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Town and Country Planning Act 1990, Section 78 and 79

Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, as amended by the Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009 and the Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013

Appeal by Applegreen plc

for a Proposed Motorway Service Area on the A1(M) at Kirby Hill

Statement of Case

of

Kirby Hill RAMS

18 March 2020

PLANNING INSPECTORATE REFERENCE: APP/E2734/W/20/3245778

1 INTRODUCTION

1.1 Reference is made to the appeal APP/E2734/W/20/3245778 submitted by Applegreen plc on 12 February 2020, against Harrogate Borough Council's decision on 19th November 2019 to refuse planning permission for a proposed motorway service area on the A1(M) at Kirby Hill.

1.2 This statement has been prepared by Kirby Hill RAMS [**R**esidents **A**gainst **M**otorway **S**ervices]. Kirby Hill RAMS is an independent residents' group formed for the sole purpose of objecting to the proposed Kirby Hill MSA. Kirby Hill RAMS represented the local community at the Public Inquiries into MSA proposals at this site in 1997, 2003 and 2010 and has been granted the status of a Rule 6(6) party at the 2020 Public Inquiry. Our case represents the views of the local community and the views of the seven local councils listed below, all strongly objecting to the proposed Kirby Hill MSA:

Local Council	**Number of Electors Represented**
Kirby Hill & District Parish Council	542
Marton-le-Moor Parish Council	170
Langthorpe Parish Council	650
Dishforth Parish Council	501
Boroughbridge Town Council	2697
Skelton-cum-Newby Parish Council	295
Roecliffe-with-Westwick Parish Council	200
TOTAL ELECTORS REPRESENTED	5055

1.3 While Kirby Hill RAMS have no professional qualifications in the field of planning, our extensive local knowledge exceeds that of any of the expert witnesses engaged by Applegreen plc. This enables us to present a case based on evidence that accurately reflects the first-hand knowledge and day-to-day experiences of local people over many years. We believe that we are in a unique position to provide the Inspector with a valuable, first-hand, local perspective on the planning issues under consideration.

1.4 On behalf of the local community, we submit that this Appeal should be dismissed.

2 PLANNING HISTORY

2.1 Since 1996, the promoter of this site, Heather Ive Associates (HIA), has been seeking planning permission for an MSA. HIA holds options over the land at the proposed site from two local landowners. For over 20 years, HIA has consorted with various parties to fund and conduct a series of unsuccessful planning applications, appeals, Public Inquiries and High Court cases related to a proposed MSA at Kirby Hill. During this time, at every stage, Kirby Hill RAMS has opposed the plans on behalf of the local community, presenting a strong, well-argued and repeatedly successful case that there should be **NO MOTORWAY SERVICES AT KIRBY HILL**.

2.2 The latest incarnation of the Kirby Hill MSA proposal is Applegreen plc's planning application reference 18/00123/EIAMAJ submitted on 10 January 2018, which replaced planning application reference 17/03414/EIAMAJ that was voluntarily withdrawn by the Appellant on 16 December 2017.

2.3 **Table 2.1** details the planning history of MSA proposals at this site over the last 24 years. During this time, two new MSAs, less than 28 miles apart (as per Government guidance) have been granted planning permission on this stretch of the A1(M). After the 2003 Public Inquiry, the Secretary of State refused permission for a Kirby Hill MSA and granted permission for the new Wetherby MSA. After the 2010/11 Public Inquiry, the Secretary of State refused permission for a Kirby Hill MSA and granted permission for the upgrade of Leeming Bar Services to MSA status.

Date	Action	Reference Number	Outcome	Date of outcome
17/10/1996	Planning application	96/02624/OUT	Non-determination	25/02/1997
10/09/1997	Appeal & Public Inquiry	97/00042/FTDPP	Permission granted	15/03/1999
14/04/2000	High Court Appeal	CO/1562/99, Elias, J.	Permission quashed	14/04/2000
2000	Court of Appeal	n/a	Appeal dismissed	2000
07/10/2002	New Public Inquiry	02/00095/CALLIN	Permission refused	15/09/2005
2005	High Court Appeal	n/a	Appeal withdrawn	2005
18/12/2008	Planning application	08/05860/EIAMAJ	Permission refused	30/03/2009
09/04/2009	Appeal & Public Inquiry	09/00043/CALLIN	Permission refused	16/10/2012
28/10/2013	High Court Appeal	CO/12581/2012, Lindblom, J.	Permission refused	28/10/2013
31/07/2017	Planning application	17/03414/EIAMAJ	Application withdrawn	16/12/2017
10/01/2018	Planning application	18/00123/EIAMAJ	Permission refused	22/11/2019
12/02/2019	Appeal & Public Inquiry	APP/E2734/W/20/3245778	TBD	

Table 2.1: Planning history of the proposed Kirby Hill MSA site

2.4 Repeated applications and appeals for an MSA at Kirby Hill have placed a huge burden on the local community and on Harrogate Borough Council over the last 24 years. It seems to us that HIA and their various business partners, most recently Applegreen, have adopted a strategy of attempting to wear down the opposition through repeated planning applications, appeals and court cases over the years, refusing to accept the properly-taken decisions of the Local Planning Authority, three Government Planning Inspectors, two Secretaries of State and the High Court. Such recalcitrant behaviour and lack of respect for authority should not be allowed to result in the properly-taken decisions of the Planning System being overturned and the rights of local citizens being ignored.

2.5 We respectfully ask the Inspector to have regard to this planning history and context and to the prior decisions of his professional colleagues, successive Secretaries of State and the Courts regarding similar MSA proposals at this site, when determining this Appeal.

3 KEY CONSIDERATIONS

3.1 Kirby Hill RAMS identify the key considerations in determining this Appeal as:

- The Harrogate District Local Plan
- The Secretary of State's 2012 Decision Letter
- Highways Matters
- Landscape & Environmental Harm
- Drainage & Surface Water
- Economic Harm
- Climate Change
- Sustainable Development
- The Planning Balance

3.2 The case Kirby Hill RAMS will be making at the Public Inquiry in respect of each of these key considerations is set out in the following sections, with references to the relevant local and national planning policies that apply. At the end of each section, our conclusion in respect of the key consideration being discussed is summarised in **bold**.

3.3 A list of appearances for Kirby Hill RAMS at the Public Inquiry is provided in Appendix A. A list of the documents we shall submit in evidence is provided in Appendix B and a list of other documents to which we will refer in evidence is provided in Appendix C.

4 THE HARROGATE DISTRICT LOCAL PLAN

4.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of the Local Plan, namely that:

1. *The site is not allocated for a Motorway Service Area in either the 2001 Harrogate District Local Plan or the emerging Harrogate District Local Plan.*

2. *The proposal would result in a second Motorway Service Area in the District contrary to Saved Local Plan Policy T7.*

4.2 The purpose of the Local Plan is to give developers and local communities certainty as to where development, especially major development, will be permitted in the local area. Local Plans play a crucial role in enabling the Local Planning Authority to set a vision, in consultation with local people, about what their area should look like in the future.

4.3 To the extent that Local Plan policies are material to an application for planning permission, the decision must be taken in accordance with the Local Plan, unless there are material considerations that indicate otherwise [Section 70(2) of the Town & Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004]. These provisions also apply to Appeals.

4.4 The proposed MSA site is not allocated for a Motorway Service Area in either the 2001 Harrogate District Local Plan or the new Harrogate District Local Plan. The site appears as open countryside, outside the agreed Development Limits, on Policy Maps in both Local Plans.

4.5 At the time of refusal, the extant 2001 Harrogate District Local Plan contained Saved Policy T7, which said that there should only be one MSA on the 21-mile stretch of the A1(M) that runs through Harrogate District. After a lengthy Public Inquiry in 2003 at which five potential MSA sites were considered, including the Appellant's proposed site at Kirby Hill, an Inspector concluded that Wetherby was the preferred site for the one MSA that the Local Plan required in Harrogate District.

The Secretary of State subsequently granted planning permission for Wetherby Services, 12 miles south of Kirby Hill, which was built and meets the needs of motorists on this part of the A1(M).

4.6 The new Harrogate District Local Plan was formally adopted by the Council on 4th March 2020. It was in development for 6 years, including several significant periods of stakeholder engagement and consultation with the local community. The Appellant first submitted a planning application for the proposed MSA in July 2017, so the Council had ample opportunity to consider this and allocate the site for an MSA in the Policy Maps in the draft Local Plan, if they thought it appropriate. They did not do so. The local community participated fully in the public engagement around the emerging Local Plan and now supports the vision it sets out of how the places where we live and work will be shaped by future development. The proposed MSA is not a part of that agreed vision.

4.7 We regard the Local Plan and its policies as the Council's 'contract' with us about where development, particularly major development, will occur. The Local Plan Policy Maps are a vital part of this contract and are the principal means by which the Council communicates to the public how future development permitted by the Local Plan will affect them, in real terms, on the ground. The proposed MSA is not a part of this contract. On the published Local Plan Policy Maps for Kirby Hill and Marton-le-Moor, the site is shown as open countryside, outside the agreed Development Limits. Consequently, that is what the local community expects it to remain, until at least 2035.

4.8 After 6 years of consultation and review, local people have put their trust in the newly-adopted Local Plan as the Council's published vision for the future of the area. At the meeting of Full Council on 4th March 2020 at which the Local Plan was adopted, the public heard Harrogate Borough Council's Cabinet Member for Planning, Councillor Rebecca Burnett, say that we needed the new Local Plan, to enable the Council to protect the District from inappropriate, speculative development. If the proposed MSA scheme were approved, it would demonstrate to the public that the newly-adopted Harrogate District Local Plan is unsound and ineffective as an instrument of planning policy. The local community would lose faith in the Local Plan, before the ink is even dry on its approval. This would undermine public trust in the Council, which has been built up over many years of careful public consultation on the Local Plan. The result would be a significant degree of Social harm, which must be weighed against the Social sustainability objective set out in para 8 of the NPPF.

4.9 The Appeal should be refused because the application is contrary to published policies in the Harrogate District Local Plan. Approval would cause Social harm, contrary to the NPPF.

5 THE SECRETARY OF STATE'S 2012 DECISION LETTER

5.1 The Appellant's proposed MSA development is contrary to the Secretary of State's determination in his Decision Letter dated 16 October 2012 that there should be no motorway service area at Kirby Hill. The Secretary of State's Decision Letter was issued following an extensive Public Inquiry, held when Heather Ive Associates appealed Harrogate Borough Council's refusal of planning permission for an MSA at this site in 2009. The required MSA provision on this stretch of the A1(M) has therefore already been determined by the Secretary of State. Moto's new MSA at Wetherby is operational. The permission the Secretary of State gave in his 2012 Decision Letter, to upgrade the existing Leeming Bar Services to full MSA status, has been lawfully commenced. Completion of the Highways England project to upgrade the A1(M) between Leeming and Barton to motorway by the target date of end 2017 was a pre-requisite for completing the upgrade of Leeming Bar services to MSA status. The Appellant's criticisms of 'delay' in bringing forward this MSA are therefore unfounded. One cannot have an MSA without a motorway.

5.2 The Appellant's planning application is also in error when it says that Leeming Bar MSA will not achieve signing from the A1(M). Moto's reserved matters planning application for the Leeming Bar MSA, approved by a Decision Notice on 20 November 2017 [Hambleton District Council planning reference 15/02200/REM], confirms that signing of Leeming Bar MSA from the motorway is already agreed with Highways England.

5.3 The Secretary of State's 2012 Decision Letter must therefore be taken into account when assessing this Appeal. The Secretary of State's decision must be given time to be implemented, rather than approving another MSA proposal now, before the Leeming Bar MSA, for which the Secretary of State granted planning permission in 2012, has even opened. If the proposed MSA at Kirby Hill were to be approved now, it would adversely affect the viability of the new Leeming Bar MSA already approved by the Secretary of State and undermine his 2012 decision. The Appellant's planning application was premature and at this point in time, is unnecessary.

5.4 The Appeal should be refused because approval would undermine the Secretary of State's decision on MSA provision on this stretch of the A1(M) before it has time to be implemented.

6 HIGHWAYS MATTERS

Need for another MSA

6.1 The Secretary of State made clear in his 2012 Decision Letter that he considered a need existed for just one new MSA on the A1(M) between Wetherby and Barton. None of the parties disagreed with this position at the Inquiry, nor subsequently at the High Court. In the 8 years since then, there has been no increase in need that would justify granting planning permission for another MSA. In fact, if anything, since 2012 the need for MSAs on this part of the road network has decreased.

6.2 Nothing has changed on the ground since 2012 that would alter the distances between Wetherby, Kirby Hill, Leeming Bar and Barton. At the 2010/11 Public Inquiry, the Highways Agency measured the relevant distances on the A1(M) and their methodology, measurement points and results were agreed by all parties, including the promoter of the Kirby Hill site, who is The Appellant's partner in this latest application. The agreed table of distances [2010/11 Inquiry Core Document 14.11], to which the Secretary of State referred in his 2012 Decision Letter, gave the following measurements:

- Wetherby to Kirby Hill = 12.4 miles
- Kirby Hill to Leeming Bar = 15.1 miles

6.3 Therefore the distance from Wetherby to Leeming Bar, as measured by the Highways Agency and agreed to by all parties to the 2010/11 Public Inquiry, is 27.5 miles. This is less than the 28-mile spacing envisaged by Circular 02/2013. It provides no justification for another MSA. If it did, The Appellant would not need to inflate this distance in their planning application and quote it as 28.8 miles. This figure is stated as fact, yet with no evidence of methodology, no indication of whether it has actually been measured on the ground and no explanation of why it is different to the distance agreed by all parties at the 2010/11 Public Inquiry. Given its uncertain provenance and the absence of any actual change on the ground, The Appellant's 28.8 mile distance figure should receive no weight. It cannot be considered a material change that justifies a different planning decision now.

6.4 The Appellant argues that the new DfT Circular 02/2013, published since the Secretary of State's decision, supports the need for a new MSA at Kirby Hill. Although policy changes in the new Circular (lobbied for by the MSA industry) allow a new planning application to be brought forward, that does not mean that there is automatically a proven need for another MSA at Kirby Hill. The Local Planning Authority is required to assess the planning balance of need/benefits vs harm. It did and decided that there were good reasons to refuse the application.

6.5 Crucially, the criteria in the new Circular regarding MSAs being spaced a maximum of 28 miles or 30 minutes driving time apart are the same as when the Secretary of State took his decision in 2012. However, Paragraph B5 of the new Circular says that this timing is not prescriptive because '*at peak hours, on congested parts of the network, travel between service areas may take longer*'. Local people, who travel the road daily to work or to visit friends and relatives, know that the motorway between Wetherby and Leeming Bar does not meet this definition. The A1(M) in North Yorkshire is not the M25. The Appellant's need case is not supported by Circular 02/2013 policy.

6.6 A significant material change between Circular 01/2008 and the new Circular 02/2013 is that the Government's advice to motorists to stop and take a rest has been revised. The recommended break from driving is now 15 minutes every two hours, whereas it was previously 20 minutes every two hours – a 25% reduction. This policy change creates shorter duration visits to MSAs and a corresponding increase in the total number of daily visitors an MSA can accommodate. The capacity of existing MSAs is thereby increased by up to 25%. This has the effect of reducing the need for new MSAs, compared to when the Secretary of State made his decision.

6.7 DfT Circular 02/2013 reduces, rather than increases, the need for an MSA at this location.

Single-Sided MSA Strategy

6.8 Perhaps the most significant change in this new proposal is that the MSA would be sited on the western side of the A1(M) only. A significant material consequence of the change to a single-site strategy is the need to create a new, elevated, dumb-bell junction above the A1(M) carriageway immediately north of the site. At 45.7m AOD, this would be the highest and most visually-impactful structure in the proposed MSA and indeed in the local area. It would be topped by 10m lighting columns [ES Appendix 4.1, Outline Scheme of Lighting, Sheet 01], making the structure visible,

day and night, for many miles around. Unlike in previous MSA proposals, no mitigation is proposed to screen this elevated MSA infrastructure from Kirby Hill village.

6.9 Despite the change to a single-sided MSA strategy, Applegreen also claim that their proposal benefits from the advantage of being an 'online' site of the kind preferred by Highways England, as set out in Circular 02/2013. The supposed 'fact' that Kirby Hill would be an 'online' site, preferred by Highways England, is described as a 'key determinant' of Applegreen's choice of Kirby Hill as a location [Planning Statement, para 2.4.1]. This claim is completely misleading. By Applegreen's own admission [Planning Statement, para 1.3.3], the proposed MSA requires the creation of a new, grade-separated, dumb-bell junction above the A1(M) at Kirby Hill. Motorists would need to negotiate the new dumb-bell junction to access the MSA, so the supposed benefit of easier access to an 'online' MSA has been lost. The proposed dumb-bell junction is identical to those found at Junction MSAs, except for the presence of local traffic. Conflicting traffic is not absent however, as it would be at an 'online' MSA. Motorists will be able to use the junction to reverse their direction of travel on the A1(M), a design which will encourage more short trips along the motorway from the nearby town of Boroughbridge to use the MSA facilities. The proposed scheme is a Junction MSA. Unlike previous proposals at this site, it does not offer the benefits of an 'online' MSA.

6.10 The Appellant's single-sided strategy increases the harm and reduces the benefits of the proposed MSA, when compared with the previous MSA proposals that have been rejected.

Rear Access

6.11 Previous MSA proposals at this site would have had no access to the local road network. However, Applegreen has included in its plans a rear access on the B6265 Ripon Road for staff, deliveries and construction traffic. This increases the impact of the proposal on the local community, by creating additional traffic and new safety hazards on the local road network. The location of the proposed rear access is a spectacularly bad choice. It lies almost at the bottom of two converging downhill sections of the 60mph B6265 Ripon road, at a known accident blackspot, as is illustrated by the mapping of the last 10 years' local road accident statistics by Kirby Hill RAMS using data from **crashmap.co.uk**.

6.12 It is highly likely that the proposed rear access would increase both the number and severity of road accidents on the B6265, given the number of staff/delivery vehicles using it 24 hours a day, plus up to 21 HGV movements per hour in and out over a 12-hour working day during construction [ES para 8.4.29]. For local people, road accidents are not just statistics. As daily users of the B6265, they are concerned about the risk that they personally, or a close friend, relative or neighbour, may meet with a serious or fatal accident as a direct result of the proposed rear access for staff and HGVs.

6.13 The proposed rear access is unsafe and would increase road accidents on the B6265.

6.14 Overall, in Highways terms, there is no need for the proposed MSA and it is associated with increased harm and reduced benefits, when compared with previous MSA proposals at this site that have been rejected.

7 LANDSCAPE & ENVIRONMENTAL HARM

7.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of landscape and environmental harm, namely

"3. The proposal represents an unsustainable development that would result in a significant encroachment into open countryside resulting in harm to the landscape and irreversible damage to agricultural land of the best and most versatile in conflict with Saved Policies C2 and T7 of the 2001 Harrogate District Local Plan, Policy SG4 of the Harrogate District Core Strategy Development Plan Document and Policies NE4 and NE8 of the emerging Harrogate District Local Plan."

7.2 The large-scale, open, landscape at Kirby Hill is well-described and protected by the Harrogate District Landscape Character Assessment. In Appendix 5.2 of Applegreen's ES: 'Effects on Landscape Character', the Appellant admits four times that: '*The localised effects of the Proposed Development would be adverse'*. **This key reason for the refusal of previous MSA proposals at this site has not been overcome.**

7.3 Although the required land-take of 19ha is marginally less than that required by previous schemes, Applegreen's proposal would have a more severe impact on the landscape at Kirby Hill. Unlike previous proposals, where a balance of cut and fill would have been achieved by re-profiling the

site, this proposal requires far more extensive excavation of the fields west of the A1(M). This means that a balance of cut and fill cannot be achieved and that 68,000m^3 (98,000 tonnes) of soil must be removed from the site [ES para 4.13.8 to 4.13.10]. This is a direct result of the new strategy of digging a deeper hole, in an attempt to bury the proposed MSA under a green roof. The huge amount of earth-moving and re-profiling required will result in significant adverse landscape impact.

7.4 Applegreen says that '*an interpretation of the traditional Ha-ha has been used at the sensitive western edge of the site*' [ES para 3.4.2.iv.]. In landscaping, a 'Ha-ha' is defined as a '*turfed incline which slopes downward to a sharply vertical face'*. The MSA would therefore sit in a hole, with unnaturally steep-sided embankments bordering the B6265 Ripon Road and the sensitive western site boundary, near to Skelton Windmill. Contrary to Applegreen's claims, the 98,000 tonnes of soil removed from the site during construction of the hole and 'Ha-ha' means that the landscape harm would be irreversible, even if the MSA were to close in the future.

7.5 Unlike most MSAs, which have dense woodland screening to avoid ugly views into the site, Applegreen's proposal simply has a hedgerow with a wire mesh security fence along the northern, western and southern boundaries. On the northern and western boundaries Applegreen say that the security fence would be on the MSA side of the boundary hedgerow, which presumably means that on the southern boundary it would be <u>outside</u> the hedgerow, adjacent to the B6265. From this vantage point, the closest local road to the site, one would have the visual impression of looking through the security fence into a sunken prison.

7.6 Unlike previous proposals, no mounding or planting at all is proposed to screen the MSA or its elevated access arrangements from viewpoints to the east in Kirby Hill village. The adverse impact of the MSA and its elevated junction on the landscape would be visible to Kirby Hill residents over open fields and would be a permanent reminder of the harm done to a landscape they treasure.

7.7 Overall, the proposed boundary landscaping treatment for this new proposal is very weak and not up to modern standards. The problem, as local residents have pointed out for many years, is that mounding, embankments and/or woodland planting at this location would be an alien feature in an otherwise open, large-scale landscape with long-ranging views. **An MSA cannot be successfully integrated at this location.**

7.8 Discussion of the degree of landscape harm that the proposed MSA would cause is also in many respects academic, when there is no need to cause that harm at all. Since there is no need for an MSA at Kirby Hill, any landscape harm cannot be justified, let alone the significant, irreversible landscape harm that would be caused by this proposal.

7.9 **The significant Landscape harm associated with the proposed MSA and the adverse impact of this on the countryside, the local environment and the local community provide sufficient grounds on their own for refusing this Appeal.**

8 DRAINAGE & SURFACE WATER

8.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of drainage and surface water, namely:

"5. The development has a potential risk of environmental damage arising due to drainage and surface water issues contrary to Policy EQ1 of the Harrogate District Core Strategy Development Plan Document and Policy CC1 of the emerging Harrogate District Local Plan."

8.2 We will show in evidence that the existing drainage infrastructure to which the proposed MSA would be connected is already inadequate and that granting permission for this development would overwhelm the local drainage system, causing unacceptable levels of environmental harm, contrary to Local Plan Policy CC1. Our evidence from Yorkshire Water of this risk of increased environmental harm will show that sewage spills in local streets and pollution of the River Ure would increase, due to the age, design and inadequacy of the Yorkshire Water infrastructure, which the Appellant claims would provide drainage for the proposed MSA.

8.3 In terms of surface water, we will show using photographic evidence that the site already suffers from problems of surface water drainage during rainfall and that the proposed excavations to create an MSA would only exacerbate this. Yorkshire Water has already made clear that surface water runoff from the MSA cannot utilise the existing surface water drainage system.

8.4 Applegreen acknowledges that the bedrock under the proposed site 'is designated a principal aquifer, which may support water supply and/or river base flow on a strategic scale' [ES para 7.3.8]. The ES states that the proposed MSA '*would increase the risk of contamination of surface water*

runoff' and that '*groundwater quality may be affected through the infiltration of surface water runoff into the ground*' [ES para 7.4.9 to 7.4.10]. They further acknowledge that construction activities, in particular ground excavation, '*may create new pollutant pathways from the surface to the underlying aquifer*' [ES para 7.4.4]. Yet the proposed strategy remains deep excavation of the site and the discharge of surface water via soakaways directly above a major aquifer. While Applegreen is prepared to accept the risk of flooding to the proposed MSA, we as local people will not tolerate such increased risk to our source of drinking water and to our local rivers. It is simply unacceptable.

8.5 The proposed solutions for drainage of foul and surface water from the MSA would cause significant harm to the landscape, environment and agriculture. They would also create an increased risk of flooding, contrary to Policy EQ1 of the Harrogate District Core Strategy Development Plan Document and Policy CC1 of the Harrogate District Local Plan. This harm is contrary to the Environmental sustainability objective of para 8 of the NPPF.

9 ECONOMIC HARM

9.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of Economic harm, namely:

"4. The proposed Motorway Service Area would cause economic harm to the town of Boroughbridge through the resultant loss of trade in conflict with Policy JB1 of the Harrogate District Core Strategy Development Plan Document and Policy GS5 of the emerging Harrogate District Local Plan."

9.2 Applegreen's claim of a £6.2M p.a. benefit to the local economy is based on a flawed methodology, invalid assumptions and arithmetical errors. The suggestion that local businesses would benefit from the proposed MSA is directly contradicted by the details of Applegreen's planning application.

9.3 Applegreen has also seriously underestimated 'displacement' effects on existing local businesses and has not taken account of other economic harm that would result from the proposed MSA. Using a more realistic assessment of displacement of trade and staff from local businesses, together with Applegreen's own figures, Kirby Hill RAMS' estimate that the proposed MSA would cause up to £3.5M p.a. of economic harm, significantly outweighing the economic benefits.

9.4 Applegreen's MSA proposal is in direct conflict with the Harrogate District Economic Growth Strategy (2017-2035) and would in fact undermine it, causing harm to the local economy, contrary to Policy JB1 of the Harrogate District Core Strategy Development Plan Document and Policy GS5 of the emerging Harrogate District Local Plan. This harm is contrary to the Economic sustainability objective of para 8 of the NPPF.

10 CLIMATE CHANGE

10.1 Climate change is a rapidly-escalating global threat. On 18 November 2016, the UK Government ratified and committed itself to the Paris Agreement, which unites all nations in a common cause to undertake ambitious efforts to combat climate change and adapt to its effects. The Government committed to reducing greenhouse gas emissions in the United Kingdom by 50% on 1990 levels by 2025 and by 80% on 1990 levels by 2050. However, on 27 June 2019, the UK went further and became the first major economy to pass new laws to reduce emissions to **net zero** by 2050.

10.2 Applegreen's Annual Report for 2018 (p74) says:

"Climate change is a global risk to society and businesses. At Applegreen we are committed to conducting our business activities in an environmentally responsible and sustainable manner, efficiently using and respecting all resources. The Group monitors applicable environmental legislation and ensures that all parties operating in our business are aware of our responsibilities in this regard. From new site development and construction through to site operation, we work with suppliers and customers to promote sustainable, carbon neutral alternatives."

10.3 According to ONS, although the UK's total greenhouse gas (GHG) emissions have fallen by 32% from 1990 to 2017, GHG emissions from road transport have increased by 6% over the same period. Around a fifth (21%) of UK greenhouse gas emissions came from road transport in 2017. The emissions from vehicles that are slow-moving, idling or stopping and starting, such as those entering or leaving an MSA, are typically twice as high as the emissions from the same vehicles travelling at speed. Consequently, the proliferation of MSAs works directly against the Government's net zero emissions target and its commitment to the Paris Agreement.

10.4 Despite all of the above, the proposed MSA has not been assessed in terms of its impact on Climate Change; on the Government's commitment to the Paris Agreement; and on the UK's target of net zero emissions by 2050. The Appellant's ES only mentions Climate Change in the context of the drainage and surface water schemes needing to handle a 1 in 100 year plus 30% severe rainfall event caused by Climate Change. It is rather ironic that the proposed MSA would itself be a significant contributor to such an event, but this contribution has not been assessed.

10.5 On 27 February 2020 in the Court of Appeal, Lindblom J. (who, coincidentally, dismissed Heather Ive Associates' Appeal against the Secretary of State's refusal of planning permission for an MSA at this site in 2013) issued a judgement that the Secretary of State for Transport had failed to take into account the Government's commitment to the Paris Agreement when approving plans for a third runway at Heathrow airport. He described this omission as 'legally fatal' to the proposed scheme.

10.6 Kirby Hill RAMS will argue that the failure to assess the Climate Change impacts of the Appellant's proposed MSA and to take into account the UK Government's commitments to the Paris Agreement and to net zero emissions by 2050 are similarly fatal to this proposed scheme.

10.7 The Appeal should be refused because Climate Change and the UK Government's commitments to the Paris Agreement and to net zero emissions by 2050 have not been taken into account and they should have been.

11 SUSTAINABLE DEVELOPMENT

11.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of sustainable development, namely:

"3. The proposal represents an unsustainable development that would result in a significant encroachment into open countryside resulting in harm to the landscape and irreversible damage to agricultural land of the best and most versatile in conflict with Saved Policies C2 and T7 of the 2001 Harrogate District Local Plan, Policy SG4 of the Harrogate District Core Strategy Development Plan Document and Policies NE4 and NE8 of the emerging Harrogate District Local Plan."

11.2 The Appellant will argue that, contrary to the Planning Committee's decision, the proposed MSA is sustainable development. This argument should fail, because the available evidence on the sustainability of the proposed development clearly contradicts the Appellant's uninformed opinion.

11.3 Evidence of substantial Social, Environmental and Economic harm arising from the proposed MSA development was presented to the Appellant during their public consultation exercise in 2017, during the consultation on both of their planning applications in 2017 and 2018 (267 representations in total) and at the Planning Committee on 19th November 2019, in the presence of the Appellant's Agent and their Development Director, under the 'Opportunity to Speak' scheme. The Appellant does not to accept this evidence and has, since learning about it, adopted a strategy for the last 18 months of refusing to engage with the local community. We are grateful to the Harrogate Borough Council Planning Committee, as the decision-makers in Planning law, for taking the time to evaluate all of the evidence and come to a balanced conclusion, even though this meant going against their Planning Officer's recommendation. We know that this is not something that the Planning Committee would do lightly. The weight of evidence for refusal must have been substantial.

11.4 We have explained in the sections above the reasons why the proposed MSA is not sustainable development. The substantial harm arising from the development is contrary to policies SG4, JB1 and EQ1 of the Harrogate District Core Strategy Development Plan Document and Policies NE4, NE8, GS5 and CC1 of the adopted Harrogate District Local Plan. Furthermore, the proposal is associated with Social, Environmental and Economic harm, contrary to the three sustainability objectives described in paragraph 8 of the NPPF. In view of these harms, the proposal is not sustainable development.

11.5 The Appeal should be refused because the proposed MSA is not sustainable development.

12 THE PLANNING BALANCE

12.1 Kirby Hill RAMS supports the reasons for refusal given by Harrogate Borough Council's Planning Committee in respect of the Planning Balance, namely:

"6. The harm resulting from the proposed development would outweigh the benefits of the proposed Motorway Service Area contrary to paragraph 11 of the National Planning Policy Framework."

12.2 Unlike the Planning Officer, the Planning Committee had access to all of the information required to fully assess the proposed MSA and make a balanced decision based on all of the material planning considerations. Each Member received a letter with details of the scheme from the Appellant supported by an Infographic, setting out the claimed safety benefits to motorway users and aspects of the scheme described as 'sensitive design' and 'protecting the environment', along with the claimed socio-economic benefits. Members also received a copy of Kirby Hill RAMS' Statement of Objection and a letter from the Ward Councillor, Nick Brown, setting out his personal reasons for objecting to the proposed scheme. Members of the Planning Committee also made their own site visits to view the lie of the land and assess the likely impact of the proposed development on it. As local Councillors, Members of the Planning Committee also have extensive local knowledge. This is something which the Appellant's team is sadly lacking, yet they are unwilling to listen to those who possess it, through many years of lived experience in the local area.

12.3 At the Planning Committee meeting, the Planning Officer spoke at length prior to the debate and provided the Committee with additional new information by way of an update. This update included the following information:

- The MSA at Leeming Bar approved by the Secretary of State in his 2010 Decision Letter has been lawfully commenced.
- The Lead Local Flood Authority have concerns over the results of soakaway tests that have been carried out and require further information to be provided before any permission is granted.
- Given the comments of the Lead Local Flood Authority there is a need for further detail concerning soakaways before any permission is granted.
- The Economic Development Officer has not undertaken a detailed analysis of the economic impact of the proposal.
- The Economic Development Unit considered that from the evidence provided, some of the figures that Applegreen are claiming (e.g. number of jobs, economic impact), do appear to be rather high, however they saw no reason to object.
- Yorkshire Water have confirmed there was a recent blockage in their own sewer (to which the MSA is proposed to be connected) resulting from plastic materials gathering in the sewer;

these were removed and the sewer jetted. They remain of the view that a foul discharge from the proposed development to the sewer of 6 litres/second maximum is appropriate.

12.4 The Minutes of the Planning Committee record that:

"Councillor Ken Lawson (Chair of Kirby Hill and District Parish Council), Gareth Owens (Objector) and David Jones (Agent) attended the meeting and spoke to the item under the Council's Opportunity to Speak Scheme. The officer's recommendations that the application be 'deferred and approved subject to conditions and a S106 agreement' were moved and seconded. On a vote being taken one Member voted for the officer's recommendations and ten against therefore the motion fell. It was subsequently moved and seconded that the application be refused. Ten Members voted for the motion and there was one abstention therefore the motion to refuse was passed."

12.5 Clearly, the Planning Committee reached its decision on the basis of a significantly enhanced information base, compared to what the Planning Officer had available when he reached his recommendation. It is entirely reasonable therefore that, having taken this additional information into account and weighed it in the balance, Councillors should have reached a different decision to that recommended by the Planning Officer. This case illustrates precisely why Members of the Planning Committee are empowered by law to be the decision-makers and on occasion, when they have good reason, can choose not to follow the advice of Planning Officers.

12.6 The Appeal should be refused because the Harrogate Borough Council Planning Committee weighed all of the information, including the additional information listed above, in the planning balance and concluded correctly, on the basis of <u>all</u> the information, that the harm resulting from the proposed development would outweigh the benefits of the proposed Motorway Service Area, contrary to paragraph 11 of the National Planning Policy Framework.

13 CONCLUSIONS

13.1 In conclusion, on behalf of the local community, Kirby Hill RAMS submits that this Appeal should be dismissed on the following grounds:

- The planning history is one of repeated refusal for an MSA at this site.
- The proposed MSA is contrary to published policies in the Harrogate District Local Plan and approval would cause significant Social harm, contrary to para 8 of the NPPF.
- Any grant of permission for the proposed MSA would undermine the Secretary of State's 2012 decision on MSA provision on this stretch of the A1(M) before it has time to be implemented.
- There is no need for the proposed MSA and it is associated with increased harm and reduced benefits, when compared with previous MSA proposals at this site that have been rejected.
- The significant Landscape harm associated with the proposed MSA and the adverse impact of this on the countryside, the local environment and the local community provide sufficient grounds on their own for refusing this Appeal.
- The proposed solutions for drainage of foul and surface water from the MSA would cause significant harm to the landscape, environment and agriculture. They would also create an increased risk of flooding, contrary to Policy EQ1 of the Harrogate District Core Strategy Development Plan Document and Policy CC1 of the Harrogate District Local Plan.
- The proposed scheme conflicts with the Harrogate District Economic Growth Strategy (2017-2035) and would undermine it, causing harm to the local economy, contrary to Policy JB1 of the Harrogate District Core Strategy Development Plan Document and Policy GS5 of the emerging Harrogate District Local Plan.
- The proposed development has not taken Climate Change and the UK Government's commitments to the Paris Agreement and to net zero emissions by 2050 into account.
- The proposed MSA is not sustainable development.
- The Planning Committee weighed all of the information in the planning balance and correctly concluded that the harm resulting from the proposed development would outweigh the benefits of the proposed Motorway Service Area, contrary to paragraph 11 of the National Planning Policy Framework.

13.2 We respectfully ask the Inspector to dismiss this Appeal.

APPENDIX A
LIST OF APPEARANCES FOR KIRBY HILL RAMS

A.1. Following is a list of appearances at the Public Inquiry for Kirby Hill RAMS:

Leading the Case:	Mr. Gareth Owens Local Resident & Chair, Kirby Hill RAMS
Assisting:	Mr. Geoff Harris Local Resident
Witnesses:	
The Local Plan:	Lt. Col. (Retd.) Ken Lawson, OBE Local Resident & Chair, Kirby Hill & District Parish Council
Highways Matters:	Dr. Andrew Ramsden Local Resident
Landscape & Environmental Harm:	Mr. Brian Pickering Local Resident
Drainage & Surface Water:	Mr. Mike Collins, MBE Local Resident & Chair, Langthorpe Parish Council
Economic Harm:	Mr. Geoff Craggs, BEM Local Resident & Boroughbridge businessman
Climate Change:	Professor Philip Wilby Local Resident
The Planning Balance	Councillor Robert Windass Harrogate Borough Councillor for Boroughbridge Ward & Member of the Planning Committee

APPENDIX B
DOCUMENTS TO BE SUBMITTED IN EVIDENCE

B.1 Kirby Hill RAMS will submit the following documents in evidence:

Document Reference	Document Title
KH/01	Statement of Case (this document)
KH1/1	Proof of Evidence of Lt. Col. (Retd) Ken Lawson, OBE in relation to the Local Plan
KH/2/1	Proof of Evidence of Dr. Andrew Ramsden in relation to Highways Matters
KH/3/1	Proof of Evidence of Mr. Brian Pickering in relation to Landscape and Environment
KH/4/1	Proof of Evidence of Mr. Mike Collins, MBE in relation to Drainage and Surface Water
KH/5/1	Proof of Evidence of Mr. Geoff Craggs, BEM in relation to Economic Harm
KH/6/1	Proof of Evidence of Professor Philip Wilby in relation to Climate Change
KH/7/1	Proof of Evidence of Councillor Robert Windass in relation to the Planning Balance

APPENDIX C
OTHER DOCUMENTS REFERRED TO IN EVIDENCE

C.1 Kirby Hill RAMS may refer to the following other documents in evidence:

Document Source	Document Title
Applegreen plc	Annual Report & Accounts, 2018
DfT	Circular 01/2008
DfT	Circular 02/2007
DfT	Circular 02/2013
DCLG	NPPF (February 2019)
Harrogate Borough Council	Planning application file 17/03414/EIAMAJ
Harrogate Borough Council	Planning application file 18/00123/EIAMAJ
Harrogate Borough Council	Landscape Character Assessment
Harrogate Borough Council	Local Plan (2001)
Harrogate Borough Council	Local Plan (2020)
Harrogate Borough Council	Local Development Framework
Harrogate Borough Council	Planning officer's presentation and report to Committee on the 19th November 2019
Harrogate Borough Council	Decision Notice on 22nd November 2019
Harrogate Borough Council	Publication Draft Local Plan Consultation Responses
Harrogate Borough Council	Economic Growth Strategy 2017-2035
Hambleton District Council	Leeming Bar MSA planning application
1997 Public Inquiry	Inspector's report of the 2003 Public Inquiry
1997 Public Inquiry	SoS Decision Letter following the Inquiry
2003 Public Inquiry	Inspector's report of the 2003 Public Inquiry
2003 Public Inquiry	SoS Decision Letter following the Inquiry
2010/11 Public Inquiry	Inspectors' reports of the 2010/11 Public Inquiry
2010/11 Public Inquiry	Core Document 14.11 - table of agreed distances
2010/11 Public Inquiry	SoS Decision Letter following the Inquiry
Highways Agency	Design Manual for Roads and Bridges
HMSO	'Securing the Future' - the UK Sustainable Development Strategy, 2005
Court of Appeal (Civil Division)	Lindblom, J.; R. v. SoS for Transport 27-Feb-2020
Routledge	Experiential Landscape: an Approach to People, Place and Space (Thwaites & Simkins, 2007)