposition for future investors just at the time when MC is being promoted to a global market as a destination to invest. Moreover, by allowing isolated and fragmented office and retail development away from the already developed part of MC, market confidence would be fatally undermined. The potential impact on continued delivery of sustainable economic development at Salford Quays and MC would be catastrophic.
- 7.7. Much is made of the supposed beneficial economic development that Batleys would bring were permission to be granted. However, the reason given as to why this site should not form part of a co-ordinated approach following the

⁵⁶ Evidence of Mr Hibbert & Mr Wild. At least another road bridge over the MSC may be required. In comparison the footbridge provided as part of MCUK 1-3 cost in excess of £12m.

Area Transport Study, i.e. that the jobs created are needed now, is deeply unconvincing. Batleys acknowledged⁵⁷ that before the scheme could come forward the following would need to happen:

- the scheme would have to be pre-let, but at best there has only been some contact with a foodstore operator;
- an application under S84 of the Law of Property Act 1925 would have to be made to the Upper Chamber (Lands Tribunal) to discharge the restrictive covenant in respect of the landscaping strip and enable the access from Ohio Avenue onto Broadway to be constructed. This application would be disputed by Peel⁵⁸;
- an application for PM's consent as landlord would have to be made. The last time Batleys made such an application it ended in protracted litigation in the Court of Arbitration.
- it would be necessary to secure a further pedestrian crossing of the Metrolink. The crossing would require the relevant public bodies to be satisfied it could be safely achieved, as well as securing the consent of the owner and the relocation of Batleys' current operation to an as yet unidentified site within an unidentified timescale.

7.8. Batleys appears to bring the case on the basis that Block A could be brought forward whilst Batleys continue to operate on the site. The logistical difficulties of such an idea are obvious, which is presumably why Batleys indicate that this would only be for a transitional period. Initially, and presumably on the basis of the above matters, Batleys sought a condition providing for a 5-year planning permission. It was only after discussion regarding conditions that Batleys agreed to accept the standard 3-year condition. Realistically, it will be years before a start is made on site and years more before the scheme would be completed. Looked at in the round, the suggestion that the Batleys' scheme should be allowed now rather than waiting for a proper transportation model of the area to be prepared seems to be less about bringing jobs forward quickly than with avoiding any development having to contribute to substantial further infrastructure costs.

7.9. PM is keen to see the Batleys' site developed beneficially, it owns the freehold and therefore in about 100 years or so it will gain the benefit of any permission. More realistically it is not in PM's interests to see the site lie undeveloped when the rest of MC rises from the Quays. However, in market terms, the grant of permission to Batleys would send a wholly confused and potentially counter-productive message to the MC market, a market which fundamentally relies upon clustering of the digital and knowledge based industries. The result could have the potential of hamstringing the strident efforts to bring MC forwards in a logical and coherent fashion. That is not a plea to intervene in the free market to PM's advantage; it is rather a plea to recognise that planning involves permitting the right development in the right place at the right time.

⁵⁷ X-Examination of Mr Purser

⁵⁸ Evidence of Ms Wright

- 7.10. During the progress of the Batleys' application, PM was alarmed that serious highway concerns which would result in major traffic problems and would hamper delivery of the MC project were being overlooked. Despite detailed representations, recognised flaws in the TA were not addressed which led to the regrettable recommendation on the parallel application in August. Alarmed at that prospect, PM submitted the MCK 4-5 application using precisely the same, flawed, approach used by Batleys to its TA in order to underscore just how serious PM's concerns were about the Batleys' application. Using the flawed TA model, which materially underestimates the baseline, the MCK 4-5 proposal demonstrates that the grant of consent to Batleys would mean that further major development at MC i.e. (MCK 4-5) would not be capable of being accommodated on the highway network. Belatedly both the HA and the Ipa came round to that view which then led to the Ipa's change of heart. Indeed the Inquiry has shown that in fact the underlying premise of the Ipa's putative reasons for refusal – i.e. granting permission to Batleys means that one cannot grant permission for MCK 4-5 is correct.
- 7.11. Batleys refers to PM's MCK 4-5 application as a tactical application. Whilst PM has always accepted that, the point is that it is an application which sought to demonstrate that the grant of permission to Batleys would prejudice the ability to further deliver MC. The irony is that whilst the application achieved that objective and helped the Ipa to revise its position, it is Batleys' evidence⁵⁹ which demonstrated that the prejudice will not merely be to the delivery of MCK 4-5 but also to the remainder of MCK 1-3.
- 7.12. As part of the MC Project in order to entice the global digital market to Salford it has been recognised that there is a need not just to provide homes and jobs but also necessary complementary amenity facilities. Peel Holdings has acquired the Lowry Outlet Mall with plans to transform it into a complementary facility to MC, which will involve a very different mix of occupiers. This is one key element of the strategy necessary to establishing a new Primary Shopping Area (PSA). Not only is it contrary to policy, as well as profoundly counter-productive to that essential part of the project to permit a supermarket in a location which is presently, and for a good few years more will remain, divorced from the rest of MC. Not only would it be poor planning, which would be contrary to policy in any event, but also it would also undermine the efforts being made close by to establish a properly planned town centre, with a compact PSA, to meet the critically important needs of the project as a whole.
- 7.13. In design terms the proposal turns it back on the rest of the MC project in order to create an island of development. From a planning perspective to permit this development would be in conflict with the policies of the SPD and of the UDP particularly Policy DEV 6, which all but goes unnoticed by Batleys, since it will unacceptably hamper and reduce development options for the redevelopment of the remainder of MC. Furthermore it undercuts the aspirations of the stalled CS to deliver a new PSA within the Quays.
- 7.14. The most important issue would be the overall impact upon the delivery of the MC project, both in transport terms and in commercial terms. The adverse effect of the same upon the city and the regional economy from such derailing

⁵⁹ Mr White

of the MC project simply cannot be under-estimated. In a post Framework world, the economic cards are seriously overplayed by Batleys. If there is a positive economic benefit from the scheme, it is substantially outweighed by the huge economic disbenefits arising out of the significant impacts set out above. The Batleys' scheme is the wrong development, at the wrong time, and because of this, for the foreseeable future, in the wrong place.

- 7.15. The progress of this case has been extraordinary. There must be few cases in which such a radical change has occurred part way through an Inquiry arising from the content of the appellant's own evidence. At the start of the Inquiry Batleys' scheme comprised: 71,026 sq m of Class B1 business use and until the penultimate day of evidence, the case continued to be pressed on this basis. However, part way through the last witness' evidence Batleys decided that it had no choice but to alter its case so as to promote only 51,690 sq m of Class B1 development.
- 7.16. The reason for this change arose because it became apparent, seemingly in the first instance in cross-examination of Batleys' highway witness⁶⁰, that the Class B1 employment densities used in the TA were directly contradicted by the evidence of Batleys' planning witness⁶¹. The TA contended that the appropriate employment density to use would be one employee per 16.3 sq m of employment floor space. However, Batleys' planning witness contended that the appropriate employment density should be 12 sq m not 16.3 sq m. Indeed, he unequivocally contended that the appropriate employment density could in fact be as high as 1 employee per 10 sq m⁶².
- 7.17. PM's expert⁶³, a man whose eminence in this field is unquestioned, concurred with the 1 per 12 sq m figure, but the point is that Batleys only put that forward as a conservative figure, because it suited its argument at the time. Batleys' planning witness⁶⁴ was candid enough to say that it was not until the re-examination of PM's highway witness, that he personally appreciated that using the 1 per 12 sq m figure, would mean that the results of the TA were hopelessly wrong. More particularly that the TA underestimated the amount of traffic that would be generated from the principal land use by a factor of some 36%. That has given rise to the way in which Batleys now put its case, that only the lesser figure of 51,690 sq m would give rise to an acceptable form of development. It is regrettable that it took Batleys until the last moment to realise this and to amend its case. It is worth reflecting however upon the way in which the case was put at the start of the Inquiry.
- 7.18. At the start of the Inquiry, Batleys unequivocally put its case on the basis of who said what to whom and when. Thus, Batleys invite reliance upon agreement with matters which have been discussed with and agreed by SCC as the highway authority, the HA and TfGM. As it turns out, for a whole variety of reasons the contents of the TA and the subsequent technical notes do not provide a robust basis upon which a decision could be made. The history of what may have been agreed based upon what has now plainly been demonstrated to be erroneous information is something of an irrelevance. It is

⁶⁰ X-Examination of Mr White by the Ipa

⁶¹ Evidence of Mr Purser

⁶² X-Examination of Mr Purser

⁶³ Mr Russell

⁶⁴ X-Examination of Mr Purser

now apparent on the agreed evidence of the parties, that the description of development as originally proposed, 71,026 sq m of Class B1 business use should not be allowed.

- 7.19. Surprisingly, there is no formal application before the Inquiry to amend the description of development. This leads to an obvious problem, which is that the SoS is being asked to grant consent for something which all parties agree is unacceptable on the evidence. The remainder of PM's case concentrates upon the case as now put, namely that a condition should be imposed on any permission so as to limit the developable employment floorspace to only 51,690 sq m. However, this course of action is wholly inappropriate.

Transport Concerns

- 7.20. From the outset PM has been seriously concerned with the geographic extent of the TA and the omission of key junctions and links. The scoping exercise mirrored what had been applied for in the landlords arbitration case namely the 2 motorway junctions and 8 junctions on the local road network. Inexplicably the TA did not analyse all of those junctions, but limited its scope to 4 local road junctions and eventually the 2 motorway junctions. There is no modelling which has taken place neither in respect of South Langworthy Road and Eccles New Road, nor upon Trafford Road despite the fact that they are part of a congested network onto which significant traffic will be generated by the proposal. No valid explanation has been given as to why the scope of the TA has been limited. Batleys only defence⁶⁵ of this position was to say the TA had included what SCC, as the highway authority, asked for.

Commitments

- 7.21. The TA Scoping Report proposed that it would follow the Guidelines for Transport Assessments⁶⁶ (GTA) and would identify an opening year (2013), a design year (2023) and use a growth factor to the baseline traffic flows to establish what the baseline would be in the design year. It also proposed to include those schemes which benefitted from planning permission and would affect that background traffic level. Had that approach been followed then there would not have been much to debate at the Inquiry. However the TA then deviated from that orthodox approach by not working to a future design year and not using a growth assumption. The reason for not following the orthodox approach was said to be that the developments which would factor into the assessment had already been committed and were therefore known about. Such an explanation is simply untenable.
- 7.22. If no growth rates are assumed but it is known that there are nearby schemes which have been consented, resolved to be consented or likely to come forward then traffic growth has simply been ignored and the baseline highway capacity substantially under-estimated. Those are not modest schemes, for example the development of the new ITV studios on the opposite side of the MSC has not been taken into account at all. The schemes under consideration are not small schemes e.g. Clippers Quay and the Soapworks (PM3/2 Appendix MH7). What has happened on ManYoo exemplifies the fallacy of Batley's

⁶⁵ X-Examination of Mr White

⁶⁶ CD18

approach. Had growth rates been factored in then it may have been an answer to suggest that the TA has a base date and that subsequent commitments are taken into account by growth rates. However the large development of ManYoo (a renewed proposal) was the subject of an application to renew the consent at the time of the TA, which has now been granted (PM7). That permission is next door to the appeal site and is substantial (1,036 residential units and 5,432 sq m of mixed commercial with 543 car parking spaces) and yet not one vehicle movement associated with that development has been included in the TA. By not following the GTA, and by not using a growth factor and by not including known development sites the TA has seriously underestimated the baseline flows.

- 7.23. The position does not stop there however, Technical Note 1 on Trip Generation explains what assumptions have been made in respect of the committed and part built phases MCK 1-3. Here Batleys' evidence became extraordinary. The starting point is that there is an obvious disparity between the figures used in the TA for MCK 1-3 and those in the OA TA for MCK 1-3 (PM3/6). Batleys assess that the likely trip generation in the AM peak hour is of the order of 660⁶⁷, whereas OA assessed, after mitigation that the figure would be 1,971, almost 3 times higher. OA used a conventional TRICS based approach to arrive at that conclusion. However, Batleys assess the capacity of the multi-storey car park consented in MCK 1, assessed what proportion of vehicles tend to arrive for work in the AM peak and then apply that proportion to the number of spaces in the car park and use the resultant figure as a proxy for traffic generation.
- 7.24. The documentation nowhere suggests that this figure, which in fact represents some 33% of the previously assessed trip generation to be anything other than the total generation for the consented phase MCK 1-3, i.e. 1,719. PM cast serious doubt on the methodology, not least since the likely AM peak arrivals profile is not going to be constrained by the physical capacity of the multi-storey car park. There are, 2,119 spaces in the detailed consent for the car park (55626/FUL), however the outline consent for MCK 1-3 granted permission for 4,500 car parking spaces.
- 7.25. Indeed, as built car park has 2,303 spaces and not 2,119 and there are hundreds of other places to park within a very short distance of MCK 1-3, including the Batleys' site where weekly contract parking is sold. Batleys' car park methodology is manifestly not a proxy for trip generation by MCK 1-3. Again it is prudent to undertake a reality check and ask whether it is remotely realistic to assume that in excess of 150,000 sq m of commercial development together with 2,200 residential units would result in a mere 734 AM peak hour trips. Taken together with the fact that the outline consent actually allowed for 4,500 car parking spaces and not 2,119, the sense of the exercise undertaken by Batleys has always been highly questionable. What came as something of a surprise was to hear Batleys unequivocal acceptance of the point⁶⁸, together with the remarkable explanation that the figure actually represented only the AM peak hour generation of MCK 1.

⁶⁷ 734 before the application of the 10% discount for vehicles already on the network in Nov 2010

⁶⁸ X-Examination of Mr White

- 7.26. Batleys' evidence in this respect is remarkable for a number of reasons. Firstly, if true, it is an explicit recognition that MCK 2-3 have not been modelled despite their being a commitment and in part built out. Secondly, if not true, then it is an implicit recognition that the original methodology is untenable and that trip generation from the committed part of MCK has been grossly under-estimated. Thirdly, such a proposition is not to be found anywhere in the TA or any of the technical papers which give the clear impression that all commitments had indeed been modelled. Fourthly, no explanation was forthcoming which justifies why Batleys would only model MCK 1 when their express methodology was to model the committed development. On this basis alone the whole of the Batleys' TA, even taking account of the reduced floorspace, significantly under-estimates traffic flows from the committed regionally significant development⁶⁹ and as such the appeal ought to be dismissed.
- 7.27. Batleys have fought a rearguard action to try to reconcile its approach with the OA TA. In the executive summary of the OA TA there is a reference to the fact that the full suite of mitigation was not yet known. Batleys have pursued an interesting line of attack which appears to amount to a suggestion that the peak hour trip generation in the OA TA does not take account of the mitigation which was not at that time known and therefore the figures are reconciled because the OA TA must be an over-estimate.
- 7.28. The point might have some force if it had any evidential basis. On a proper reading of the OA TA and PM's evidence it manifestly does not for the following reasons. Table 13 in the OA TA shows the assessed traffic generation in the final year after mitigation, not as a gross figure prior to mitigation. Millions of pounds of transport investment have taken place to accommodate MCK 1-3. The condition on the MCK 1-3 planning permission that requires 45% non-car mode travel is proving challenging to achieve and yet that is not as stringent as the assumed non-car mode in those same tables in the OA TA. PM does not have the authority to release the text of the SFA, but the extent of the mitigation which PM has committed to deliver is explained at PM2/3 and there are no substantial additional infrastructure works yet to be brought forward. If there was any doubt about the fact that the TA has seriously underestimated the baseline then it should be noted that schemes which are acknowledged to be committed have not been included. Indeed the Booths supermarket and the University of Salford offices are not just committed they have been built.

THE PROPOSED DEVELOPMENT

Assumed Modal Split

- 7.29. Having assessed what the unconstrained trip generation might be Batleys has concluded that because of the accessibility of the site coupled with the restriction of car parking that a reduction should be applied of the likely trip generation from the appeal proposals. The figure which has been alighted upon is that of 45%, which is said to represent the modal split which was assumed by OA TA for MCK 1-3. Once again Batleys have simply got it wrong.

⁶⁹ Accepted by Mr White in X-Examination

- 7.30. Batleys have looked at what the car trips from the site would otherwise amount to and then reduced that figure by a blanket 45%, which does not make mathematical sense (CD1.12 paragraph 7.3.7). The 45% figure derives from condition 46 of the MCUK 1-3 permission, which requires a demonstration of measures before each phase receives detailed consent as to how to achieve a 45% non-car mode of travel. That is to say that 55% of all trips to MCUK 1-3 would be by private car. It does not mean that there would have to be a reduction of car trips by 45%, which is how it has been used by Batleys so as to reduce the likely assumed traffic generation from the site. For example, if a development attracts 100 trips in the AM peak hour, 78% of which are by private car then that means 78 car movements to the site. If that figure is reduced by 45%, which is what Batleys have done, then that assumes that 43 movements will be car borne in the AM peak. By contrast to secure 45% non-car trips would result in 55 cars in the AM peak, i.e. 28% more cars.
- 7.31. When faced with this obvious error Batleys' case relied upon the outturn of the survey data of existing office users in Salford Quays which underpinned the OV TA. Again this has been misunderstood. Batleys has sought to argue that the 39% of peak hour B1 trips which are assumed in its TA equates to the underlying OA survey. There are 2 problems for Batleys in this regard. Firstly it does not and secondly the evidence from Batleys casts some doubt on the findings in any event.
- 7.32. Depending upon how car passengers are treated in Table 13 of the OA TA, the number of people surveyed who travel to work by private car or taxi is 51% in contrast to the 39% assumed by Batleys. That figure itself is remarkably low since in this area the ONS figure is 71.7%, to achieve a halving of that figure by only very limited means and a materially lower figure than OA surveyed businesses without major public transport improvements is optimistic to the point of non-credibility.
- 7.33. Secondly, Batleys' work does not suggest that this figure is actually achievable. The lost survey referred to in the TA Scoping Report suggests that WSP employees had a similar travel to work pattern as the wider area. Moreover when pressed as to what evidence was being relied upon to demonstrate why a massive 45% reduction in car use was being suggested Batleys have pointed to constrained car parking. However, in fact there is ample car parking in the area as well as a Government sponsored study of sustainability improvements in 4 market towns from AWTPs as a result of millions of pounds of investments (B1.10). However, that study demonstrates far lower modal shift from the private car than Batleys suggest in this case and moreover at the expense of substantial public sector cost. Batleys implausibly assume higher modal shift from an AWTP whose steps are unidentified and at a cost of only a few hundred thousand pounds. In short the reduction in car borne trips of 45% assumed in the TA is evidentially unsupported and in reality implausible.

Trip Generation of the Proposed Development

- 7.34. The methodology to assess the likely trip generation in the TA is said to be a bespoke one and not the usual approach which the Ipa and PM adopt in their analysis of the proposal. The standard methodology is to look at comparable sites in the TRICS data base and generate a floorspace trip rate. Batleys'

methodology seeks to take the floorspace, work out how many employees will be employed and then work out what proportion will be arriving in the peak hour. However, the problem with this approach is that it is highly sensitive to the employee density assumptions which are used. Since this is a predictive exercise if this methodology was to be used then some form of sense checking ought to have been done and any assumptions would have to be robust. The reason why the wheels have well and truly come off this approach is that neither was done.

- 7.35. PM did a sense check by comparing the derived trip generation from Batleys' methodology with town centre sites which are likely to be the most sustainable places for B1 (PM3/4 Appendix MH11). That exercise revealed that the trip generation by Batleys was well in excess of that for town centre sites, which should have told Batleys that their figures were wrong. However, Batleys sought to show⁷⁰ that its trip generation was not as low as 2 out of the 6 examples used by PM. Aside from statistical naivety it demonstrates that Batleys was far more interested in securing support for its untenable stance, which was later accepted⁷¹, than properly verifying the exercise.
- 7.36. As for the employee density actually used; 1 employee per 16 sq m is a mid point figure from a study by GVA Grimley done well over a decade ago. Batley's planning witness uses 2011 figures and posits that 1 employee per 12 sq m is the appropriate density, and that the density could be as high as 1 employee per 10 sq m (B2/1 page 55 Table 6.1). Thus, on Batleys' figures, trip generation could be 20% higher. Using Batleys' methodology therefore there is a significant danger that reliance upon 1 employee per 12 sq m and reducing the floorspace could still result in an under-estimate in trip generation and therefore upon the impact of the proposals.
- 7.37. Even if one abandons the employee based methodology and converts Batleys' approach into a trip generation by floorspace approach it is of a similar order of magnitude to that used by PM and the lpa. However that is not the point. The issue is that major doubts must be laid at the door of an exercise which takes as its starting point a figure derived from a bespoke methodology based upon out-of-date data and which grossly underestimates trip generation. The fact that this gross error has now been accepted and the case amended means that SCC officers were manifestly wrong to have recommended the proposal for approval back in August on this ground alone.

Inadequate Mitigation

- 7.38. In policy terms, the question to ask is whether or not the residual cumulative effects of the proposed development are severe (Framework paragraph 32). That is to say after appropriate measures have been taken to mitigate the impact of the development on the highway network and to promote suitable measures to reduce reliance upon the private car, are the impacts severe (Framework paragraphs 32 & 34). It follows that if a proposal does not bring forward appropriate mitigation then there is a failure to comply with paragraph 32. In this instance not only are the impacts palpably severe, but the proposed mitigation by way of limited highways works together with the

⁷⁰ Evidence-in-Chief of Mr White

⁷¹ X-Examination of Mr White

payment of less than £500,000 for a paltry assemblage of works and the start of an AWTP is manifestly inadequate. Not only can that be unfavourably contrasted with the many millions that have been spent to deliver MCK 1-3, but on the evidence there will not be a single additional seat on a bus or a metro created nor any increase in capacity generated. Moreover the very limited highway improvements seek, albeit unsuccessfully, to do no more than accommodate the proposed development on the network.

- 7.39. What is proposed here amounts to limited upgrades of nearby bus stops which are unlikely to achieve substantial changes in behaviour, together with part funding for an AWTP. As noted above the research provided by Batley to support the efficacy of such a plan achieving modal shift of this extent is non-existent. Moreover there has been no attempt to provide examples from elsewhere where such a change in behaviour has occurred. Indeed, Batleys cannot even point to how the money would be spent.
- 7.40. In reality, to properly mitigate the impact of the proposal, without seriously inhibiting further development in MC, would require major highway infrastructure and substantial sums of money to improve public transport, particularly the Metrolink. Whether that is £2m for a new Metrolink kit or a contribution to a future additional road crossing of the MSC is unknown at present. However, in both instances the investment required would be well in excess of what Batleys proposed at this stage.
- 7.41. Batley's one point is that the highway authority (SCC), the HA and TfGM have not formally objected. Whilst that is true enough, given the flaws in Batleys' evidence base that have now been exposed there must be substantial doubts as to whether those positions would be maintained if those organisations were fully aware of the problems with the TA. Moreover, the consistent stance has been that the TA is seriously deficient (PM3/4 appendix MH16). The appraisal of the MCK 4-5 application by JMP for the HA asserts that there is a need for a proper capacity exercise of the Metrolink, reaffirming TfGM's concerns in its letter of 14 August 2012 (CD6.42). Page 4 of the JMP appraisal confirms that Batleys' TA trip generation was never agreed with TfGM. Page 5 confirms use of a gravity model and that all commitments should be included in the baseline assessment. PM's correspondence with TfGM in October 2012 confirms the content of the August TfGM letter that the TA is not good enough to enable a proper estimate of the capacity of the Metrolink and no commitment has been given by Batleys to fund an increase in tram capacity (PM3/4 Appendix MH13). A HA email to PM contains a comprehensive indictment of the inadequacies of the Batleys' TA, coupled with the inexplicable optimism of the HA in the efficacy of the AWTP (PM3/4 Appendix MH12).

Overall

- 7.42. The evidential position is:

1. that the HA had serious concerns with the TA, which were only capable of being overcome if significant modal shift could be shown to be achieved;
2. that TfGM had serious unresolved concerns with the TA, which were capable of being overcome if significant modal shift could be achieved

and if an appropriate contribution was made to the improvement of Metrolink services, a requirement which has not been followed up (CD6.42 & CD6.42). If PM had no other point to make save to draw attention to this letter then the appeal should fail. It remains a source of bafflement to those advising PM that a request by TfGM to enter into negotiations to secure public transport improvements by Batleys has been ignored;

3. that the lpa had requested Batleys to undertake a consistent modelling exercise for the local and strategic road networks which Batleys declined to do. The lpa then commissioned JMP to undertake an analysis⁷² which showed that the effect of Batleys' scheme on its own was not acceptable. The lpa have now, rightly, concluded that a S106 obligation cannot be agreed to since the mitigation package is seriously flawed in that it does not demonstrably achieve modal shift (SCA3);
 4. that Batleys has conceded⁷³ that the TA does not support the quantum of floorspace applied for, and does not even model the full extent of consented MCK 1-3.
- 7.43. The above demonstrates the basis for PM's cause for serious concern. More importantly there will scarcely be a case where the highways case has been so comprehensively undermined by the end of an Inquiry, such that it can be confidently submitted that the TA does not provide a reliable basis for decision making. Given that there is no robust mitigation package as required by the HA or TfGM, the case that is being put to the Inquiry is little more than a leap of faith on the part of Batleys that things will work out in due course. That is a risk that is far too great to take. If it did not pay off then what will have been jeopardised would be any future development of MC. Put in those terms it is blindingly obvious that consent should not be granted.

Policy

- 7.44. UDP Policy MX 1 is a permissive policy which encourages appropriate uses within the designated areas. It is not however a precursor to a libertarian anything goes approach to planning in Salford. First of all it was a policy written as part of a suite of policies which included retail policies and there is no evidence that Policy MX 1 was intended to trump such policies. Secondly, in judging any proposal within the Policy MX 1 area there is a need to have regard to: (i) the effect that the proposal would have on the regeneration of the wider area and (ii) the uses on adjoining sites and the objective of securing a mix and balance of uses throughout the mixed use area. Indeed the supporting text at paragraph 5.6 makes it clear that a co-ordinated approach was expected in this part of Salford in order to *"...strengthen the success of Salford Quays... and complement existing assets such as the Lowry..."*.
- 7.45. It follows that if the conclusion is reached, as it should be, that the grant of permission here would involve sporadic isolated development which would hamper the further expansion of the Quays, indeed even taking road space

⁷² X-Examination of Mr Green

⁷³ X-Examination of Mr White

and public transport capacity created to accommodate the committed MCUK 1-3, then there can be no question but that Policy MX 1 would not be furthered, but would be actively conflicted. If the point were not sufficiently clearly underscored by Policy MX 1, UDP policy DEV 6 could almost have been written with this case in mind. Policy DEV 6 says, *"On sites within... an area identified for major development, planning permission will not be granted for incremental development which would hamper or reduce the development options for the area."*

- 7.46. The supporting text to Policy DEV 6 at paragraph 15.23 is resonant of PM's point that development should not be granted which would have the effect of inhibiting regeneration of the area, and it may be appropriate to delay development until an area has been properly master-planned. Here, that process of master-planning has begun, in part by means of the SPG; in part by the planning application for MCUK 4-7; and in part by the commitment to the Area Wide Transportation Model which SCC has commissioned. The obvious question is why cannot Batleys just wait until SCC have completed that model and know exactly what the capacity of the network is and what infrastructure improvements are necessary to facilitate further significant development in this part of Salford.
- 7.47. In policy terms therefore there is clear UDP policy against the Batleys' scheme and there is accordingly a presumption against the proposal. In this context it is little wonder that Batleys did not address Policy DEV 6 in the very extensive planning proof of evidence it submitted.

Retail

- 7.48. With the abandonment of the CS there is now no town centre boundary within emerging policy. Thus, in policy terms some of the obscure and obtuse interpretation of whether the site was to be treated as in-centre or edge-of-centre is no longer relevant. However, Batleys' interpretation of The Framework is wrong and as recognised⁷⁴ requires the interpretation of the glossary definition of edge-of-centre to be excised from the guidance. The proper interpretation is to interpret the body of The Framework as consistent with the guidance. Any other interpretation would be wrong in law.
- 7.49. Batleys' contention is that because the proposed development falls within the wider Policy MX 1 area, which includes retail as part of the potential mix of uses that retail is acceptable in principle. That is a misunderstanding of the application of extant policy. Firstly Policy MX 1, when formulated, was to be read in conjunction with other policies which included Policy S 2 and the requirement to sequentially test development. However that policy has not been saved, therefore the question is how should one treat the appeal site?
- 7.50. In Framework terms the Batleys' site is out-of-centre as is the whole of MC. However in local policy terms there is explicit policy recognition that, in some circumstances, retail can be appropriate in the Policy MX 1 area. Those circumstances are, in part, outlined in the supporting text and the emphasis on Dock 9 and in the SPG, which sets out in terms that retail is appropriate in the area. This was to have been the PSA in the draft CS, but only limited retail

⁷⁴ X-Examination of Mr Purser

beyond that (CD5.11 Policy TC1). The reason for this is obvious from a sensible, old fashioned planning perspective. Within the SPG, there is an emphasis upon MCUK 1-3 and the Lowry as the focus of redevelopment, and part of that focus is retail based (CD5.9 Policy MC:UK 1). To dilute that throughout the MC area would be to dilute investment away from the embryonic centre of MC. Thus, even if the Lowry and MCUK 1-3 are not sequentially preferable in Framework terms it is nonetheless preferable in policy terms by reason of the SPG, as well as Policy DEV 6.

- 7.51. Batleys is candid that the appeal proposal aims to create a further local focal point i.e. compete with and not compliment the MCUK 1-3/Lowry area (B2/1 paragraph 9.13). The reason why Batleys has presumably abandoned an unrestricted proposal for retail is the obvious point that an M&S Simply Food or a Waitrose would directly compete with the high order retail that is steadily being brought forward in the MCUK 1-3 area as well as being the objective of the resurrected Lowry outlet.
- 7.52. There are 2 problems with the discounter only approach promoted by Batleys. Firstly, there must be considerable doubts whether a discounter only condition is lawful. Firstly, despite the reference in the Practice Guidance to the former Planning Policy Statement 4 no example has been put forward as to where an enforceable condition which achieves such an objective has been satisfactorily imposed. PM is deeply sceptical whether a restriction on the number of lines is enforceable. Secondly, PM's aim for the Lowry is to transform it into a centre which more closely matches the needs of the increasing population of residents and employees in the area and there is no good reason why that should not include a discount operator. Finally, one must ask why it is that Batley contends that a condition should be imposed to limit the nature of the operator as well as the floorspace. It can only be an implicit recognition that such development is better located in the embryonic centre of MC or the de facto centre of Ordsall rather than the appeal site. Indeed if Batleys' policy interpretation is right then no condition would be warranted, a dichotomy it appeared not to have grasped.

Design

- 7.53. Batleys accepted⁷⁵ that in a post Framework world, the bar is a high one when judging what comprises good design, which is at the heart of good planning (paragraphs 17, 56 & 57). Batleys also acknowledged⁷⁶ that poor quality design or that which failed to take an opportunity to improve the townscape should be refused (paragraph 64). Batleys fully recognised that Article 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2010 means for outline consent the approximate locations of buildings, routes spaces, and 3-dimensional parameters of buildings are determined at this stage. Moreover where access is being determined, as here, it is no longer limited to merely the means of access into the site, but, by reason of Article 2 it includes routes for all modes and within the site. Thus, one cannot sidestep deficiencies in a scheme by indicating that matters will be capable of being controlled by the lpa at reserved matters stage. Moreover,

⁷⁵ X-Examination of Mr Rose

⁷⁶ X-Examination of Mr Rose

whilst it is true that at the time of the design of the Batley's scheme neither the MCK 4-7 nor the smaller MCK 4-5 applications were known to Batleys, the fact that there would need to be excellent linkage through to and connection with the core of MC would be evident to anyone with more than a passing knowledge of the area.

7.54. Despite the above, the design appears to be deliberately insular. In part it is claimed to be for meteorological reasons. An alternative location when it is windy in the main square outside of the BBC was the way the matter was put by Batleys⁷⁷. This implies that the scheme is intending to be a rival destination to MC as it presently exists. There are a series of problems with the design which ought to lead to the appeal being dismissed in any event, even were it to be the case that all of the other concerns were thought to be capable of being overcome. Those are:

- the design is on a North-South axis whereas the townscape within which it sits plainly warrants an East-West emphasis;
- with no active frontages the design plainly turns its back onto Ohio Avenue;
- poor linkage across Ohio Avenue. On the north side is a pavement, which crosses the access to the service yard and then disgorges pedestrians onto a roundabout and on the south side a narrow pavement which again ends in a roundabout;
- poor connectivity through the site. A dog leg route is shown, which ends in a dead end;
- a confused approach to landmark/gateway buildings. The Design and Access Statement contends that the site is an "*entrance location to the key gateway site*" (CD1.8 page 11). However, for the road visitor that is Chandlers Point, for those using the Metro it is the south of the site. The analysis is plainly wrong. The one tall building would be located part way along Broadway, when the true gateway is at Chandlers Point;
- poor linkage to the Metrolink. In effect there would be a need to cross the line twice to get to the eastbound platform even if a link could be established;
- a very poor layout for the foodstore. Batleys conceded⁷⁸ that the layout (both configuration and service yard access) were "*far from ideal*".

7.55. If the touchstone of acceptability of the proposal is the extent of east-west connectivity and the potential for the proposal to compliment rather than compete with MC then this design fails that test miserably. If MCK 4-5 does eventually happen then the appeal site would function as separate to it, whereas if MCK 1-3 does not develop further then there will be very limited connectivity between the appeal site and the rest of MC.

⁷⁷ X-Examination of Mr Rose

⁷⁸ X-Examination of Mr Chase

Conclusions

- 7.56. What is proposed is the wrong development, at the wrong time. It should be noted that PM do not say the wrong place. PM is very keen to see the Batleys' site redeveloped, but not at the expense of the delivery of the rest of the MC project. If permission was to be given then it might eventually provide a net economic gain focusing solely upon the Batley's site. However, what is put at risk are the millions of pounds of public and private sector investment which has been directed into this part of Salford over the last 6 years which has led to a project which has achieved remarkable successes even in the pit of a recession.
- 7.57. The SoS should not be seduced by promises of private sector investment and the misuse of positive statements in The Framework. There should be no mistake, to grant permission in this case would put at risk the potential for thousands of future jobs and further inward investment into this area. Batleys' case is that they should be allowed to use up what little road capacity exists and avoid paying for their fair share of infrastructure costs, and if that puts at risk the rest of MC then that is tough, since it does not make a case that there is room for both this scheme and the rest of MC, including the consented parts.
- 7.58. That Batleys have the audacity to seek to contrive a case that somehow PM must be planning some further unspecified mitigation because it has not disclosed the SFA is both disingenuous and untrue. Indeed, reliance upon this ludicrous debating point is evidence not of the strength of the Batleys' case but of its weakness. This is a wholly unmeritorious proposal which has been poorly supported in evidence and risks very serious harm to the economic future of this part of Salford.

8. Consultation Responses, Written Representations and Other Relevant Correspondence

Consultation Responses (CD4)

Highways Agency

- 8.1. The HA confirmed on the 30 October 2011 that it had no objection to the application subject to the imposition of conditions relating to the submission, approval and monitoring of a Full Site Travel Plan and an AWTP (CD4.22).

Transport for Greater Manchester

- 8.2. In April 2011, TfGM indicated that it was generally supportive of development likely to generate more patronage on the Metrolink network and offers residents, employees and visitors access to a choice of sustainable travel modes which would help to reduce the amount of car travel. Notwithstanding the above, TfGM identified several issues of considerable concern relating to the TA (CD4.8). These related to: whether the impact on the South Langworthy Road/ Broadway junction had been correctly modelled and the impact the development would have on the operation of the Metrolink (CD1.12 Table 9.5); that the TA had not followed standard industry practice; the use of a bespoke methodology that did not provide realistic or reliable trip generation estimates; concern about the position of a proposed Metrolink crossing and vagueness over enhancements to walking, cycling and public transport facilities as a contribution to the shift from the use of the private car (CD1.12 Paragraph 5.8.1).

Others

- 8.3. CDs 4.1 to 4.7 contain the views of other consultees who have no objections to the development subject to the imposition of appropriate planning conditions. CD4.9 contains comments from the Ipa's Spatial Planning unit. The comments deal with the principle of the development, retail, affordable housing and housing mix, design, economic development, open space, flooding and sustainability. These comments were taken into account by the Ipa when considering the application and do not relate to the putative reasons for refusal.

Written Representations

Peel Holdings Land & Property (UK) Limited (B2.6a)

- 8.4. The comments contained here reflect those set in the case put to the Inquiry.

Wm Morrison Supermarkets plc (B2.6b)

- 8.5. Morrison Supermarkets occupy a new retail unit off Trafford Road. The application proposes some 2,200 sq m of retail floorspace in an out-of-centre location as such must be assessed against UDP and national planning⁷⁹ policies. Batleys have failed to undertake a proper sequential test, in particular failing to demonstrate flexibility in terms of scale, format, car

⁷⁹ The submissions were made before the introduction of The Framework and the withdrawal of the Draft CS

parking and disaggregation. The use of unrealistic sales density figures has significantly underestimated the impact of the proposal.

- 8.6. The Ipa's retail study shows limited capacity (2,500 sq m net) for additional convenience capacity in the Quays area with some 1,500 sq m accounted for by existing commitments. Morrison supports the Planning Officer's assessment that a retail foodstore on the edge of the wider Quays area would not assist in supporting the objective of developing a vibrant and town centre at Salford Quays. Dispersed retail activity across the wider Quays area could result in vacancies in the town centre including The Lowry. The proposal would conflict with the provisions of UDP Policy MX 1 and national retail policy.

Insider Technologies Limited (B2.6c)

- 8.7. No objection to the application, but concern that existing roads may not be able to cope with the additional traffic.

Lexington Court Resident (B2.6d)

- 8.8. Existing peak hour traffic flows are heavy, which makes crossing the Broadway and accessing the Metrolink difficult. Right-turning traffic into the flats results in queues on Broadway, which would be exacerbated.

The Emerson Group (B2.6e & B.A4g)

- 8.9. There is a substantial amount of vacant new/previously used office floorspace and existing/proposed hotel accommodation in the Salford Quays, Salford and Trafford Park areas and currently take-up rates are low. This does not suggest a need for more office floorspace. The evidence that there is a demand for more retail space is inconclusive. If some or all of the existing and extant proposals came to fruition there would be more than sufficient provision of A1 retail within a 1.5 mile radius. There is already sufficient capacity within the Quays area for leisure and A3 uses and there does not appear to be a strong demand for any more at this time particularly following the completion of MCUK 1. Both the Lowry Outlet Mall and MC have available D1 space and have found it extremely difficult to attract any medical centre users. This is an area that has a substantial surplus of residential accommodation that owners are struggling to fill and several extant permissions which have not been commenced due to lack of demand.

- 8.10. The density and massing of the scheme is out of context with the immediate surroundings. Adjacent properties to the east and west comprise small, 2-storey business units surrounded by car parking and green landscaping. This development would largely overshadow these developments. The ideal location for a gateway site would be fronting the Broadway/Quays roundabout to the east. This development would create a cluster of high density, high rise buildings away from the current pattern of tall buildings fronting the water. The focus of Quays Point and the Salford Quays area generally is around MC, the Lowry Mall and the Lowry Theatre which the draft CS proposes as a District Centre. This development would not connect to this central focus. There would also be very little in pedestrian connectivity with the 2 main pedestrian routes ending at key roads which do not have good onward access for pedestrians especially towards MC.

- 8.11. There is no guarantee that Batleys would relocate elsewhere in the local area. Block A would be built first on the car park of the current cash and carry which would stay open. However, there are no details of where Batleys' customers would park during construction of the first phase.

Other Correspondence

Transport for Greater Manchester

- 8.12. In August 2012, TfGM wrote (CD6.42) regarding the second application submitted by Batleys (SC2/1 paragraph 5.1), which was the subject of a report to the Planning and Transportation Regulatory Panel. TfGM noted the officers' recommendation to approve the application and indicated a no objection to this in principle. Notwithstanding broad concurrence with the balancing exercise carried out by SCC officers, TfGM referred to serious reservations about the predicted magnitude of traffic and transportation impacts of the development and the cumulative impacts of the Batleys and PM schemes. Once again concern regarding the methodology for predicting trip generation and a belief that the approach adopted produced unrealistically low figures as apposed the a TRICS based assessment. Concern that the impact of the development on the operation of the Eccles New Road/ South Langworthy Road junction had not been modelled. TfGM does not agree with Batleys' conclusion that there is sufficient capacity on the Metrolink to accommodate the proposed development and the fact that the assessment does not take account of the cumulative impact of the PM schemes. Concern is also expressed that measures to mitigate the impact of the development do not include any increase in public transport capacity.
- 8.13. Following correspondence in November 2012 from Batleys regarding the proposed reduction in B1 floorspace (B.A4), TfGM indicated that its position with regard to the development remained unchanged (B.A4f). With no resultant change in the overall number of jobs created and thus no reduction in the overall trips generated, TfGM still has serious reservations about the predicted magnitude of traffic and transportation impacts of the proposed development and also the cumulative impact of proposals on the adjacent site.

Highways Agency

- 8.14. In October 2012, the HA wrote to Cobbetts LLP, setting out the HA's position (ID1) in relation to the PM's MCK 4-5 application and the second application submitted by Batleys (SC2/1 paragraph 1.6). Other than a reduction in the height of Block F by one storey, this second application by Batleys is similar in all other respects to the appeal scheme. The HA indicated that it had no objections to either the Batleys' scheme or the PM scheme subject to the planning conditions set out in the October 2011 TR110 direction (CD4.22). The HA response goes on to say, " *...the conditions attached to both the Batley's and Media City applications are only sufficient to mitigate the impact of each development when considered in isolation. It would not be appropriate for planning permission to be granted to both the Batley's and Media City applications until a thorough and comprehensive assessment of the cumulative transport impacts of both applications has been undertaken.*"

- 8.15. Following correspondence in November 2012 from Batleys regarding the proposed reduction in B1 floorspace (B.A4), the HA indicated that its position with regard to the development remained unchanged (B.A4f).

9. Conditions and Obligations

Conditions (B.A6)

- 9.1. Suggested Conditions (SC) 1 and 2 relate to the submission of reserved matters. However, before the submission of reserved matters, SCs 3 and SC15 require the submission of a masterplan for the site to include details of phasing, plot details, access and off-site highway works, on-site public realm and infrastructure and details of a delivery programme. SC6 indicates that the layout subsequently submitted should generally accord with the layout plan submitted with the application (Plan B). SCs 11, 12, 19, 20, 21, 22, 23, 24, 25, 27 and 31 require details of design, access, renewable energy use, a wind assessment, potential delivery hours, fume control for A3, 4 and 5 uses, noise mitigation, waste disposal, crime prevention and construction management details relating to the handling of contaminated and inert fill, dust and run-off for each phase to be included within the reserved matters submissions.
- 9.2. SC4 links the commencement of the development with a programme for the delivery of access and off-site junction improvements which is to be agreed with the lpa along with the securing of a S278 Agreement. This is a Grampian style condition and Batleys indicated that the test is that such conditions should not normally be imposed where there is "*no prospect*" of a condition being satisfied rather than a demonstration of "*a reasonable prospect of satisfaction*". Notwithstanding the requirement to apply for landlord consent to modify the restrictive covenants relating to the access works and its stated position, PM accepted that it could not claim that there was "*no prospect*" in respect of the access Grampian condition.
- 9.3. SC5 sets out the floorspace maxima for each of the component parts of the development. The lpa and PM strongly object to the use of such a condition and the principle of whether imposing such a condition is appropriate has been dealt with in Section 1. In addition, PM query the total floorspace for the hotels shown in SC7f which refers to a maximum hotel floorspace of 16,492 sq m. The description of the development on the application form and the Planning Statement of Common Ground does not give a floorspace figure rather they refer to the erection of 2 hotels. Whilst the Design and Access Statement (CD1.8) at paragraph 3.23 does refer to a total hotel floorspace of 13,482 sq m, the TA, both for the appeal scheme and the resubmitted application, assesses the impact of hotels comprising 300 bedrooms with a total floorspace of 16,942 sq m. Given that the key concern is highways impact, if the reduced B1 floorspace proposal is found to be acceptable, I consider the use of the 16,942 sq m figure in a condition would not be unacceptable.
- 9.4. SCs 7, 8 and 9 set ceilings on the floorspace of the retail development and their delivery to ensure retail units are not provided in isolation from other development. SC10 would restrict the proposed foodstore in Block A to a Limited Assortment Discounter with a product line of not more than 2,000 items. The intention of the condition would be to limit the occupation of the store to a deep discounter such as Aldi or Lidl. Both the lpa and PM queried the enforceability of the condition with the lpa suggesting that a limit on the number of lines did not necessarily guarantee occupation by a deep discounter and PM queried the necessity for the condition. Batleys indicated that it did

not consider the condition necessary but that if it were felt by the SoS to be necessary it did not oppose its inclusion. *SC13* deals with the site demolition and clearance. *SC14* relates to the submission of a scheme for the provision of 20% of residential units as Affordable Housing along with details of timing, retention and occupancy.

- 9.5. *SCs 18, 28, 30, 32, 35, 38, 39, 41, and 42* relate to conditions that require details to be submitted and agreed before construction commences. These relate to finishing materials, a method to deal with ground contamination, on-site construction training, site management details, achieving BREEAM "very good" energy ratings, the disposal of foul and surface water drainage, car park management, and a site specific plan and an AWTP. *SCs 16, 26, 33, 36, 40, and 43* relate to matters to be submitted before first occupation of the developments. These relate to maintenance of and accessibility to the public realm and infrastructure, the implementation of waste management arrangements, external lighting, landscape management and maintenance, the completion and availability of car parking and arrangements to access the Metrolink stop on The Quays. In respect of the proposed tram crossing, TfGM do not say that there is no prospect of a safety audit sign off. What is proposed is a simple tram crossing and there is one already there at present.
- 9.6. *SC29* requires that vegetation is only to be removed between October and February. *SC34* provides for the implementation of approved landscape schemes between October and March. *SC37* relates to the use of oil interceptors in the drainage system.

S106 Unilateral Undertaking (B.A13) & Deed of Guarantee (B.A.15)

- 9.7. The UU sets out that the developer will pay to the Ipa a Public Transport Contribution and a Travel Plan Contribution at the grant of reserved matters or 7 years following the grant of permission whichever is the soonest. *SC42* requires that before the commencement of development an AWTP is submitted to and approved by the Ipa. The UU provides a sum of £165,000 to fund this Travel Plan. In addition, the UU provides for the payment of £250,000 to upgrade bus stops within 400m of the site (10 bus stops), provide secure, covered cycle parking, enhance pedestrian signage and enhance lighting and surfacing at pedestrian crossings. Batleys has a long lease on the site and the owner (Peel Holdings) has not signed the agreement. In this context, the Deed of Guarantee signed by HSBC plc will guarantee the developers obligations under the UU.

10. Conclusions

[The numbers in () brackets refer to earlier paragraphs in this report or relevant documents.]

- 10.1. The development plan recognises that the successful regeneration of Salford Quays is fundamental to the economic and social improvement of Salford, the MCR, the North West and the North of England (4.3, 4.4-4.7). The UDP, principally through Policy MX 1, and the SPG promotes Salford Quays and particularly Dock 9 as an area for mixed use developments comprising a wide range of uses (4.5). As part of this regeneration, the SPG sets out a vision to create a globally significant new media city capable of competing with similar locations across the globe. With the successful and high profile development of MCUK 1 and the permission relating to Phases 2 and 3 this process is underway. In this context, the principle of a substantial mixed used development on the appeal site supports the aspirations of the development plan and Framework policy to promote sustainable development and as such would be acceptable (4.10).
- 10.2. The significance and value of Salford Quays in terms of economic and social regeneration is not in dispute (5.4, 6.8, 7.1 & 7.2). Similarly it is acknowledged that there is still much to be done and that the appeal site and adjoining sites, MCUK 4-5 and Chandlers Point, are significant opportunities to build on the acknowledged success of existing developments bordering Dock 9 and the MSC (6.8).
- 10.3. Although UDP Policy MX 1 does not require the redevelopment of Salford Quays to come forward in any particular sequence (5.33), it does require regard to be had to the impact new development would have on the regeneration of the wider area (6.10xi). UDP Policy DEV 6 says that planning permission for the incremental development of sites within an area identified for major development will not be granted where it would unacceptably hamper or reduce the development options for the wider area. The supporting text says that in some circumstances, it may be appropriate for development to be resisted until a masterplan has been produced for the wider site. Batleys accept that UDP Policy MX 1 is consistent with The Framework and up to date (6.10xii). In a similar vein, UDP Policy DEV 6 is, in my view, wholly consistent with the purpose of the planning system to contribute to the achievement of sustainable development as set out in paragraph 6 of The Framework. Here, the economic dimension of sustainable development identifies that the planning system can contribute to a strong and responsive economy by, amongst other things, identifying and coordinating development requirements, including the provision of infrastructure.
- 10.4. Given the acknowledged importance and value of Salford Quays and the acceptance that the highway works proposed as part of the appeal scheme are the only remaining practicable highway improvements that could be made within the existing highway network (6.26), it is evident that to drive and support the continued economic success of Salford Quays development proposals need to be coordinated so that the significant resources of land and location can be efficiently and effectively used (6.12). Thus, here, for coordination to be effective not only does it require the production of a

masterplan to guide the location of various uses, it also requires the identification of the necessary infrastructure, particularly roads and public transport, to support the effective and efficient development of individual sites. This is an approach that is entirely consistent with the overarching aim and core principles of The Framework. Although the 2007 SPD refers to the preparation of a masterplan, none has been produced. However, it would appear that the first steps to the production of a masterplan/infrastructure plan for the wider area are taking place, with the lpa commissioning an Infrastructure Strategy and Delivery Plan (6.13), the submission of PM's planning applications for MCUK 4-5 and 4-7 and other work being carried out by PM (PM4/2 Appendix 4).

- 10.5. It is in the above context that the Batleys' application should be addressed. Of the matters that the parties to the Inquiry were asked to address (1.7 & 1.8), I consider the 2 key determining matters in this case are the implications of the proposed development on:
- (i) the operation of the highway network including public transport operations; and
 - (ii) the development and regeneration of the MediaCity:uk and Quays Point area.
- 10.6. The request by Batleys that should planning permission be granted a condition restricting the level of B1 development should be imposed is an acceptance that the application as submitted i.e. for 71,196 sq m, does not demonstrate that it would not have an unacceptable impact on the local highway network (5.3, 6.7 & 7.15). Given that the use of up-to-date employment densities that the likely level of employment and consequently the number of vehicle trips generated would be significantly higher than tested by the TA, I have no reason to disagree with that conclusion (6.18, 7.36). To overcome this significant and, in my view, fatal flaw, Batleys submit that either a planning condition restricting the amount of B1 office space to 51,690 sq m could be imposed or the SoS could amend the description of the development to reflect the lower floorspace figure.
- 10.7. The report at paragraphs 1.12 to 1.32 sets out the parties' submissions on the principle of imposing such a planning condition (SC5). Based on the submissions made and my reading of *Bernard Wheatcroft Limited v Secretary of State for the Environment and Another*, (1982) P&CR 233, *Forbes J*, I conclude that the proposed change would represent a substantial alteration that would deprive those who should be consulted of the opportunity for meaningful consultation (1.26-1.32). Having regard to the principle established by Wheatcroft, I conclude that it would be inappropriate to either impose a condition or amend the description of the application to reduce the B1 floorspace from 70,126 sq m to 51,690 sq m.
- 10.8. Accordingly, the appeal should be dismissed and planning permission refused for the development as submitted. Should the SoS disagree with my conclusion and consider that such a condition could be imposed or that the description could be changed, I have assessed the proposal on the basis of the reduced floorspace.

The impact on the highway network including public transport operations

- 10.9. The policy context is set by UDP Policies MX 1 and DEV 6 and the guidance set out at paragraph 32 of The Framework, which says that decisions should take account of whether ... *"improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."* I agree with the parties that although this approach is a significant shift away from previous practice of seeking Nil Net Detriment (NND), decisions need to be based on a robust TA. Indeed, in this case, given the nature of the Salford Quays area the need for a robust TA was identified in 2009 (CD3.1 paragraph 1.6).
- 10.10. The HA has no objection to the proposal subject to the imposition planning conditions regarding site and area wide travel plans (8.1, 8.15 & 8.16). TfGM, whilst supportive of the principle of the development, has significant concern regarding the adequacy of the TA in that it appears to artificially under estimate the likely level of traffic generated by the development, the impact this would have on the operation of the Metrolink and the absence of measures to increase public transport capacity (8.2, 8.13 & 8.14).
- 10.11. The Batley's TA was produced in February 2011 following a scoping exercise with SCC as highway authority (CD1.12 & CD3.22). In terms of committed developments, the TA was updated for the Inquiry to include 3 additional significant schemes (B1/2 Appendix D). Batleys undertook its TA and proposed mitigation measures on the basis of the NND approach. The TA and subsequent assessments by the Ipa and PM sought to estimate the impact on the capacity of junctions assessed. In this case the 2 key junctions are the Trafford Road/Broadway and South Langworthy Road/Broadway traffic light controlled junctions. DoS, expressed as a percentage, is used measure of capacity, whilst 100% is a junction operating at capacity, 90% is accepted as the practical capacity limit of a junction⁸⁰. When a junction begins to operate beyond 90% delays increase more quickly and the junction is regarded as over-capacity.
- 10.12. The TA shows that at the Trafford Road/Broadway junction the DoS on the Trafford Road North right turn in the AM peak for the base plus committed development is some 143%. With the Batleys development and the proposed improvements to the junction, the same arm shows a DoS of some 129%. The South Langworthy Road/Broadway junction would see an increase in the DoS on all arms of the junction with the South Langworthy Road arm increasing to almost 99% and the MMQ increasing from some 26 to 45 PCUs.
- 10.13. On balance and subject to the junction improvement schemes proposed and the implementation of proposed travel plans, whilst the junctions would be operating at over-capacity, the reduced scheme proposed by Batleys would fulfil the test of NND (5.24-5.26 & B1/2 Appendix D

⁸⁰ X-Examination of Mr White

paragraphs 1.3.5–1.3.11). Similarly, if the TA is accepted as being robust, whilst the estimated DoS at the various junctions would result in congestion, I consider on balance the test set out at the third bullet point paragraph 32 of The Framework would be met. Thus, on its own the Batleys' development could be judged to not have an unacceptable impact on the operation of the highway surrounding highway network. However, from the evidence put before the Inquiry, I consider the TA to be far from robust.

- 10.14. Key elements of a TA are the inclusion of the effect of traffic generated from committed developments on the study area and the use of appropriate assumptions relating to employment densities, trip rates and modal split. All are fundamental and interlinked elements in determining likely traffic generation. In terms of committed development, the 2011 TA refers to MCUK being included and the text refers to the 2006 outline permission implying that the assessment relates to MCUK 1-3. The SOCG on Transport matters (ID4) between Batleys and SCC at paragraph 3.2.2 says that MCUK 1-3 was taken into account in the TA and the Inquiry update reiterates this statement. Indeed, it is clear from correspondence that the HA were under the impression that the Batleys' TA included MCUK 1-3 as a committed development (PM3/4 MH16 page 5). However, under cross examination, the highways witness for Batleys indicated that only MCUK 1 had been modelled (6.30ii & 7.25) and accepted that this would result in a "*significant underestimate of the baseline position*". Similarly, other developments that were committed at the time of the TA and are now under construction or are built, i.e. the ITV Studios, the Booths supermarket and the University of Salford offices are not accounted for in the TA (7.22 & 7.28). In my view, these are very significant omissions from the TA, which fundamentally impact on the confidence that can be attached to its outcome.
- 10.15. On employment density, towards the end of the Inquiry, a significant disparity was identified between the employment densities used in the TA and those being relied on by Batleys' planning witness. It was this disparity that led Batleys to seek a limit on the level of floorspace of some 51,690 sq m so that the employment figures used in the TA matched the more up-to-date, but conservative, employment density figure of 1 employee per 12 sq m. Whilst PM's evidence validated the 1 per 12 sq m figure (7.17), Batleys own planning consultant acknowledged that a realistic and appropriate employment density could be as high as 1 employee per 10 sq m (6.18 & 7.16). If the 1 per 10 sq m figure is a realistic and appropriate measure to use, then, in my view, to ensure that the TA is robust that is the figure that should be used. The difference between the realistic and appropriate figure and the conservative figure would be some 17 employees per 1,000 sq m. Thus, the use of employee density figure of 1 per 12 sq m applied to the reduced B1 floorspace figure of 51,690 sq m would, in my view, result in a material under-estimate of potential employees and their impact on the highway network.
- 10.16. For trip rates, the standard approach is to select comparable sites in the TRICS database so as to generate a floorspace trip rate and apply this to the likely number of employees (6.16 & 7.34). Batleys' approach is based on assumed employee density, which, as is shown above, is very sensitive

to the employee density assumption. Whilst the Ipa accepted that the trip rates used by Batleys were not unreasonably low (5.22), it is clear from the evidence that they are materially different from others used by consultants for the Ipa and the HA to assess impact and TRICS figures for City Centre and Town Centre Office site (SC1/1 page 19 Table 6.1 & PM3/4 MH11). Given the locational advantages of Salford Quays and public transport linkages, it is reasonable to compare the accessibility of Salford Quays with that of a town centre. Moreover, the HA indicates that the trip rates used by Batleys were never explicitly agreed and that it expressed concern regarding the robustness of these rates (PM3/4 MH 16 page 4 & CD4.13 paragraph 34. Similarly, TfGM has had a long standing concern regarding the robustness of Batleys' methodology in estimating trip generation (8.2, 8.12 & 8.13). Thus, whilst the Batleys' figures for trip generation may not be unreasonably low, I consider they are, on balance, pitched at a level that would materially underestimate the likely level of trips generated.

- 10.17. Based on the accessibility of the site, which is acknowledged by all parties as excellent, and restrictions on car parking, Batleys have adopted a modal split reduction of 45%. This is said to represent the modal split used for the MCK 1-3 scheme. However, as PM have demonstrated (7.30) this is not the same as what the planning permission for MCK 1-3 provides for. That permission requires that each phase of the development should demonstrate measures to achieve a challenging 45% non-car mode of travel. Batleys would therefore appear to have underestimated the likely number of car trips in the peak hours. Moreover, the likelihood that such a significant reduction could be achieved through the use of a site specific travel plan and an AWP is not conclusive. The evidence produced by Batleys (B1.10) whilst it does indicate that modal shift can be achieved with significant investment it does not conclusively support a confident conclusion that, based on the mitigation measures proposed, such a high level of modal shift as suggested here can be achieved. Thus, again, in this area of modelling, it is likely that Batleys' approach results in a material underestimation of likely trips on the highway network.
- 10.18. On all the evidence before me, I conclude notwithstanding the scope of the TA was agreed with SCC as the highway authority, there is compelling evidence to suggest that the Batleys' TA materially underestimates the likely traffic generated both by the development and committed developments and the likely impact on the operation of the local highway network. In this area, the importance of minimising and mitigating the effect of traffic on the network is extremely important given its proximity to Junction 1 of the M602 and Regent Road, one of the key routes into central Manchester from the west, and the fact that effectively all the traffic that serves the Salford Quays and MC area has to flow through the Trafford Road/Broadway and South Langworthy Road/Broadway traffic light controlled junctions (6.24).
- 10.19. The implications of using more realistic and robust inputs to the assessment of transport impacts are reflected in the work carried out by the Ipa and PM. The Ipa's assessment of the impact on the Trafford Road/Broadway junction in both the AM and PM peaks shows that the right turn into Broadway would operate slightly over capacity with limited MMQ

queue lengths. However, the assessment identifies very high impacts on the South Langworthy Road/Broadway junction during the AM peak. This is a particularly important junction in the network because along South Langworthy Road the Metrolink shares the carriageway with other vehicles. Whilst in the PM peak the junction would operate within capacity, during the AM peak large queues are forecast. The DoS is estimated at 120% with a MMQ of 180 PCUs (6.23) as opposed to Batleys 99% and the 45 PCUs.

- 10.20. A MMQ of 180 PCUs equates to some 1,035m which would involve a queue of vehicles stretching beyond the traffic light controlled junction with Eccles New Road; another important arterial road in the local highway network. This junction was not assessed in the Batleys' TA so the impact on the capacity and operation of that junction is unknown. Whilst this level of queuing would be very severe, the more significant impact would be on the effectiveness and attractiveness of the Metrolink. Additional queuing on this shared road would result in delay to the operation of the trams and adversely affect the accessibility and sustainability of Salford Quays as a key location for economic development.
- 10.21. PM's assessment of the likely traffic impacts (PM.4) predicts substantially higher DoS and MMQ lengths at both junctions. PM submit that queue lengths on Trafford Road North could have a significant impact on the operation of the M602 Junction 1/Regent Road junction during the AM and PM peaks. This junction is some 300m from the Trafford Road/Broadway junction⁸¹. These results confirm my conclusion that the Batleys' 51,960 sq m development with the proposed mitigation measures would have a significant and unacceptable effect on the operation of the local highway and public transport network.
- 10.22. The Eccles-Piccadilly line of the Metrolink serves Salford Quays, where there are 3 stations, Broadway, MediaCityUK and Harbour City. The Batleys' site adjoins the Harbour City stop, which would be a significant incentive for those using the development to switch to the Metrolink. In addition to the concerns regarding impact on the Metrolink tram service through the South Langworthy Road/Broadway junction, TfGM express concern that the mitigation measures suggested by Batleys do not include measures to increase public transport capacity (CD6.42). TfGM have had long standing concerns regarding the reliability of the trip generation figures and the consequential impact of the development on the capacity of the public transport network.
- 10.23. The Batleys assessment (5.21) identifies that on the City Centre to Eccles line the predicted occupancy levels in the AM peak at the Cornbrook and Pomona stations would be some 88.6%, 84.9% at Exchange Quay and 83.3% at Salford Quays indicating adequate spare capacity. TfGM's concern is that as passengers do not distribute themselves evenly over the peak hour and the data does not take account of seasonal and daily fluctuations, it is highly likely that the trams would be loaded to "*crush levels*" at some time in every weekday during the AM peak. Given what I

⁸¹ X-Examination of Mr White

consider to be material differences between the London Underground and the Metrolink, I did not find the various comparisons to the loading on the London Underground particularly useful. It is clear from the evidence that the term "*crush level*" is a subjective term with no fixed definition (B1.9). The capacity of the tram is currently 200 passengers and it would appear that TfGM take the view that, on this line, when the number of passengers exceeds 240, crush conditions are reached (B1.9).

- 10.24. Given that Batleys' assessment of Metrolink capacity is founded on the same basis as the TA, similar caution needs to be applied to this capacity study and there are measures proposed to increase capacity on the public transport network. The evidence does not allow me to confidently conclude that the development would generate the level of use that might lead to crush conditions as defined by TfGM. However, given that the inputs to the study underestimate trip generation, it is not inconceivable, as the lpa suggest, that trams would operate at 100% occupancy at some times during the AM Peak (6.28).
- 10.25. Whilst I acknowledge Batley's point that those high levels of occupancy would only occur for a matter of minutes between a few stops (5.21), I consider this overlooks a wider point. Cornbrook is a major interchange which all the other tram lines pass through. Given the importance that the development plan attaches to the opportunities at Salford Quays to drive the economic resurgence of the MCR, and the obvious potential for significant growth of office/commercial space, this area would draw in significant numbers of employees from the wider MCR. In this context, a capacity pinch point between Cornbrook and MC would do little to persuade employees to switch from the private car to the tram, a more sustainable mode of transport. This concern adds weight to my lpa's conclusion that the Batleys' scheme would have an unacceptable effect on the operation of the local highway and public transport network (6.28).
- 10.26. In coming to the above conclusions, I have had regard to Batleys' submissions regarding: i) the position of the HA who do not object; ii) SCC's position at the time of the scoping report and the highways statement SOCG and iii) that it has made provision for all that has been sought by the highway authorities.
- 10.27. Details of the HA responses to the planning application are set out at CDs4.11 to 4.22 culminating in the letter dated 31 October 2011 removing its objection subject to the imposition of conditions (CD4.22). Whilst it is clear that the HA has expressed significant concerns about the transport modelling work by Batleys, the basis of its approach appears to have been clarified in a response to PM (PM3/14 Appendix MH12). Here the HA acknowledge significant flaws in modelling work relating to the M602 Junctions 2 and 3 that were not addressed by Batleys. However, the response notes the HA took the view that the oversaturated operation of Junction 3 would be a hindrance to the progression of the planning application if discussion continued around capacity enhancement. On this basis, the HA decided that the most appropriate way to mitigate development impacts was through the use of measures to influence travel behaviours and manage the demand for travel at source. It was said that

this approach is consistent with that adopted for other large scale developments in the area.

- 10.28. Although the HA's approach pre-dates the issue of The Framework, it appears to me to be consistent with the thrust of guidance at paragraph 32 and given the nature of the evidence at the time, that does not appear an unreasonable approach to take. However, the Inquiry has identified issues with the TA that suggest that the level of impact on the local highway network has been materially underestimated. Moreover, the TA relies on a significant modal shift, which the evidence suggests is very challenging⁸². Whilst the mitigation package includes the travel planning required by the HA, it does not include capacity enhancements. In this context, and particularly given the concerns regarding the robustness of the TA, I have treated the lack of objection with caution.
- 10.29. With the benefit of hindsight and the testing of the highways evidence at the Inquiry, SCC's approach to the TA Scoping Exercise and subsequently the Highways SOCG do not reflect well on its approach. However, as with the HA, the testing of the highway position at the Inquiry and the concerns regarding the robustness of the TA suggest that SCC's previous positions on these matters should carry little weight in determining this appeal. Similarly, I am not privy to all the discussions that were had in terms of appropriate mitigation measures and as such I have no reason to doubt Batleys' submission that it has done all that it was asked. However, the Inquiry has highlighted a number of concerns regarding highway impact and particularly the adequacy of the proposed mitigation package especially in relation to public transport capacity. Whilst I recognise that the suggestion that Batleys should contribute to improvements in public transport appears to have come late in the day these concerns cannot be set aside (CD6.42).

The impact on the development and regeneration of the MediaCity:uk and Quays Point area.

- 10.30. The development plan and the SPG all recognise the significance of Salford Quays to the local, sub-regional and regional economy. The significant impact of existing developments at MC and their contribution to the local economy are dramatic (6.8). Moreover, it is clear that the interest shown by Batleys and PM show that there is further significant untapped potential for economic and employment growth that would further heighten the profile of Salford and the North West region. Salford Quays is a highly sustainable location and given the relationship of the Batleys' site, Chandlers Point and MCUK 4-5 to the Metrolink, there can be no doubt that this particular part of Salford Quays ranks very highly as a sustainable location (6.10 xiii). In these circumstances and given the thrust of Framework policy every opportunity to maximise the benefits, both in terms of economic and physical regeneration should be exploited (6.10xiv).
- 10.31. Policy MX 1 says that regard must be had to the impact a development would have on the regeneration of the wider area (6.10xi). Policy DEV 6 says that planning permission for the incremental development of sites

⁸² X-Examination of Mr White

within a major development area will not be granted where it would unacceptably hamper or reduce the development options for the wider area. Policy MX 1 is an up-to-date policy consistent with the Framework. I consider that Policy DEV 6 is consistent with the objectives of The Framework.

- 10.32. I accept the point made by Batleys that the MCK 4-5 scheme has been put forward and has been tested without additional mitigation measures being proposed. Moreover, I have also taken account of the submissions by Batleys relating to the OV TA for MCK 1-3 (5.10). However, in relation to the appeal proposal, I consider the only value of the OA TA now is that it gave an early indication of the situation that now faces the lpa and developers of the remaining sites within Salford Quays i.e. there is little opportunity to increase capacity without significant highway infrastructure works. These conclusions are reinforced by the acknowledgement that the highway works proposed by Batleys' are the only remaining practicable highway improvements that could be made within the existing highway network (6.26). Batleys acknowledge that the highway network with the proposed highway improvements would be unable to accommodate development on both the appeal site and the MCK 4-5 scheme (6.26).
- 10.33. The HA's position is that, i) it offers no objection to the second Batleys' application subject to the imposition of conditions and ii) in relation to MCK 4-5 in isolation it offers no objection subject to the same conditions recommended for the Batleys' applications (ID1). Crucially, however, the HA goes on to say, *"the conditions attached to both the Batleys and Media City applications are only sufficient to mitigate the impact of each development when considered in isolation. It would not be considered appropriate for planning permission to be granted for both the Batleys' and Media City Applications until a thorough and comprehensive assessment of the cumulative transport impacts of both applications has been undertaken."*
- 10.34. In a situation where the highway mitigation measures offered are the only remaining practicable highway improvements that could be made within the existing highway network it follows that for further schemes to be allowed significant highway infrastructure schemes or significant increases in public transport capacity would be required. It was accepted by Batleys that such schemes could involve significant works. In these circumstances, the financial burden⁸³ would fall on the remaining development sites potentially hampering or preventing their development (6.27, 7.6 & 6.34). This outcome would directly conflict with the UDP Policies MX 1 and DEV 6 which seek coordinated development so as to take full advantage of the strategic opportunities offered by Salford Quays. Belatedly, SCC's Infrastructure Strategy and Delivery Plan to identify infrastructure needs and the equitable attribution of cost appears to be the way to maximise the potential of the area. Whilst I accept that this will not be an immediate process, given that there is no objection in principle to the redevelopment of the Batleys' site for a significant mixed use development, there are no short term benefits to be gained by granting planning permission in

⁸³ X-Examination of Mr Purser

advance of the Infrastructure Strategy and Delivery Plan and a masterplan. Batleys' acceptance that the scheme would have to be pre-let before it would come forward and the likely response of Peel as the landlord are indicators that even if planning permission were granted for the Batleys' scheme it is highly unlikely to result in any short term economic benefits (7.6).

- 10.35. Notwithstanding all of the above, Batleys submit that very little weight should be attached to the MCUK 4-5 application on the basis that it is acknowledged by PM that the planning application was submitted purely for tactical reasons and that there is no intention promote its early development. Whilst a decision maker has to be wary about the potential for tactical applications to stifle legitimate development, that is not the case here. The development potential and benefits of development at Salford Quays and particularly the area around Dock 9 have been on the table through the SPG for some considerable time. Moreover, as early as 2006 when OV undertook the TA for MCUK 1-3 it was clear that there were highway capacity constraints to future development. It is therefore reasonable for the decision maker to take into account the likely impact development on one site has on other sites. In this context the Infrastructure Strategy and Delivery Plan as a precursor to a masterplan has been long overdue.

- 10.36. In light of the above, I conclude that to grant planning permission for the Batleys development now would unacceptably hamper the development of Salford Quays contrary to the objectives of UDP Policies MX 1 and DEV 6.

Ensuring the Vitality of Town Centres

- 10.37. UDP Policy MX 1 indicates that retail and food and drink uses, "*where consistent with the retail and leisure policies of the UDP*" may be appropriate within Mixed Use Areas. Other than indicating that retail and leisure uses will complement the development of the area as a visitor destination and prime location for office development the supporting text gives no guidance on scale or location within the mixed use area. UDP Policy S 1 identifies town and neighbourhood centres, the nearest of which is the Regent Road, Ordsall Neighbourhood Centre located some distance to the east. UDP Policy S2, which related to retail and leisure uses outside town and neighbourhood centres is not a saved policy.
- 10.38. SPG Policy MC:UK 1 referring to Quays Point, the core of Salford Quays, indicates that this area has the potential to accommodate a mix of leisure, retail and visitor attraction opportunities contributing to its role as a visitor destination. Retail components should complement and strengthen the current retail offer with the emphasis on serving the needs of the new development within which it is located as well as meeting unmet demand within the Quays area. Where redevelopment takes place in the wider area, the SPG envisages that retail development would not be a significant component of the mix of uses and that all proposals would be assessed against UDP and national policy.
- 10.39. Paragraph 24 of The Framework indicates that decision makers should apply a sequential test for main town centres uses that are not in an existing centre and not in accordance with an up-to-date Local Plan.

Applications for main town centre uses should be located in a town centre, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering out of centre proposals preference should be given to accessible sites that are well connected to the town centre. Paragraph 26 says that applications for retail and leisure developments over 2,500 sq m, outside town centres and not in accordance with an up-to-date Local Plan should come with an impact assessment. The assessment should include the impact on existing, committed and planned public and private investment in centres in the proposals catchment area and the impact on town centre vitality and viability up to 5 years from the time the application is made. Where applications fail to satisfy the sequential test or are likely to have a significant adverse impact on the above it should be refused.

- 10.40. The lpa does not object to the Batleys' scheme on the ground that it would have a detrimental effect on any town or neighbourhood centre. In terms of impact on the existing designated centres, the closest being Regent Road, I consider, given the nature and scale of the proposed leisure/retail on the Batleys site, there would be no unacceptable impact on the Regent Road Neighbourhood Centre. The Batleys site, Quays Point including the Lowry Outlet Mall and the Morrisons development on Trafford Road (8.5) are all out of centre sites. In this context, neither the Quays Point/Lowry Outlet Mall nor the Trafford Road retail developments are in defined centres and as such they cannot be considered sequentially preferable sites nor are they afforded protection by The Framework in terms of impact.
- 10.41. The SPG through Policy MC:UK 1 seeks to focus development on the Quays point area which contains the Lowry Outlet Mall with limited retail beyond that. However, the only guidance on scale given by the SPG is that in this outer area leisure/retail uses should not form a "*significant component*" of the mix of uses. In terms of the reduced scheme, I estimate the retail/leisure uses would comprise less than 5% of the proposed total floorspace of the development. In my view, as a matter of fact and degree this level of development could not be considered to be a significant component. In this context whilst the Quays Point could be viewed as an embryonic centre, given the guidance in the SPG, I consider the scale and nature of the of the retail/leisure element of the Batleys' proposal would not conflict with the objectives of the SPG, UDP Policies MX1 or DEV 6.

Requiring Good Design

- 10.42. The supporting text to UDP Policy MX 1 where it refers to Salford Quays, asserts that the Salford Quays area "*will continue to develop as an internationally important visitor destination, and one of the region's primary office locations ... attracting some of the highest quality architecture in the region.*". The implication here is that further development should be of a high quality of design. This objective is consistent with the objectives of The Framework, which attaches great importance to the design of the built environment, makes it clear that good design is indivisible from good planning and development should contribute positively to making places better for people. The Framework at paragraph 58 indicates that planning decisions should, amongst other things, ensure

that developments function well, establish a strong sense of place and are visually attractive.

- 10.43. Although the application is in outline with all matters except for access reserved, the scale, massing and appearance of the development would be consistent with that at MC. Similarly, I see no reason why the detailed design of the Broadway Road frontage should not be able to incorporate active frontages or that the location of the tallest block to the northern part of the site would detract from the ability of future schemes to enhance the "gateway approach" from Trafford Road.
- 10.44. Notwithstanding the above points, the design of the site in isolation from the wider area, particularly the MCUK 4-5 site and the need to maintain vehicular access to the industrial/commercial units and the multi-storey car park to the west have led to features that obviously detract from the scheme. The development as laid out would result in poor linkages across Ohio Avenue to the west. In particular, on the layout of the northern-most link across Ohio Avenue, the pavement on the northern side of the road would cross the access to the service yard for the retail store and join onto a roundabout and on the south side the pavement again ends at the roundabout. Whilst on its own, this element is not fatal; it appears to me to be indicative of the compromises that have had to be made when considering the site in isolation. Moreover, given that the development seeks to create strong visual and physical links to the residential flats to the north of the Broadway, the link to and across Ohio Avenue and beyond to Quays Point is likely to be one of the key pedestrian routes. Thus, the above defects would reduce the potential of the scheme to function well or create an overall strong sense of place.

Prematurity

- 10.45. The lpa do not object on the grounds of prematurity. Given the allocation of the site within the UDP as a major mixed use site, I agree with that conclusion. However, what is clear is that, given the limited opportunity there is to increase the capacity of the existing highway network to support and maximise the development of the key Dock 9 area, the grant of planning permission for this development would be inappropriate in advance of the Infrastructure Strategy and Delivery Plan commissioned by the lpa. This adds weight to my conclusion that the Batleys scheme as it currently stands should not be permitted.

Overall Conclusion

- 10.46. Salford Quays is identified in the development plan as an area of significant opportunity for regeneration and the location for large scale mixed developments that have the potential to enhance the area's attraction and reputation as an internationally important visitor destination and office location. The significance of Salford Quays to the local, regional and national economy is not in doubt. In this context it is important that the effective and efficient use of what opportunities still remain should be maximised. Although Salford Quays has the potential for further significant development it is clear that the local infrastructure, particularly the capacity of the local highway network is a constraint. In this context the development/redevelopment of sites needs to be coordinated to ensure

that the appropriate infrastructure is in place or is capable of being put in place so as to ensure that the value of this area can be harnessed.

- 10.47. Salford Quays is an extensive area allocated identified in the UDP as an area suitable for redevelopment/regeneration through mixed use schemes (Policy MX 1). Accordingly, the principle of the mixed use redevelopment of the Batleys' site is consistent with the objective of the UDP. One of the criteria which the decision maker is to have regard to is the impact development would have on the regeneration of the wider area. In addition, Policy DEV 6 indicates that on sites within major development areas planning permission will not be granted for incremental development that would unacceptably hamper or reduce the development options of the wider area. The text to the policy recognises that in some circumstances, it may be appropriate for the development to be resisted until a masterplan is produced. Although the 2006 MC SPG referred to the production of such a plan, no formal plan has been produced. However, given the issues, particularly relating to highway capacity, raised by the Batleys' application and subsequent applications by PM, the Ipa has now commissioned an Infrastructure Strategy and Delivery Plan for Salford Quays. In the context of the issues raised at Salford Quays, this is an essential pre-requisite to the proper master planning of the remaining opportunities.
- 10.48. The application as submitted contains some 70,126 sq m of B1 office development. However, Batleys accepted that the TA on which this scale of development was predicated could not demonstrate that it would not have an unacceptable effect on the local highway network. To overcome this fatal flaw in the TA, Batleys have suggested that a reduction in the amount of B1 floorspace to some 51,690 sq m would ensure that the scheme would not have an unacceptable impact on the network and as neatly put "consume its own smoke". Batleys submit that the reduction in floorspace could reasonably be the subject of a planning condition placing a limit on the amount of B1 floorspace to be provided.
- 10.49. I conclude that the proposed change would represent a substantial alteration that would deprive those who should be consulted of the opportunity for meaningful consultation. Having regard to the principle established by Wheatcroft, I conclude that it would be inappropriate to either impose a condition or amend the description of the application to reduce the amount of B1 floorspace. On this basis, planning permission for the scheme as submitted should be refused and the appeal dismissed.
- 10.50. Notwithstanding the above conclusion, I have considered the impact of the reduced development. I have concluded there are significant and fundamental issues with inputs into the TA that materially underestimate the impact of the development on the highway network. I consider the development would have a significant adverse effect on the operation of the South Langworthy Road/Broadway junction and result in significant queuing, particularly on South Langworthy Road, with consequent potential adverse effects on other untested junctions. The operation of this junction and road is particularly significant in that vehicles and the Metrolink are not segregated. Significant congestion in this area would have an adverse and unacceptable knock-on effect on the operation and attractiveness of

the Metrolink. Similarly, I consider the significant increase in trips generated by the development would result in capacity issues on a short but important stretch of the line between Cornbrook and Salford Quays. The ability of the Metrolink to attract passengers through being a convenient and comfortable alternative to the private car is important to ensure a modal shift to a more sustainable form of journey to work.

- 10.51. In addition to creating unacceptable levels of congestion and queuing at junctions, the proposed mitigation measures are acknowledged as the only remaining practicable highway improvements that could be made within the existing highway network. Thus, for further schemes to be allowed significant highway infrastructure schemes or significant increases in public transport capacity would be required, the financial burden of which would fall on the remaining development sites. This could potentially stifle their development completely. This would directly conflict with the UDP Policies MX 1 and DEV 6 which seek coordinated development so as to take full advantage of the strategic opportunities offered by Salford Quays.
- 10.52. Given the nature and scale of the proposed leisure/retail on the Batleys site, there would be no unacceptable impact on the Regent Road Neighbourhood Centre. In terms of the SPG, the retail/leisure uses would comprise less than 5% of the proposed total floorspace of the scheme. As a matter of fact and degree this level of development could not, in my view, be considered to be a significant component. In this context whilst the Quays Point area could be viewed as an embryonic centre, given the guidance in the SPG, I consider the scale and nature of the retail/leisure element of the Batleys' proposal would not conflict with the objectives of the SPG, The Framework and UDP Policies MX1 and DEV 6.
- 10.53. In general the scale, massing and layout of the development would be broadly consistent with existing MC developments. However, it is clear that in considering this site in isolation a number of compromises have had to be made in terms of the layout that reduces the potential of the scheme to function well or create an overall strong sense of place. This adds weight to my conclusion that the development should not be permitted. I agree that in development plan terms the scheme would not be premature. However, given the need to ensure coordinated development and appropriate infrastructure provision so as to maximise the major opportunities and advantages of this location, I consider the development should not be permitted in advance of the Infrastructure Strategy and Delivery Plan for Salford Quays commissioned by the Ipa.
- 10.54. In coming to my conclusion I have weighed up the economic benefits of permitting the development. It is clear given the acknowledgement that the development would need to be pre-let before commencing construction and the stated position and previous actions of the landlord that significant benefits could not be achieved in the short term. In this case, I consider the potential economic benefits of allowing the application are significantly outweighed by the adverse effects the development would have on the highway and public transport networks and on the effective development of the remainder of the Dock 9/Salford Quays area.

- 10.55. Should the SoS disagree with my conclusions on the appropriateness of a condition limiting the scale of B1 development and the adverse impacts on the highway and public transport networks and on the future regeneration of Salford Quays the conditions contained in Annex D should be imposed for the reasons set out in Document BA.2. Where necessary and in the interests of precision and enforceability, I have reworded some of the suggested conditions. For the reasons I have already given relating to the proposed restriction on the level of B1 floorspace, I consider *SC5* is inappropriate. I agree with both the lpa and PM that *SC10* is unenforceable, does not necessarily guarantee the occupation of the unit by a "Deep Discounter" and for the reasons set out in paragraphs 10.36 to 10.40 above is unnecessary.
- 10.56. CIL Regulation 122 provides that it would be unlawful for a planning obligation to be taken into account in a planning decision if the obligation does not meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to the development. Here, I consider the UU is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. I consider the submitted UU accords with the tests set out in The Framework and CIL Regulation 122 and as such weight can be attached to its provisions.

Recommendation

- 10.57. I recommend that the appeal be dismissed and planning permission refused.

George Baird

ANNEX A

APPEARANCES

FOR BATLEYS PLC

Thomas Hill QC instructed by Batleys PLC, Ohio Avenue, Salford M50 2GT

He called:

Paul White BEng CIHT CILT
Technical Director, WSP UK Limited.

Neil Rose BA(Hons) DIP Arch RIBA
Board Director Broadway Malyan Limited.

Richard Purser BA(Hons) BPI MRTPI
Associate Director, DPP One Limited.

Graham Chase Dip Est Man FRICS, FCI Arb FRSA FInstCPD (RICS Rstd Valuer)
Chairman, Chase & Partners.

M Gallimore
Partner, Hogan Lovells.

FOR SALFORD CITY COUNCIL

Vincent Fraser QC of Counsel instructed by Manchester City Council on behalf of Salford City Council.

He called:

Andy Green Msc, BEng
Principal Transport Consultant Capita Symonds.

Kurt Partington Msc, MRTPI
Principal Planner Urban Vision Partnership Limited

FOR PEEL MEDIA LIMITED

Paul G Tucker QC instructed by Sheila Wright, Bain Wright Partnership Ltd, Unit 31 Meridian Business Village, Liverpool, L24 9LG

He called:

Stephen Wild BSc (Hons) RICS
Managing Director MediaCity:uk Limited

Sheila Wright BA BPhil MRTPI
Bain Wright Partnership

Nicolas Lee BSc DipTP MTP MRTPI

Partner NJL Consulting
Michael Hibbert MSc MCIT MIHT MILT MioD Dip Eng
Director TTHC Limited

Graham Russell BA(Hons) Dip BA, MBA, MPhil
Partner Amion Consulting.

Michael Grace BA(Hons), Dip Arch RIBA
Associate Director Chapman Taylor.

ANNEX B

SUBMITTED DOCUMENTS

GENERAL INQUIRY DOCUMENTS

- ID 1 - Letter dated 12.10.12 from the Highways Agency to Helen Ward (Cobbetts LLP).
- ID 2 - Image/map of the Manchester docks above mode wheel 1906.
- ID 3 - Notes of PIM 16 July 2012.
- ID 4 - Highways Statement of Common Ground – Batleys Limited & Salford City Council.
- ID 5 - Highways Statement of Common Ground – Peel Media Limited & Salford City Council.
- ID 6 - Copy of letter dated 11 October 2012 Cobbetts LLP to Hogan Lovells International LLP referring to legal advice.

BATLEYS LTD

General Documents

- B.A1 - Suggested Conditions – First Draft 24 October 2012.
- B.A2 - Suggested Conditions – Final Draft. 26 November 2012.
- B.A3 - Notes on Conditions.
- B.A4 - Copy of letter 13 November 2012 from DPP to list of consultees & bundle of responses relating to the suggested reduction in scheme floorspace.
- B.A5 - Note on position as of 19 November 2012 re S106 Obligation.
- B.A6 - Note on Compliance with CIL Reg 122.
- B.A7 - Response to Peel Media comments dated contained in Email to The Planning Inspectorate 19 November 2012.
- B.A8 - Response to Mr Wild's letter 25 October 2012 re Media City 1-3 and the SFA.
- B.A9 - Response to TfGM's email 24 October 2012 re New Pedestrian Crossing of Tram Lines.
- B.A10 - Response to TTHC Note 5 November 2012 Update of M Hibbert's MH10 - impact of reduced floorspace scheme.
- B.A11 - Note by Mr Purser Interpretation of NPPF sequential assessment.
- B.A12 - Copy of Appeal Decision APP/L5240/A/07/2052053. Use of Conditions and S106 Unilateral Undertaking to control occupation by a Limited Assortment Discount operator.
- B.A13 - Certified Copy of S106 Unilateral Undertaking.
- B.A14 - Power of attorney.

Mr White

- B1/1 - Proof of Evidence
- B1/2 - Appendices
- B1/3 - Summary Proof of Evidence
- B1/4 - Rebuttal
- B1/5 - Letter 12 .10.12 from the Highways Agency to M Hodgson

- B1/6 - Email 9.10.12 from K Partington to I Hughes re: Salford Quays – Wide Area Transport Model
- B1/7 - Dock 9 Masterplan Transport Assessment (pages 7-10) Arup 2006
- B1/8 - Map of Ohio Avenue/Broadway Junction – Land take.
- B1/9 - TFGM email dated 24.10.12 from I Hughes (WSP UK) to I Davies (TFGM) re: Metrolink - Tram Capacities.
- B1/10 - DFT Impact of area wide travel (The Effects of Smarter Choice Programmes in the Sustainable Travel Towns). Part 3 Chapter 13. Evidence from household travel surveys
- B1/11 - TFL Crush Capacity (Rolling Stock Data Sheet 2nd Edition). March 2007
- B1/12 - Trip Rates - Effect of alternative employee density on trip rates.
- B1/13 - Salford Quays public car park charges
- B1/14 - Metrolink annual season ticket. Harbour city to Piccadilly Gardens
- B1/15 - Employee density of town centre sites based on TRICS exercise contained in Appendix Peel Media MH 11.

Mr Purser

- B2/1 - Proof of Evidence
- B2/2 - Appendices
- B2/3 - Summary Proof of Evidence
- B2/4 - Rebuttal
- B2/5 - WSP Plan for approval highlighting detailed highway works within redline. Ref: 1023/GA/01. Broadway/Ohio Ave and site access potential improvements.
- B2/6a - Objection from Peel Holdings re 11/60031/OUT
- B2/6b - Letter dated 28.11.11 from Peacock and Smith
- B2/6c - Comment from Insider Technologies Limited re 11/60031/OUT
- B2/6d - Email dated 10.3.11 from resident of Lexington Court re: 11/60031/OUT
- B2/6e - Letter dated 04.4.11 from The Emerson Group to Mr T Hartley

Mr Rose

- B3/1 - Proof of Evidence
- B3/2 - Appendices
- B3/3 - Summary Proof of Evidence
- B3/4 - Rebuttal

Mr Chase

- B4/1 - Rebuttal

SALFORD CITY COUNCIL

- SC A1 - The National Standard for Trip Generation Analysis
- SC A2 - Facts and Figures for Metrolink Vehicles
- SC A3 - Copy of Email 16 November 2012 – LPA position re S106 Agreement.
- SC A4 – Closing Submissions.

Mr Green

- SC1/1 - Proof of Evidence
- SC1/2 - Appendices
- SC1/3 - Summary Proof of Evidence

Mr Partington

- SC2/1 - Proof of Evidence
- SC2/2 - Appendices
- SC2/3 - Summary Proof of Evidence
- SC2/4a - Plan 1: Batley's proposals LPA ref: 11/60031/OUT and 12/61569/OUT
- SC2/4b - Plan 2: Peel Scheme LPA ref: 12/61841/OUT
- SC2/4c - Plan 3: Peel Scheme LPA ref: 11/61096/OUT
- SC2/4d - Plan 4: Context plan
- SC2/5 - Letter from Mr R E Hollox (Planning Inspector) to Mr C Findley (Salford City Council) dated 26.09.12 regarding the Salford Core Strategy Examination
- SC2/6 - Letter from Mr C Findley to Mr R E Hollox dated 27.09.12 in response to ref: SC2/5.
- SC2/7 - KP Response note pre application discussions Media City 4-7.

PEEL HOLDINGS LTD

- PM A1 - Opening Statement
- PM A2 - The Effects of Smarter Choice Programmes in the Sustainable Travel Towns: Research Report. March 2010.
- PM A3 - Closing Submissions.
- PM A4 - Employment impact of proposed floorspace reduction.
- PM A5 - Highways Impact of proposed floorspace reduction.
- PM A6 - Lowry Outlet Mall Current Floorspace by Use Class.
- PM A7 - Copy of Planning Permission 10/58887/FUL Land to the south-west of Michigan Avenue (ManYoo).
- PM A8 - Response to Mr Purser's note on NPPF Sequential Assessment.
- PM A9 - Response to Batley's comments on revised MH10.
- PM A10 - Copy of letter dated 22 November 2012 Peel Media to Salford City Council regarding DPP further consultation.

Ms Wright

- PM1/1 - Proof of Evidence and Summary Proof of Evidence
- PM1/2 - Appendices
- PM1/3 - Spare - no document
- PM1/4 - Spare - no document
- PM1/5 - Decision notice ref: 06/53168/OUT
- PM1/6 - Decision notice ref: 07/55626/FUL
- PM1/7 - Media City - Consented space (BWP Ltd)

Mr Wild

- PM2/1 - Proof of Evidence

- PM2/2 - Email dated 24.10.12 from R Clowes to M Wilson Re: New pedestrian crossing of tram lines
- PM2/3 - Email dated 26.10.12 from M Robinson to G Finch and P Tucker Re: SFA

Mr Hibbert

- PM3/1 - Proof of Evidence and Summary Proof of Evidence
- PM3/2 - Appendices
- PM3/3 - Spare -no document
- PM3/4 - Rebuttal
- PM3/5 - Dock 9 Masterplan Transport Assessment with added figures (Page 9) ARUP 2006

Mr Lee

- PM4/1 - Proof of Evidence and Summary Proof of Evidence
- PM4/2 - Appendices

Mr Grace

- PM5/1 - Proof of Evidence
- PM5/2 - Appendices
- PM5/3 - Salford Quays Media City UK. Phases 4-7 Townscape and Visual Impact Assessment. Nov 2011. Gillespies LLP

Mr Russell

- PM6/1 - Proof of Evidence
- PM6/2 - Rebuttal
- PM6/3 - B1 Office Component

APPLICATION PLANS

- Plan A - Site Boundary.
- Plan B - Site Layout.
- Plan C - Massing.
- Plan D - Artist's Impression.
- Plan E - Artist's Impression.
- Plan F - Broadway/Ohio Avenue Site Access & Improvements.
- Plan G - Ohio Avenue/Site Access Junction.

Annex C

CORE DOCUMENTS

CD1 Application Documents

- 1.1 Application Form, Covering Letter and Certificates (29.07.11)
- 1.2 Location Plan
- 1.3 Planning and Regeneration Statement
- 1.4 Retail Statement
- 1.5 Crime Prevention Plan
- 1.6 Flood Risk Sequential Test Assessment
- 1.7 Daylight/Sunlight Assessment
- 1.8 Design and Access Statement
- 1.9 Energy and Sustainability Assessment
- 1.10 Flood Risk Assessment
- 1.11 Outline Drainage Strategy
- 1.12 Transport Assessment
- 1.12a Broadway / Ohio Avenue Site Access Improvements Plan
- 1.12b Broadway / Trafford Road Improvements Plan
- 1.13 Outline Travel Plan Framework
- 1.14 Noise and Vibration Assessment Report
- 1.15 Extended Phase 1 Habitat Survey
- 1.16 Arboricultural Report
- 1.17 Outline Waste Management Strategy
- 1.18 Preliminary Environmental Risk Assessment
- 1.19 Outline Utility Assessment Report
- 1.20 Air Quality Assessment Report
- 1.21 Site Layout (A-03-01)
- 1.22 Massing Plan (A-03-02)
- 1.23 CGI 1
- 1.24 CGI 2

CD2 Post Application Updated/Additional Documentation

- 2.1 Heads of Terms Report
- 2.2 Addendum to submitted Design and Access Statement
- 2.3 Development Schedule
- 2.4 Technical Note 1 – Trip Distribution
- 2.5 Technical Note 2 – Framework Car Park Management Plan
- 2.6 Technical Note 3 – Operational Analysis of M602 Junctions 2 and 3
- 2.7 Technical Note 4 – Outline Proposals for Area Wide Travel Plan
- 2.8 WSP response to JMP comments

CD3 Correspondence with LPA and Planning Inspectorate

- 3.1 Note of Meeting with Central Salford URC (07.08.09)
- 3.2 Letter (Chris Farrow URC) to Urban Vision re – pre-application Discussions (04.04.08)
- 3.3 Letter (Tim Hartley, Urban Vision) to DPP re – pre-application Discussions (19.08.10)
- 3.4 Letter (DPP) to Urban Vision re – request for EIA Screening Opinion

- (25.11.10)
- 3.5 Letter (DPP) to Urban Vision response to Emerson Group consultation response (26.04.11)
- 3.6 Memo (DPP) to Urban Vision – Response to Policy Comments (18.10.11)
- 3.7 E-mail (DPP) to Urban Vision re – response following meeting (03.11.11)
- 3.8 E-mail (Urban Vision) to WSP re – Highways comments on Application (07.11.11)
- 3.9 Letter (DPP) to Urban Vision – Response to Policy Comments 03.11.11)
- 3.10 E-mail (Urban Vision) to DPP – details of Peel Scoping Letter (Media City Phases 3, 4 and 5)
- 3.11 Letter (DPP) to Urban Vision (Chris Findley) re – application progress including enclosed letter from Batley's Limited (21.11.11)
- 3.12 Email (DPP) to Urban Vision re – committee date (06.12.11)
- 3.13 Email (Urban Vision) to DPP re – committee date (07.12.11)
- 3.14 Email (Urban Vision) to DPP re – sending copies of objections 04.01.12)
- 3.15 Letter (DPP) to Urban Vision re – Outstanding Matters (04.01.12)
- 3.16 Email (Urban Vision) to DPP re – appeal against non-determination deadline (09.01.12)
- 3.17 Note of Meeting with Urban Vision (25.01.12)
- 3.18 Email (Urban Vision) to DPP re – update on progress of application and email DPP to UV re – issues (02.02.12)
- 3.19 Letter (DPP) to Urban Vision re – response to objection from Peel Holdings Land and Property (UK) Limited (06.02.12)
- 3.20 Letter (DPP) to Urban Vision re – response to objection from Wm Morrison Supermarkets PLC (06.02.12)
- 3.21 Letter and Email (DPP) to PINS – EIA (03.04.12)
- 3.22 Report (WSP) to SCC –TA Scoping Study (10.9.10)
- 3.23 Technical Note 1 (WSP) to SCC – Committed development trip generation methodology (15.12.10)
- 3.24 Note of Meeting (WSP) to SCC – Scoping Meeting (27.07.10)
- 3.25 Technical Note (WSP) to TfGM – Response to comments (24.06.11)
- 3.26 Note of Meeting (WSP) to SCC – Progress meeting notes (10.08.11)
- 3.27 Technical Note (WSP) to TfGM – response to junction assessment comments (19.08.11)

CD4 Application Consultation Responses

- 4.1 Urban Vision Environment (09.03.11)
- 4.2 Drainage Engineer (21.03.11)
- 4.3 Environment Agency (22.03.11)
- 4.4 United Utilities (28.03.11)
- 4.5 Miller Goodall – Noise and Air (30.03.11)
- 4.6 Design for Security (31.03.11)
- 4.7 Arboriculturalists (07.04.11)
- 4.8 Transport for Greater Manchester (26.04.11)
- 4.9 Spatial Planning
- 4.10 Travel Plan Coordinator (19.05.11)
- 4.11 Highways Agency– holding comment (11.03.11)
- 4.12 Highways Agency – TR110 direction (24.03.11)
- 4.13 Highways Agency– JMP comments (05.04.11)
- 4.14 Highways Agency – TR110 direction extension (21.04.11)
- 4.15 Highways Agency – TR110 direction extension (20.05.11)

- 4.16 Highways Agency – TR110 direction extension (17.06.11)
- 4.17 Highways Agency – TR110 direction extension (12.07.11)
- 4.18 Highways Agency – TR110 direction extension (05.08.11)
- 4.19 Highways Agency – TR110 direction extension (02.09.11)
- 4.20 Highways Agency – JMP discussion note (13.09.11)
- 4.21 Highways Agency – JMP final response (26.10.11)
- 4.22 Highways Agency – Removal of TR110 / Approval of AWTP (31.10.11)

CD5 Relevant Planning Policy Documents

- 5.1 National Planning Policy Framework (2012)
- 5.2 Planning for Town Centres: Practice guidance on need, impact and the sequential approach (2009)
- 5.3 North West Regional Spatial Strategy (2008)
- 5.4 City of Salford Unitary Development Plan 2004-2016; Policies saved beyond 21 June 2009 (2009)
- 5.5 Planning Obligations Supplementary Planning Document (2007)
- 5.6 Design and Crime Supplementary Planning Document (2006)
- 5.7 Sustainable Design and Construction Guide Supplementary Planning Document (2008)
- 5.8 Design Supplementary Planning Document (2008)
- 5.9 SCC & Trafford MBC Mediacity:uk & Quays Point Planning Guidance (2007)
- 5.10 Salford City Council Housing Planning Guidance (2006)
- 5.11 Salford City Council Development Plan Document Publication Core Strategy (2012)
- 5.12 Salford Retail & Leisure Study (2010)
- 5.13 The Vision and Regeneration Framework for Central Salford (2006)

CD6 Re-Submission Application Documents and Correspondence

- 6.1 Application Form, Covering Letter and Certificates (21.03.12)
- 6.2 Location Plan
- 6.3 Planning and Regeneration Statement
- 6.4 Retail Statement
- 6.5 Crime Prevention Plan
- 6.6 Flood Risk Sequential Test Assessment
- 6.7 Daylight/Sunlight Assessment
- 6.8 Design and Access Statement
- 6.9 Energy and Sustainability Assessment
- 6.10 Flood Risk Assessment
- 6.11 Outline Drainage Strategy
- 6.12 Transport Assessment
- 6.13 Outline Travel Plan Framework
- 6.14 Noise and Vibration Assessment Report
- 6.15 Extended Phase 1 Habitat Survey
- 6.16 Arboricultural Report
- 6.17 Outline Waste Management Strategy
- 6.18 Preliminary Environmental Risk Assessment
- 6.19 Outline Utility Assessment Report
- 6.20 Air Quality Assessment Report
- 6.21 Site Layout (A-03-01)
- 6.22 Massing Plan (A-03-02)

- 6.23 CGI 1
- 6.24 CGI 2
- 6.25 Heads of Terms Report
- 6.26 Addendum to submitted Design and Access Statement
- 6.27 Development Schedule
- 6.28 Technical Note 1 – Trip Distribution
- 6.29 Technical Note 2 – Framework Car Park Management Plan
- 6.30 Technical Note 3 – Operational Analysis of M602 Junctions 2 and 3
- 6.31 Technical Note 4 – Outline Proposals for Area Wide Travel Plan
- 6.32 WSP (13.04.11) response to HA/JMP letter of 5 April 2011
- 6.33 Letter (DPP) to Urban Vision re – Request for EIA Screening Opinion (17.04.12)
- 6.34 Letter (Urban Vision) to DPP Acknowledge of application (25.04.12)
- 6.35 Screening Opinion (14.05.12)
- 6.36 Letter (DPP) to Urban Vision re – S106 Matters (16.05.12)
- 6.37 Letter (DPP) to Urban Vision re – S106 Matters (14.06.12)
- 6.38 Letter (Cobbetts LLP) to Urban Vision consideration of Batley's Application (24.07.12)
- 6.39 Letter (Cobbetts LLP) to Urban Vision re – Planning and Transport Regulatory Panel (14.08.12)
- 6.40 Letter (DPP) to Urban Vision re – response to letter sent by Cobbetts 14th August 2012 (11.09.12)
- 6.41 Letter (4-5 Gray's Inn Square) to Urban Vision – response to letters written by Cobbetts LLP (12.09.12)
- 6.42 Letter (TFGM) to Urban Vision – no objection to application
- 6.43 Note (JMP) request for further information (Public Transport / Sensitivity) (21.05.12)
- 6.44 Letter (WSP) to Urban Vision – response to JMP request of 21 May 2012
- 6.45 WSP PI Technical Note 1 Trip Rates
- 6.46 Letter (DPP) to Urban Vision – WSP Tech Note 1
- 6.47 Letter (DPP) to Salford City Council (05.07.12)
- 6.48 WSP PI Technical Note 2 Trip Rates
- 6.49 JMP Draft Response to WSP 21 May
- 6.50 Letter (DPP) to Urban Vision – WSP Technical Note (06.07.12)

CD7 Planning Statement of Common Ground

CD8 Appellants Statement of Case

CD9 Council Statement of Case

CD10 Peel Group Statement of Case

CD11 Resubmission Planning & Transportation Regulatory Panel Report 16th August 2012

CD12 Peel Phases 4-7 Media City Application Documents (11/61096/OUT)

- 12.1 Planning Statement
- 12.2 Block Plan

CD13 Peel Phase 4-5 Media City Application Documents (12/61841/OUT)

- 13.1 Planning Statement
- 13.2 Block Plan
- 13.3 Letter (Highways Agency) to Urban Vision – MediaCity Phases 4-5 (18.09.12)

CD14 Letter (Urban Vision) to PINS re – update of Council's Position (12.09.12)

CD15 Letter (Urban Vision) to DPP re update of Council's position (12.09.12)

CD16 Letter (DPP) to PINS re- change of Council's position (13.09.12)

CD17 JMP Cumulative Assessment Summary Report (17.09.12)

CD18 Guidance on Transport Assessment (March 2007)

CD19 Manual for Streets (2007)

CD20 Technical Note 1: Car parking Analysis (WSP)

CD21 Technical Note 2: Traffic Generation and Distribution (WSP)

CD22 Technical Note 3: Operational Performance Assessment (WSP)

ANNEX D

SUGGESTED CONDITIONS

1. All applications for approval of reserved matters shall be made not later than the expiration of 3 years beginning with the date of this permission and the development must be begun not later than the expiration of 2 years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. No development shall be started on any phase or plot within the development until full details of the following reserved matters for that phase or plot have been submitted to and approved by the local planning authority:
a) appearance; b) landscaping; c) layout; and d) scale.
3. No application for reserved matters shall be made until a scheme for the phasing of development across the site has been submitted to and approved in writing by the local planning authority. The phasing scheme shall include the following matters: a) a plan demarcating the development phases; b) details of development plots, uses and floor space by development phase; c) a programme for the delivery of the S278 highway works pursuant to Condition 4; and d) a programme of delivery of development phases.

All reserved matters applications and consequent development shall be made in accordance with the approved phasing scheme.

4. No development of any phase or plot shall commence until works have been secured through the completion of an Agreement under S278 Highways Act 1980 in accordance with the programme for delivery pursuant to Condition 3(c) and shall be for the provision of:
 - a) access works on Ohio Avenue (Plan 1023 Figure 01 Mini Roundabout Ohio Avenue/Site Access Junction)
 - b) junction improvements at Ohio Avenue/Broadway (Plan 1023/GA/01/Rev D Broadway/Ohio Avenue & Site Access Improvements)
 - c) a pedestrian crossing of Broadway to the east of the Ohio Avenue junction (Plan 1023/GA/01/Rev D Broadway/Ohio Avenue & Site Access Improvements), and
 - d) junction improvements at Broadway/Trafford Road (Plan 1023/GA/02/A Broadway/Trafford Road improvements).

The approved highways works shall be implemented and brought into use in accordance with the programme for delivery prior to the occupation of any phase or plot of development.

5. The development hereby approved in outline shall be undertaken in general accordance with the submitted plans (Site Layout Plan 27206-A-03-01; Location Plan 10946 MAN 07).

6. Notwithstanding the submitted details the development hereby approved shall be brought forward for reserved matters approval in accordance with the following parameters:
 - a) The maximum office floorspace shall be limited to 51,690 sq. m gross;
 - b) The maximum leisure floorspace shall be limited to 1,148 sq m gross;
 - c) The maximum retail floorspace (A1) shall be limited to 2,200 sq m gross comprising a foodstore not exceeding 1,419 sq m gross (1,115 sq m net) with other retail units up to 400 sq m gross (280 sq m net) per unit but totalling no more than 781 sq m gross;
 - d) The maximum residential apartments shall be limited to 3,813 sq m gross (75 apartments) comprising a mixture of 1, 2 and 3 bedrooms;
 - e) The maximum restaurant and café facilities shall be limited to 1,887 sq m gross;
 - f) The maximum hotel floorspace shall be limited to 16,942 sq m gross provided in two hotels of 10,950sq m gross and 5,992 sq m gross;
 - g) The maximum floorspace for a medical centre shall be limited to 771 sq m gross;
 - h) The maximum car parking provision shall not exceed 1,331 spaces;
 - i) The provision of up to six buildings or plots.
7. With the exception of the permitted foodstore pursuant to Condition 8, no retail unit shall exceed 280 sq m net sales area; net to be defined as the sales area within the unit and checkouts, but excluding lobbies, customer toilets and walkways behind the checkouts and other areas the public has access to.
8. The net retail sales area of the permitted foodstore within Block A as defined on the Site Layout Plan 27206-A-03-01 (dated 15.2.11) shall not exceed 1,115 sq m; net to be defined as the sales area within the unit and checkouts, but excluding lobbies, customer toilets and walkways behind the checkouts and other areas the public has access to.
9. No unit falling within Class A1 of the Use Classes Order 1987 (as amended, re-enacted or revoked) shall be first brought into use before one or more other units or buildings within the same phase or plot within the development site has been brought into use for non-retail use, with the exception of the car parking.
10. Any application for the approval of reserved matters for any phase or plot within the development site shall be accompanied by a Design and Access Statement for that phase or plot. The Design and Access Statement shall set the design principles and concepts that have been applied to the proposals including the appearance, scale and landscaping of the development. In addition, the design element shall demonstrate how the proposals have had regard to the Site Layout Plan (27206-A-03-1) in terms of the context of the phase or plot within its development zone and the overall development site. The access element shall explain how access arrangements to the relevant phase or plot will ensure that all users will have a convenient and safe means

of access to buildings and spaces related to the phase or plot, its development zone, the overall development site and the public transport network. Development of each phase or plot shall be carried out in accordance with the approved details.

11. Any application for the approval of reserved matters (other than for landscaping alone) for any phase or plot within the development site shall be accompanied by the following information for approval in writing by the local planning authority:
- a) floor plans for each level of any building including basement and mezzanine levels and roof plan;
 - b) cross-sections in 2 planes for any building including basement levels;
 - c) details of finished floor levels;
 - d) details of total gross floorspace for any building, and gross floorspace for separate units or uses within;
 - e) floor plans to demarcate different units/uses formed within any building;
 - f) access and movement strategy for ingress and egress for pedestrians and vehicles for any building and unit therein;
 - g) details of internal circulation for buildings and units formed within, including emergency access;
 - h) elevations for all sides of buildings erected;
 - i) details of shop fronts and location for signage;
 - j) a signage strategy for each building to inform future advertisement consent applications;
 - k) details and arrangement of any required external plant, extract ventilation and flues, including detailed specifications of proposed plant;
 - l) details of daylight and sun path and shadowing.

The development of any phase or plot shall be carried out in accordance with the approved details.

12. Prior to the commencement of demolition on any phase or plot within the development site a phasing plan relating to any relevant site clearance and details of any proposed interim measures for the relevant phase or plot shall be submitted to and agreed in writing by the local planning authority and adhered to thereafter unless otherwise agreed in writing by the local planning authority. Such plan and interim measures should include the following matters:
- a) details of method and/or phasing of demolition in any given development phase or plot;
 - b) details of any interim boundary treatment;
 - c) details of any interim surface treatment, including temporary landscaping, public space and access;
 - d) details of any interim and temporary use or uses of the phase or plot; and
 - e) details of any interim Environmental Management Plan that addresses potential loss of nesting habitats and bat roosts.
13. No development on any phase or plot in relation to residential use shall begin until a scheme for the provision of affordable housing connected with that

phase or plot has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- (i) the numbers, type, size, tenure and location on the site to which the phase or plot relates of the affordable housing provision to be made which shall consist of not less than 20% of housing units unless a lesser level is justified by a Viability Assessment that shall have been submitted to and agreed in writing by the local planning authority;
 - (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider
 - (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - (v) the occupancy criteria to be used for determining the identity of the occupiers of the affordable housing and the means by which such occupancy shall be enforced.
14. No application for reserved matters shall be made until a scheme for the provision of on-site public realm and infrastructure shall be submitted for the written approval of the local planning authority. All reserved matters applications shall be made in accordance with the approved public realm and infrastructure scheme. Development shall be carried out in accordance with the approved details.
15. Prior to first occupation of any building within any phase or plot hereby approved, a scheme detailing the maintenance and accessibility of public realm and infrastructure related to the phase or plot of the development in which that building is situated, shall be submitted to and approved in writing by the local planning authority. The maintenance and management of the public realm and infrastructure shall be undertaken in accordance with the approved scheme.
16. The public realm and infrastructure shall at all times be accessible to the public in accordance with the maintenance and management scheme approved pursuant to Condition 14 of this permission.
17. Prior to commencement of development of any phase or plot of development within the site (other than for landscaping alone), samples of all external facing and roofing materials for that phase or unit shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
18. Any application for the approval of reserved matters (other than those relating to landscaping alone) for any phase or plot within the development site shall be accompanied by an assessment to explore the viability and/or feasibility of incorporating 10% (or greater or lesser percentage if viable or feasible) of predicted energy requirements from de-centralised and renewable or low-carbon sources for the relevant phase or plot, which shall be submitted for the

written approval of the local planning authority. The development of that phase or plot shall be carried out in accordance with the approved scheme and any approved measures retained thereafter.

19. Any application for reserved matters (other than for landscaping alone) for any phase or plot of development shall be accompanied by a wind assessment. Such assessment shall include details of the likely impacts of the development on pedestrian level wind conditions within the phase or plot of development and within the wider application site area to which this permission relates. Such assessment shall also provide full details of measures to mitigate such impacts, along with timescales for the implementation of such measures. The wind assessment shall be approved in writing by the local planning authority prior to commencement of development of the related phase or plot to which the application for reserved matters relates, and the mitigation measures shall be fully implemented in accordance with the approved timescale for implementation.
20. Any application for the approval of reserved matters (other than those relating to landscaping alone) shall be accompanied by details of the delivery hours to, and operating hours of, all non-residential uses within the phase or plot covered by the application. The details shall be approved in writing by the local planning authority prior to first occupation of any building or unit within the phase or plot to which the details relate. The non-residential uses shall be operated in accordance with the approved hours thereafter.
21. Any application for reserved matters (other than those for landscaping alone) which include proposals for A3, A4 or A5 uses (as defined by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, as revoked, superseded or re-enacted) shall be accompanied by scheme(s) including full details of fume extraction and filtration systems to the cooking and/or food preparation areas, which shall be approved in writing by the local planning authority. The approved scheme(s) shall be implemented within the commercial units to which they relate prior to first use of the said commercial units. The approved schemes shall be retained and operated in accordance with approved details thereafter.
22. Any application for reserved matters (other than for landscaping alone) for any development phase or plot shall be accompanied by an assessment of noise likely to affect the application site, which shall be submitted for the written approval of the local planning authority. The noise assessment shall set out the methodology to be used, including measurement positions which shall have been previously agreed with the local planning authority prior to the commencement of noise measurements. Any mitigation measures identified as required within the noise assessment shall be approved in writing by the local planning authority and such approved measures installed prior to occupation of the respective phase or plot. A Site Completion Report shall be submitted to the local planning authority for approval upon first occupation of the respective phase or plot which shall validate that all works undertaken on site were completed in accordance with those agreed by the local planning authority.

23. The rating level (LAeq,T) from all fixed plant and machinery associated with the development, when operating simultaneously from each installed and operational plant on each constructed phase or plot, shall not exceed the background noise level (LA90,T) by more than -5 dB at any time when measured at the nearest noise sensitive premises. Noise measurements and assessments shall be carried out according to BS 4142:1997 - Rating industrial noise affecting mixed residential and industrial areas. 'T' refers to any 1 hour period between 07.00 hours and 23.00 hours and any 5 minute period between 23.00 hours and 07.00 hours.
24. Any application for reserved matters (other than those for landscaping alone) shall be accompanied by details of waste management/servicing arrangements, servicing areas and movements for each unit/use provided within a building or development plot, which, for the avoidance of doubt, shall include details for the provision of bin storage, recycling facilities, separation of hazardous and non-hazardous wastes, bulky waste storage and hours of servicing for non-residential uses/units. Development shall be carried out in accordance with the approved details.
25. Prior to the first occupation of any building, or unit therein, a verification report to demonstrate that waste management an/or servicing arrangements have been implemented in accordance with approved details pursuant to Condition 24 shall be submitted to and approved in writing by the local planning authority.
26. Any application for the approval of reserved matters (other than for landscaping alone) for any phase or plot within the development site shall be accompanied by a Crime Prevention Plan (CPP) which shall examine all aspects of site security including site car parking, pedestrian footways, entrances, internal layout and external security measures for that phase or plot and which shall be capable of meeting Secured by Design requirements unless otherwise agreed in writing by the local planning authority. The CPP shall be submitted to and approved in writing by the local planning authority prior to the commencement of development of that phase or plot. Development of that phase or plot shall be carried out in accordance with the approved CPP and any approved site security measures shall be retained thereafter unless otherwise agreed by the local planning authority.
27. No development shall commence on any phase or plot within the development until the following components of a scheme to deal with the risks associated with potential contamination of that phase or plot within the development site have been submitted to and approved in writing by the local planning authority:
 1. A Preliminary Risk Assessment which has identified:
 - a. All previous uses;
 - b. Potential contaminants associated with those uses identified;
 - c. A conceptual model of the phase or plot indicating sources, pathways and receptors; and
 - d. Potential unacceptable risks arising from contamination of that phase or plot.

2. A Site Investigation Scheme based on (1), to provide information for a Detailed Risk Assessment of the risk to receptors that may be affected, including those off the phase, plot or development site.
3. The Site Investigation Scheme results and the Detailed Risk Assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Prior to first occupation of the related phase or plot a Verification Report shall be submitted to and approved in writing by the local planning authority. The Verification Report shall include a plan and details of the data collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The development shall be implemented in respect of each phase or plot in accordance with the approved details

28. Vegetation shall only be removed outside of the bird breeding season (between October and February) unless otherwise agreed in writing by the local planning authority.
29. Prior to the commencement of development of any phase or plot a scheme for the provision of on-site construction training shall be submitted for the written approval of the local planning authority. The construction of each phase of development shall be carried out in accordance with the approved details.
30. Any application for reserved matters (other than those for landscaping alone) shall be accompanied by a scheme outlining the scope of a Construction Environmental Management Plan (CEMP) for the area of the site subject of the reserved matters application. The CEMP shall, for the avoidance of doubt, include details of:
 - a) health and safety provision;
 - b) measures for handling contaminated material;
 - c) measures for transporting/disposing of contaminated material;
 - d) handling sources of inert fill;
 - e) measures to ensure demolished material considered for in-filling purposes is suitable; and,
 - f) appropriate measures for management of dust and run-off.

All measures are to be in line with best practice and as necessary to meet relevant statutory requirements and regulations. Development of each phase or plot shall be carried out in accordance with the CEMP

31. Prior to the commencement of development, including demolition, on any phase or plot within the development site, a Site Management Plan (SMP) and Code of Construction Practice (CCP) outlining working practices during demolition and/or construction, covering matters of site planning, construction traffic, demolition works and site activities, shall be submitted to and approved in writing by the local planning authority in respect of that phase or plot. The following matters shall be addressed:

- a) hours of working;
- b) provision of wheel washing facilities;
- c) dust suppression measures;
- d) construction routes in and around the site;
- e) compound locations;
- f) parking of construction vehicles; and
- g) sheeting over of construction vehicles.

Development for each phase or plot shall be carried out in accordance with the SMP and CCP.

- 32. Prior to first occupation of any phase or plot of development approved by this permission a Landscape Maintenance and Management Scheme relating to that phase or plot of development shall be submitted to and approved in writing by the local planning authority. The landscape management and maintenance of the area of landscaping to which the application for the approval of reserved matters relates shall be undertaken in accordance with the approved scheme.
- 33. Upon approval of landscaping details, pursuant to Condition 2 of this permission, the new planting for each phase or plot of development shall be carried out during the planting season October-March inclusive, (in accordance with the appropriate British Standards for ground preparation, staking, etc in BS4428:1989 (1979)) immediately following first occupation of each phase or plot of development to which approved landscaping details relate, unless otherwise agreed in writing by the local planning authority. Any plants found damaged, dead or dying in the first 5 years are to be replaced in accordance with the approved landscaping details.
- 34. No development (other than landscaping, public realm, highway and infrastructure works) shall take place on any phase or plot of development until details of a scheme to achieve BREEAM 'very good' ratings for that phase or plot have been submitted to and approved in writing by the local planning authority. The development of that phase or plot shall be carried out in accordance with the approved scheme.
- 35. No external lighting shall be provided for any phase or plot within the site unless and until a scheme detailing the appearance, type, position, illumination and lux levels of external lighting has been submitted to and approved in writing by the local planning authority. No unit or building within the relevant phase or plot shall be first occupied until the approved external lighting scheme relevant to that unit or building has been implemented in full.
- 36. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from the development shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with, the site being drained. Roof water shall not pass through the interceptor.
- 37. Prior to the commencement of construction on any building or unit on any phase or plot of development within the site, a scheme detailing the disposal of foul and surface waters shall be submitted to and approved in writing by the

local planning authority. The approved scheme shall be implemented prior to first occupation of any unit or building within the relevant phase or plot.

38. Prior to the commencement of construction of any building or unit on any phase or plot a Car Park Management Strategy shall be submitted to and approved in writing by the local planning authority. The Strategy shall include details on the layout, means of access and egress to areas of vehicle parking, maximum duration of stay, car park charging (where appropriate), and on-site parking enforcement. Car park layouts are to include the appropriate number of spaces for motorised and non-motorised vehicles and user types required in relation to any phase or plot, and in accordance with parking standards requirements set out by the local planning authority. The development of any phase or plot shall be carried out in accordance with the approved Strategy and the approved measures shall be implemented prior to first occupation of the relevant phase or plot of the development site.
39. No part of the development shall be first occupied until its associated car parking, cycle and motorcycle parking provision has been completed and made available for use. Such disabled, cycle and motorcycle spaces shall be retained and kept available for use thereafter.
40. Prior to commencement of development a site wide Travel Plan Framework shall be submitted to and approved in writing by the local planning authority. A Full Site Travel Plan shall be developed in accordance with the approved Framework and implemented within 6 months of the first occupation of any building(s) or unit(s) within the site related to the relevant building(s) or unit(s). The Full Site Travel Plan must be operated at all times that the building(s) or unit(s) is occupied and shall be reviewed on an annual basis in accordance with the details outlined in the approved Travel Plan Framework. The Full Site Travel Plan and all updates shall be produced in accordance with national, regional and local best practice guidance and shall include:
 - 1) The method of operation;
 - 2) The name and contact details of the appointed Travel Plan Coordinator;
 - 3) Targets;
 - 4) Infrastructure to be provided;
 - 5) Measures that will be implemented;
 - 6) Monitoring and review mechanisms;
 - 7) Procedures for any remedial action that may be required; and
 - 8) Timetable for implementing each element of the plan.

The Full Site Travel Plan must be developed and implemented alongside the Car Park Management Strategy (condition 38) and the Area Wide Travel Plan (condition 41). The approved Full Site Travel Plan shall not be varied other than through agreement in writing from the local planning authority.

41. Prior to the commencement of development an Area Wide Travel Plan shall be submitted to and approved in writing by the local planning authority. The Area Wide Travel Plan shall include the following aims and objectives:
 1. area wide objectives, mechanisms and measures to achieve area wide targets; and

2. include details for the on-going monitoring, audit and implementation timescales; and
3. shall have a Travel Plan Coordinator in post not later than first occupation of any phase or plot of the development site who shall remain in post for a minimum of five years post first occupation of the final phase or plot of the site constructed; and
4. details of the means of auditing and updating.

The development shall be carried out in accordance with the approved aims and objectives of the Area Wide Travel Plan unless otherwise agreed in writing.

42. Prior to first occupation of any phase or ploy that includes Blocks C or D as described in the Site Layout Plan (reference 27207-A-03-01) a scheme to provide pedestrian access across the Metrolink line on The Quays shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and the crossing brought into use prior to the first occupation of either Block C or Block D.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

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