

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) RULES 2000
REDETERMINATION OF APPEAL BY THE KENSINGTON PT PARTNERSHIP
SITE AT LAND SOUTH OF QUEENSWAY, ST ANNES, LANCASHIRE**

Appeal reference: APP/M2325/A/09/2103453

Application reference: APP/Q2371/V/11/2157314

Dear Sir,

Thank-you for the opportunity to provide further comment in relation to the above matters.

QED are a local community group who maintain an objection to the above applications. QED appeared at the Queensway Inquiry in 2009 under Rule 6 status. QED have submitted an objection to this M55 Link Road application.

Following the Secretary of State's request for further information in his letter of 23 February 2011, which followed the High Court Order on 14 December 2010, QED submitted further representations in March 2011 and, again in April 2011, once more at the request of the Secretary of State.

QED have not applied for Rule 6 status for the linked Inquiry and we understand that written representations are given equal weight compared to those offered as Rule 6 party. These submissions are therefore as a local resident group representing those residents opposed to the scheme.

QED have participated in every stage of the process, submitting an objection and proofs of evidence into 2009 Inquiry, submitting an objection to the M55 Link Road application and, at the request of the Secretary of State, made further representations in March and April 2011, providing significant information in relation to the matters the Secretary of State was referring.

QED maintain our previous objections expressed in the original 2009 Inquiry, M55 Link Road application (to LCC) and in further written representations made in March and April 2011 at the Secretary of State's request. QED trust that the Inspector has access to all this material.

In re-opening the Inquiry, the Secretary of State's letter of 7th July 2011 laid out the further information requirements relating to the Inquiry. Subsequently, an email from the Planning Inspectorate in October 2011, laid out the information requirements from the Planning Inspector.

Therefore, at the request of, and as directed by the Secretary of State and the Planning Inspectorate, please find enclosed, QED's further representations in line with those requests and believes that its arguments are fair and reasonable in-line with the requests of the Secretary of State and the Planning Inspector.

Yours faithfully,
QED

Section 1 - (a) in relation to the Queensway appeal

The relationship and relevance to the Queensway appeal proposal of the requirement in the North West of England Plan Regional Spatial Strategy to 2021 for Fylde to provide 306 new houses per year, having regard (i) to the Judgment in the High Court on 10 November 2010 on the matter of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council [2010] EWHC 2886 (Admin)* which held that the revocation of the regional spatial strategies by the Secretary of State on 6 July was unlawful; and (ii) to the related subsequent decision of the Court in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government [2011] EWHC 97 (Admin)* which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration;

The extent to which the proposed Queensway development would be consistent with Planning Policy Statement (PPS)3: *Housing*, including provision of a sufficient quantity and proper mix of housing in suitable locations with good access to jobs and facilities and the efficient and effective use of land, including previously-developed land;

There are a number of matters which have changed since the last Inquiry that suggest the assessment against PPS3 has now changed. These include:

- Intent to revoke the RSS including its housing targets
- The emergence of an alternative locally determined housing supply number
- The progression of the SHLAA
- Planning applications since the last Inquiry
- Other planning Inquiries

Housing Numbers

1.1 Whilst Fylde presently does not have a 5-year supply of housing land for the reasons outlined below, QED contend that the situation does not merit the premature approval of a huge application on Greenfield land contrary to the local plan.

Current housing supply (RSS)

- The housing supply position, based on the now out-of-date RSS numbers, is broadly no different to the last Queensway Inquiry. At the 2009 Queensway Inquiry, it was agreed that Fylde could not demonstrate a 5 year supply of housing with approximately 1.5 years supply based on the RSS numbers using the RSS requirement of 306 homes per year.
- In the 2011 SHLAA, (as at March 2011), Fylde calculated it had 1.4 years housing supply based on a revised and increased RSS requirement of 382 homes per year. The 382 requirement includes the effects of backdating of housing numbers to 2003 when the RSS was approved.
- In August 2011, at the Ballam Road Inquiry (Ref: APP/M2325/A/11/2150738/NWF) in Fylde, the Council's position was stated as having 2.5 years supply (see Appendix A – Ballam Road, FBC Housing Supply Analysis. The inspector concluded that the situation was probably between 1.7 years and 2.5 years (based on the RSS numbers)

1.2 At the last Queensway Inquiry, the Secretary of State acknowledged that “*Although there is a recognised need for more housing in the Borough, including affordable housing, the release of this site would conflict with extant LP policies as well as restricting opportunities for identifying other greenfield developments as part of the LDF process*”.

The Secretary of State concluded that substantial shortfall in housing supply did not outweigh the conflict with the local plan and the rights for the local council to determine its strategy through its LDF process.

- 1.3 The Secretary of State (in agreeing with his Inspector) also concluded in the 2011 Mowbreck Lane Inquiry in Fylde that the application for 264 homes “*would also accord with PPS3 in contributing towards meeting the shortfall resulting from the Council’s failure to demonstrate a five-year supply of housing land across the Borough, in achieving a good mix of housing on a sustainable site and in helping to meet the affordable housing shortfall in the area.* “. However, he concluded that “*these matters have to be considered against the proposal’s conflict with saved FBLP policies with regard to settlement boundaries, the restriction on development in the countryside, ... and the need to avoid the permanent loss of BMV land unless absolutely unavoidable* “. **The Secretary of State gave more weight to the local plan and prematurity than the housing supply shortage in Fylde.**
- 1.4 Fundamentally, since the Queensway Inquiry argument no further housing arguments have emerged that warrants approval based on a housing shortfall even based on the existing RSS numbers including a backlog requirement of an extra 76 homes per year (taking the 5 year requirement to 382 per year) primarily caused by backdating the RSS requirements to 2003.
- 1.5 Fundamentally though, things are changing. It is now acknowledged that the RSS numbers, including the deficit caused by backdating the requirement to 2003, were unrealistic. Fylde Council are in fact approving housing applications consistent with the local plan and some which do not predetermine the overall LDF process (i.e. of a small scale or on vacant employment land). But equally Fylde are consistently resisting large scale applications which are contrary to the local plan.
- 1.6 However, although Fylde is approving housing applications, even for reasons where the 5 year housing supply has been argued by the developer, most of the recently approved applications are not counting in the 5 year supply calculations. Fylde’s Housing Supply calculation only counts approved apps with a section 106. However, planning application are approved in accordance with PPS3. PPS3 states that sites should be deliverable, and could be developed “at the point envisaged”. QED’s view is that granting planning permissions assume the site would be achievable at the point envisaged. It seems at odds therefore to exclude such applications in the 5 year calculations.
- 1.7 This is inconsistent. QED argue that applications which are approved based on a 5 year supply shortfall should count towards the 5 year supply. For example, Kensington’s Hollywood Nurseries (90 homes on green field land) application was approved at appeal in mid-2009 with a key reason being a shortfall in housing supply yet this is still not counted in Fylde’s 5 year housing supply figures.

Perversely, the 5 year supply calculation methodology could incentivise developers not to bring S106s forward, as they can continue to argue the 5 year supply shortage to get applications approved but then by not bringing forward S106s, the 5 year supply situation doesn’t change.

- 1.8 A following is a list of applications which have been approved yet still do not register in the 5 year supply counts in the SHLAA but are reflected instead in the 6-10 years counts.
- 275 at Pontins in St Anne’s
 - 73 at Pontins (extension) in St Anne’s
 - 48 homes at former Kwik Save in St Anne’s
 - 67 homes at Warton (greenfield)

- 90 homes at Hollywood nurseries (greenfield) (revised application submitted for 63)
- 28 homes at Staining
- 102 homes at Dock Road, Lytham (former EMP site)
- 180 homes at AEGON site in Lytham (revised application for 73 homes submitted)
- 10 homes at Westfield Nurseries (greenfield)
- 38 homes at Whitehills (greenfield)
- 72 homes at Westgate, St Anne's

- 1.9 Even without the many smaller applications approved, these approved applications equate to around 1000 homes or over 3.2 years' worth of housing supply using the 306 RSS number, and add up to almost 4 years supply based on a potential target figure of 250 per year. Given that Fylde had a development moratorium due to over-building up to the imposition of the RSS figures it is not surprising that there are many schemes in the 6-10 years and few in the 1 to 5 years category – this was the main reason why the original Queensway application was turned down on appeal in mid 2005.
- 1.10 The 5 year housing supply will be satisfied by a combination of developers commencing build and bringing forward/signing the outstanding S106's and in the medium term by Fylde completing its Core Strategy.
- 1.11 There are many applications coming forward which Fylde are approving and consistently applying policy (including many applications from this appellant who consistently argues approval is required based on the 5 year supply shortage).
- 1.12 In QED's view, the methodology of Fylde's housing supply calculation, the residual effects of the Housing moratorium followed by backdating of the RSS numbers and now combined with the current economic downturn has resulted in many approved applications not contributing to the 5 year supply but rather to the 6-10 year supply. This results in a distorted 5 year position as many of the approved applications in the 6-10 years supply will immediately count in the 5 year supply when a S106 is signed.
- 1.13 The situation with the current 5 year supply is more reflective of market conditions and economic uncertainty rather than a failure of Fylde's planning system. Fylde has already approved a significant supply in the 6-10 year period and this needs to be considered in the planning balance to ensure there isn't an over-supply in years 6-10. This matter is addressed in the section on prematurity in section 5 of this representation.
- 1.14 Moreover, Fylde are revising its housing requirement. At the Ballam Road Inquiry, Fylde reported that:
- “Since then a significant amount of work has been undertaken to further develop the evidence base on housing issues at the local level, for example the completion of the Strategic Housing Market Assessment and Strategic Land Availability Assessment along with a series of issues relating to infrastructure constraints emerging from the Infrastructure Delivery Plan. The wider economic climate has also changed significantly. As a consequence, it is highly likely that in light of those changes, Fylde Borough Council will take a different view on housing through the LDF and as such the weight to be attached to historic figures should be reduced.”*
- 1.15 Fylde's current housing supply numbers contain an imposed backlog from when the RSS numbers were back-dated to 2003, and results in increasing the annual housing requirement to 382 from 306.

- 1.16 In the recent 2011 Mowbreck Lane Inquiry (APP/M2325/A/10/2127459), the Secretary of State gave less weight to the evidence base supporting the RSS in refusing planning permission, whilst acknowledging that Fylde was still likely to have a 5 year supply shortage, regardless.
- 1.17 Fylde is making good progress in determining its revised targets via the LDF process. In determining its housing numbers, it is highly likely that Fylde will remove the backlog. Its evidence base will reflect the future housing number and the under-supply in previous years will not be relevant. We understand that this is an approach open to the Council in line with precedents elsewhere.
- 1.18 Therefore, even if Fylde revised targets concluded that the housing numbers were at the same level as the RSS of 306, by removing the unrealistic backlog, Fylde's Housing Supply would be restated and improved immediately.
- 1.19 However, we understand that Fylde's evidence base is suggesting a lower figure. So let's consider a number of scenarios, based on the housing supply of 970 presented at the August 2011 Ballam Road Inquiry (APP/M2325/A/11/2150738).

Scenario	5 year requirement	5 Year supply calculation	Years supply
Current RSS inc backlog (382)	1910	970 / 1910	2.5
Target Number = RSS (306)	1530	970 / 1530	3.2
Target Number = 280	1400	970 / 1400	3.5
Target Number = 260	1300	970 / 1300	3.75

- 1.20 Using predicted housing supply numbers of 260, Fylde would demonstrate around a 4 year supply. QED argue that adopting a forward looking target and removing the backlog, the housing supply, measured against the 5 year target, is considerably improved.
- 1.21 Furthermore, QED understand that Fylde Council are giving consideration to a 'profiling' of Housing Supply whereby market and economic conditions are factored in to the annual requirement. Fewer numbers would be required in earlier years reflecting the current housing demand, and as the economy improves, annual numbers would increase reflecting a stronger growing economy. This seems to us to be common sense.
- 1.22 To illustrate this, if Fylde concluded a number of 260 per year but then profiled this total requirement across 15 years as 160 per year for the first five years, followed by 310 per year for the following 10 years, this would give a housing requirement of 800 homes in the first 5 years.

Under this scenario, to all intents and purposes, Fylde would not have a 5 year supply shortage.

- 1.23 Fylde has signalled its intent and is in the process of reviewing its housing targets, and will perform a public consultation stage. Less weight, therefore, should be given to the current undersupply of housing as QED argue that it is out-of-date, is artificially high, and is a poor basis to make decisions about housing delivery especially of matters of a such significant size and scale which this application clearly is.
- 1.24 QED acknowledges that it is a possibility that Fylde will have a 5 year supply shortage, even with the revised numbers. However, we contend that under every plausible scenario, it is highly probable that the situation will improve and improve considerably by adopting a revised target. It is also entirely plausible that Fylde could completely resolve

its 5 year supply shortage, or resolve it with smaller applications (which would not be as pre-determinate to the LDF as this application).

Accordingly, we believe less weight should be given to the current housing supply shortage, than at the previous Inquiry.

Contribution to 5 year Housing Supply

- 1.25 At the Queensway Inquiry in 2009, it was predicted that this scheme would deliver only 350 houses in years 1 - 5. QED contended at the time, that even this was an optimistic figure and are still of that opinion, given market conditions, site complexities and the inter-dependencies on infrastructure delivery based on occupation (not build) of houses.
- 1.26 Regardless, even if 350 homes were delivered in years 1-5, that would still leave the vast majority of homes – 800 – to be delivered in years 6 and onwards. Under the current RSS targets, for which the appellant has previously argued justifies the development, this now equates to less than 1 year contribution to the housing supply. By far, the main contribution to housing supply is in years 6-10, and quite possibly, also 11-15.
- 1.27 The appellant is using a short term under-supply of housing, to justify building housing in the mid to long term.

At the recent, Cala Homes Inquiry (APP/L1765/A/10/2126522), the Secretary of State specifically addressed this point. He directed that PPS3 anticipates that longer term housing requirements will be addressed through local development documents. He went on to advise that *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities”*.

- 1.28 Fylde Council has embarked on revising its local development documents. In the light of Government direction, approving an application of this size and scale in advance of the preparation of these documents would be premature. It is using a short term supply issue to determine the mid and long-term position of the Borough.
- 1.29 Clearly, the High Court decision which held that the Government’s intention to legislate to revoke regional spatial strategies was capable of being a material consideration, is clearly relevant in this case.
- 1.30 This application will mainly contribute to the 6-10 years housing supply, yet the appellant is using the 5 year supply argument to argue for approval. At the Cala Homes Inquiry, the Secretary of State addressed this matter. He directed that PPS3 anticipates that longer term housing requirements will be addressed through local development documents. As this application would deliver the vast majority of its homes after year 5, the application does not accord with PPS3.
- 1.31 Accordingly, limited weight should be given to Fylde’s current housing supply shortage and considerable weight to the local plan. Considerable weight should also be given to Fylde’s right to determine its longer term housing requirements via its revised local development plan documents.

Mix of housing: Affordable Housing

- 1.32 Fylde submitted new and updated information on a housing needs and demand study update 2007 into the Ballam Road Inquiry (APP/M2325/A/11/2150738) (see Appendix B) stating. “...the extent of the identified (affordable) housing need is so acute that it would be unrealistic to fully meet the identified need. The Interim Housing Policy makes specific reference to the provision of affordable housing in developments. The Interim

Housing Policy expects, in the case of developments in excess of 14 dwellings, the delivery of 30% of the dwellings as affordable housing as being achievable.”

- 1.33 30% affordable housing is a clear policy objective for the Borough. This is in line with National objectives for more affordable housing. Also, according to a representation written by Fylde Borough Council’s Principal Housing Officer on applications 11/0357 and 11/0381 (Pins refs APP/M2325/A/11/2160397 and 2160488) (see attachments), the “*tenure of most need in the borough is social rented accommodation*”. However, the Queensway ES (ref 3.2.5) states that the balance will be 70% shared equity and 30% for rented or similar. Only 35 homes out of 1150, will be social rented or equivalent.

The need is clearly stated in the evidence base for the SHLAA in the document “ *Fylde Coast Strategic Housing Market Assessment – Summary*” which states “*The assessment of housing need (those who cannot afford to buy or rent in the market) found that all three authorities (in the Fylde Coast) need to increase the delivery of social rented housing to address affordability. The greatest need is in Fylde*”.

- 1.34 At the 2009 Queensway Inquiry, Fylde Council accepted a figure of a minimum of 10% affordable housing with a viability appraisal with the potential to revise upwards. Whilst this provides some outlook for a potential delivery of affordable homes, we note that in the April 2011 further representations to the Secretary of State, the appellant argued (para 4.24) that the cost of the road was likely to increase and would be already approaching £20m (from £16m in 2009).
- 1.35 However, whilst we note that Fylde’s Interim Housing Policy (IHP) does have a clause allowing for a viability appraisal, this policy makes no reference to the overall impact on the overall ability, and commitment, of Fylde to deliver its 30% target. We do not believe the intent of that viability clause is to seriously jeopardise Fylde’s ability to meet its affordable housing needs. However, the outcome of the viability appraisal must still be in accordance with PPS3. Its purpose cannot be to undermine wider policy objectives to deliver an overall target of 30% affordable homes (PPS3 Para 69), yet this application would jeopardise this policy objective for Fylde.
- 1.36 PPS3 requires provision of a sufficient quantity and proper mix of housing in suitable locations. Fylde’s published target is 30% affordable housing of the overall housing supply and this application compromises that target by promoting a short-term boost of affordable housing over the ability to meet the long term planning objectives.
- 1.37 For example, using the RSS numbers, if Fylde had to deliver 3060 houses over 10 years, and 30% of the demonstrable need was affordable, then 918 affordable homes would be required.
- 1.38 If the Queensway application was approved with 1150 and 115 affordable homes, that would leave 1910 homes of which 803 would need to be affordable, or 42%.
- 1.39 Should Fylde adopt a lower housing number than 306 and the affordable housing need remain at 30% of the revised total, and if Queensway was approved, the number of affordable housing required to be delivered by other future planning applications must increase to meet the identified 30% need.
- 1.40 For example, the calculations based on a housing requirement of 260 per year, would require 46% affordable housing on every other planning application, if Queensway delivered only 115 affordable homes at 10%.
- 1.41 The appellant consistently argues that the IHP should carry limited weight. It has no parent policy and has not been fully tested. QED believe that if it had been fully tested

then the issue of the viability clause leading to a considerable undersupply in affordable homes would have been considered. As it stands, it is evidently a gap in the IHP, which leads in this case to conflict with PPS3 Para 69.

- 1.42 Since the last Inquiry, the importance of affordable housing both nationally and locally has been emphasised and clearly the weight has increased. Indeed, it should be added, that we understand that affordable housing is a significant contributor to the new *evidence base behind Fylde's revised gross housing target and the need is likely to remain as is or increase*, further compounding the problem if Queensway is approved.
- 1.43 This application prioritises contribution to a road (described as a benefit) above the identified and much need affordable homes (identified as a priority need) in Fylde.
- 1.44 Approval of Queensway with a 10% affordable housing could have two effects:
- Distribution of affordable housing would be imbalanced across other housing schemes.
 - Later schemes may have other viability issues and there would be a significant risk of a permanent and continued under provision of affordable homes.
- 1.45 The consequences of approving Queensway are that an improper mix of housing would be delivered on Queensway and have consequences for future planning applications required to achieve Fylde's housing objectives. It would also compromise the strategic planning process. Accordingly, we submit that the application is not in accordance with PPS3.
- 1.46 PPS 3 Para 69 states that authorities should have regard to "*ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives*".
- 1.47 QED contends that the application would undermine wider policy objectives to deliver 30% affordable housing and does not reflect the need and demand for housing in the area. It could also undermine the identified need for socially rented housing.
- 1.48 Whilst, the last Inspector acknowledge that a short-term boost in affordable housing may be welcome, QED argue that he did so without considering the long-term effects on the overall targets and the situation in St Anne's, in particular. He also judged that there were no other schemes which could provide such a boost. Many such schemes have now been approved.
- 1.49 Since the last Inquiry, the demand by area within Fylde for affordable homes (see appendix B) was presented to the Ballam Road Inquiry. The demand statement shows that within Fylde's affordable housing requirement, St Anne's in particular has a considerable requirement (it makes up a large part of the demand). The study highlights one of the greatest needs for affordable housing is in St Annes. Accordingly, this clearly highlights that affordable housing is a key priority for any housing application in St Anne's.
- 1.50 Therefore, not only does the evidence base show that Fylde require a lot of affordable housing, but St Anne's in particular needs a significant portion of these affordable homes. By bringing a site of this size forward in St Anne's and massively under-delivering against the 30% affordable homes requirement will make it very difficult for Fylde Council to deliver enough affordable homes in St Anne's where one of the key need has been identified.

Again, the application would undermine wider policy objectives.

- 1.51 Therefore, Queensway would deliver an insufficient quantity of affordable and, particularly, an improper mix of housing in the St Anne's area where demand for affordable homes is greatest, and need continues to grow. Accordingly, we submit that the application is not in accordance with PPS3.

Housing Supply Numbers and Affordable Homes

- 1.52 Fylde's housing targets were clearly set at such a high level to deliver the affordable need identified in the RSS (and still supported by current evidence base). Schemes which do not meet the defined need (and miss it by a considerable amount) should not be using the heightened 5 year supply figure, which included the expectations of increased delivery of affordable housing, to justify and promote market housing.
- 1.53 This results in an underachievement of balanced and mixed community required by PPS3.
- 1.54 To put in context, an application on a small part of this site – previously rejected by the Secretary of State as recently as 2005 – contained no less than 70% affordable homes (i.e. 245) out of a total application of 350 homes (a number in our view that was probably equally unbalanced), whilst still funding 50% of the T6 road and providing a school site. The current application is more than three times the size but the affordable homes content is less than half that previously offered for the 350 home application. As the application has grown, the provision of affordable homes has dropped.

Jobs and facilities

- 1.55 In relation to good access to jobs and facilities and the efficient and effective use of land, including previously-developed land, QED notes the provision of land for a school site but not the school itself.
- 1.56 QED notes that other applications in the Borough are coming forward promoting mixed-use developments in keeping with PPS3 and with the draft National Planning Framework's requirement for promoting mixed-use developments that create more vibrant places. They offer retail, employment and residential integrated plans. (e.g. Whyndyke farm and Heyhouses).
- 1.57 The housing application provides little services and whilst the ES identifies capacity in some existing services such as doctors – it will create pressure on the those services especially when the in combination effects of this scheme is combined with other schemes progressing in St Annes.

Efficient and effective use of land including previously-developed land (Greenfield v Brownfield)

- 1.58 In relation to efficient use of land including previously-developed land, the housing application is clearly not on previously developed land and this was a matter of some discussion at the last Inquiry. At the 2009 Queensway Inquiry, QED highlighted that approving the Queensway application would consume all of Fylde's Council's remaining green field land allocation for the planning period.
- 1.59 At the 2009 Inquiry, the Secretary of State assessed the implications of this and concluded (para 14) that "*allowing the appeal would greatly curtail the scope for greenfield allocations as part of their Local Development Framework (LDF) process*".

- 1.60 This remains the case. Nothing has changed other than several more small green field applications have been approved further reducing the allocation available, and the overall housing targets (and therefore, the likely greenfield requirement) are likely to reduce significantly.
- 1.61 PPS3 Para 36 advocates that “The priority for development should be previously developed land in particular vacant and derelict sites and buildings”. Fylde has a lot of such options including many close to this site in St Annes; the nearby Heyhouses site (335 homes), former Pontins site (350 homes), Westgate (72), former Kwik Save site (48), former council offices and former Fairways garages are all such examples.
- 1.62 One of the key tests in Para 3 for Effective Use of Land, Para 40, advocates that “A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.”, and that the national target of previously developed land is 60% (para 41).
- 1.63 Furthermore, the RSS mirrors this approach. The High Court hearings concluded that the RSS remains in-force although the decision to scrap them was capable of being a material consideration. The NW RSS directed the relative proportion of brownfield and Greenfield developments for each area. The Fylde area has 65% Brownfield and 35% Greenfield (it was also stipulated that the Brownfield percentage was a minimum not a maximum). As part of the construction of the RSS, there must have been a robust evidence base backing up this requirement and its deliverability.
- 1.64 Clearly, the RSS (2003 to 2021) concluded that in Fylde a minimum of 65% of 18 years supply of land should be on previously developed land. This equates to a brownfield capacity in Fylde of over 3500 homes over the plan period. From 2012 to 2021 (the remaining period of the RSS), this would equate to 2000 homes minimum on brownfield land. Whilst the RSS is unlikely to be in-force during the plan period, it was constructed on an evidence base and via a robust process that concluded that Fylde could deliver so many houses on previously developed land. There is no other evidence base to suggest that this is not reasonable.
- 1.65 The SHLAA has concluded that there is scope for around 2500 homes within settlement boundaries (excluding vacant and derelict employment land). Additionally, the SHLAA has also identified vacant and derelict land capacity of over 700 homes (although some of these sites have had previous planning applications for considerably more). Many of Fylde’s recent large applications have been approved or come forward on such employment land – e.g. Lytham Quays and Heyhouses.
- 1.66 It is clear that as of today, Fylde has identified capacity for around 3200 homes in settlement boundaries and on vacant and derelict employment land. This equates to the full 100% requirement of the RSS being able to be delivered on brownfield land without the need for green field land to 2021.
- 1.67 Fylde is revising its housing numbers and is likely to establish a number between 250 and 280 homes. Over a plan period of 15 years to 2027, at 250 homes per year, that would require a total of 3750 homes. Even if no more brownfield sites came forward (e.g. derelict employment land), the total requirement for green field would be around 550 homes. Additional, this is before consideration of around 200 homes on green field which Fylde have already approved for the plan period.
- 1.68 There is arguably no need whatsoever for Fylde to deliver a green field application of this size and scale to achieve its housing targets. Indeed, it could be argued, that over the remaining period of the RSS plan period, Fylde does not need to release anymore green field applications at all.

- 1.69 Even if Fylde agrees its revised housing target to be the same as the RSS number (306), then this application would consume greater than the total evidenced green field land requirement for the likely duration of its delivery and the revised plan period to 2027. That is also before several small applications have been approved since the last Inquiry on greenfield land including 67 in Warton, 48 at Whitehills, 90 at Whitehills (although another application has been submitted for 63). Another approximately 200 homes have been approved on green field land, with several other small applications in pipeline.
- 1.70 If Fylde agrees a revised housing number of 280, then approving this application would consume over 41% of Fylde's housing target over a 10 year period. On its own it is significantly above targets for green field development. In combination with other greenfield applications already approved, (and without any other single house being approved), almost 50% of Fylde's next 10 years housing target would be on greenfield land even before the LDF process has completed or anymore greenfield applications are considered.
- 1.71 If Fylde agrees a revised housing number of 260, then approving this application would consume over 44% of Fylde's housing target over a 10 year period. On its own it is significantly above targets for green field development. In combination with other greenfield applications already approved, (and without any other single house being approved), over 52% of Fylde's next 10 years housing target would be on greenfield land even before the LDF process has completed or anymore greenfield applications are considered.
- 1.72 Furthermore, as per section 5.1 of this representation, this application site contains some of Fylde's Best and Most Versatile (BMV) Agricultural Land and the application is contrary to PPS7. 8.5 hectares of BMV agricultural land (Grade 2 and 3a) would be lost from the housing development and in-combination losses with the T6 M55 Link Road would be 17.9 hectares.
- 1.73 Therefore, again, the Queensway application is not in accordance with PPS3. It fails to make efficient and effective use of previously developed land and results in an overuse of green field land. It also results in development of the best and most versatile agricultural land which is avoidable.

Design Quality

- 1.74 PPS3 Para 16 states that the scale and access should be considered when assessing design quality. The Inspector at the 2009 Inquiry stated (IR.361) "Direct vehicular access in the direction of the main built-up area of St Annes falls short of the highest quality of design"
- 1.75 In relation to scale, St Annes is a small town of around 20000 residents and probably around 10000 homes. Planning permission has already been granted, and schemes waiting to start, for around 470 homes, and decisions will be taken on another 375 homes before the start of the next Inquiry. 1150 homes added to the 470 homes already approved, would be excessive, in QED's opinion, equating to around 16% increase. If the 470 are approved before the Inquiry, this would take it to around a 20% increase.
- 1.76 St Annes equates to around 25% of the population of the Fylde. Over 1500 homes would equate to around 5-6 years housing supply to be delivered over the next 10 years across the whole of the Fylde and 2000 would equate to 7-8 years.

PPS3 Para 71 and Para 69.

- 1.77 Fylde cannot currently demonstrate a 5 year supply of land and according Para 71 is triggered. However, this states that development should be compliant with Para 69.
- 1.78 Para 69 states that a good mix of housing is required. As stated above, this housing application delivers a mix of housing that significantly underachieves against Fylde's housing requirements, particularly with reference to affordable homes and is therefore not compatible with this test.
- 1.79 Para 69 also requires the efficient and effective use of land. This site is not classed as previously developed land which is incompatible with the priorities outlined in PPS3. The site also contains a significant amount of best and most versatile agricultural land. Approval would result in the inefficient and ineffective use of land over the plan period.
- 1.80 Para 69 also states that applications should not undermine "wider policy objectives". Consuming large areas of greenfield land contrary to PPS3 and the RSS, increasing considerable risk to the achievement of the overall targets for affordable homes, and consuming some of Fylde's Best and Most Versatile Agricultural Land are all contrary to policy objectives.
- 1.81 Accordingly, the Queensway application is not in accordance with PPS3 and the shortage in housing supply should not warrant approval in the Queensway application.

Section 2 - (b) in relation to the M55-Heyhouses Link

The extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note (PPG) 2: Green Belts, with particular regard to whether the proposed development is inappropriate development in the Green Belt and, if it is inappropriate, whether very special circumstances exist which clearly outweigh the harm to the Green Belt caused by reason of its inappropriateness, and any other harm to justify the grant of planning permission.

- 2.1 We should point out at this stage; there are 3 different road developments in the Green Belt as part of this joint Inquiry these are:
- 1) The M55-Heyhouses Link Road also known as T6 (referenced in policy TR13 in the local plan)
 - 2) The East-West road also known as the Heyhouses Bypass and also T5 (not present in the local plan)
 - 3) The Moss sluice roundabout connecting the T5 and T6 in the Green Belt. (Also not in the local plan. This is not to be confused with a further connecting roundabout required where the T5 joins the B5261 Queensway).

Parts 2 and 3 are part of the Queensway housing application, although part 3 was also included in the M55 Link Road application.

M55 Heyhouses Link Road T6 (excluding the T5/T6 roundabout)

- 2.2 The M55 Heyhouses Link Road is part of planning application (05/10/0779) and was not part of the Queensway Inquiry although references were made throughout.
- 2.3 In March 2011, Lancashire County Council's Development Control Committee met to determine the Link Road application. The planning officer's report to committee advised that the T6 road contained 1300 metres of road in the green belt. Although the officer's report references inappropriate development in the green belt, it does not explicitly say that the road is inappropriate. However, the report goes on to test the very special circumstances required to allow green belt development, implying they believe the road to be inappropriate development as the test was needed.
- 2.4 During the Queensway 2009 Inquiry, the Planning Inspector concluded that the T5 road and the roundabout were inappropriate development, and it must follow that the T6 is too. Fylde Council also argued, in the 2009 Inquiry, that during the 2002 M55 Link Road planning application, that a mistake had been made (See IR P191) relating to the definition of appropriateness. The Planning Inspector in 2009 applied the full test of appropriateness for T5 and concluded that the roads were inappropriate.
- 2.5 Regardless, LCC's planning officer felt very special circumstances were required to justify the T6 road in 2011. Therefore, we assume that this test is required for planning approval to be given.
- 2.6 For this test to be passed, it must be demonstrated that the development is unavoidable in the green belt or alternatives with less harmful impact are not available.
- 2.7 In the 2011 report, LCC applied tests in relation to moving the road out of the green belt and in upgrading the existing road.
- 2.8 We believe the Inspector should examine these tests and ensure the evidence backing up those claims is robust and justified.

- 2.9 The first test in the LCC report stated that the road - which is on the Eastern edge of the Green Belt – should not be moved outside of the Green Belt due to “increase severance of agricultural land and would increase encroachment on the ecological interests in the proposed Lytham Moss Biological Heritage Site.”. This implies that a) the agricultural land is more important than the Green Belt and b) the ecological interests could not be mitigated.
- It seems incongruous to argue that the impact of agricultural land provides very special circumstances to justify development in the green belt, whilst at the same time arguing – for example – that the loss of the BMV agricultural land caused by the housing development and the road is not significant
 - Further, the agricultural land assessment carried out for Lancs County Council identified that some of the land under the road is of a grade lower than the Best and Most Versatile Agricultural Land previously thought to be there. This is most inconsistent with planning policy. Only 2.7 hectares of Grade 3a of BMV were found following surveys with the rest being Grade 3b . LCC’s arguments to keep the road in the green belt in order to preserve agricultural land prioritise low grade agricultural land over the Green Belt.
 - The latter argument relating to ecological impact seems particularly surprising given the overall scale of the ecological mitigation plan proposed for the housing development and the encroachment on the Lytham Moss Biological Heritage Site. Both LCC and KPT believe that ecological mitigation is possible on site and therefore ecological reasons cannot be used to justify development on the green belt
- 2.10 LCC’s March 2011 Development Control Committee report states that the road would need to be moved 100m to be outside of the Green Belt. However, the existing route across the moss is on the very edge of the green belt. Fylde’s local plan policy TR13 states “The middle section of this road would follow the existing route across Lytham Moss”. It would seem that LCC have moved the route and, in doing so, deviated from policy TR13 consequently significantly increasing the harm caused to the Green Belt. It seems that it is only LCC’s deviated route that would need to be moved 100m. The saved (existing) route would need to be moved much less.
- 2.11 Further, in our opinion, the view from LCCs DCC Report statements that road would still be visible from the Green Belt (i.e. if it was built outside of the green belt), merely highlights its inappropriateness, but does not justify including it in the Green Belt.
- 2.12 QED cannot see how the arguments presented by Lancs County Council could possibly justify the T6 development inside the green belt rather than just outside it, or on the boundary edge as per the saved route.
- 2.13 The second test in the LCC report states that the option to minimise land take by upgrading the existing road would be difficult due to ground conditions which are close by to the proposed route. QED have no evidence to the contrary but clearly the Inspector will want to be satisfied with the evidence supporting the ground conditions and the impacts of them. The 2002 application was approved, with the alignment immediately adjacent to, and East of, the existing road. Ground conditions didn’t seem to be a problem then, and hence, we recommend the Inspector seeks the evidence which demonstrates that the ground conditions have altered significantly since the 2002 application, which expired in 2007.

Again, TR13 states that the Link Road should follow the existing route not be separated from it.

- 2.14 QED expect the Inspector may want to consider the implications across the whole of the Moss and application sites generally if the ground conditions are indeed so variable over such a short distance. This is a perennial concern expressed by local residents which the Inspector will have seen from many of the residents' previous objections.
- 2.15 LCC's Mar 2011 DCC report states that "A further option would be to improve Peel Road, another minor road leading from the northern edge of Lytham to junction 4 of the M55. However, the applicant has advised that improving Peel Road to the extent required would probably require demolition of property and would result in a considerable increase in traffic levels passing properties that would be retained.
- 2.16 QED notes with interest the concern expressed in the Mar 2011 DCC report for the very few residents who live on Peel Road and are astonished by this argument when the stated objectives of the M55 Link Road will considerably increase traffic on the roads around its terminus in Ansdell which is considerably more heavily populated than the area surrounding Peel Road and by its own admission will increase substantially the traffic on Cropper Road another sub-standard road. Ansdell is also an area which has areas suffering from subsidence including Smithy Lane – which is likely to become a shortcut through to St Anne's town centre – and Singleton Avenue which has recently featured on national television ("Help My House IS Falling Down", C4) due to its subsistence.
- 2.17 Furthermore, Lancashire County Council has consistently argued Peel Road is a suitable road when justifying the location of various developments in Fylde including Fylde's landfill site – which has multiple HGV movements, and a new business park.
- 2.18 Also, Lancashire County Council raised no objection to several recent proposals including:
- a proposed site for a reservoir which would have resulted in a considerable number of HGV movements per day on Peel Road for the considerable duration of its construction
 - Temporary Shale Gas Drilling
 - A new housing site at the adjoining Ballam Road
- 2.19 In order to justify the development on the Green Belt, we expect that the Inspector should also consider why the option to improve Peel Road is not viable, especially given the announcement that Warton has been given Enterprise Zone Status and this road is on route.
- 2.20 Fylde's Local Plan policy TR13 secures the route of the road and is being used to support the M55 Link Road application. It states, however. "The middle section of this road would follow the existing route across Lytham Moss". Policy TR13 does not support the proposed route and the deviations which cause more harm to the Green Belt and road safety (see below).
- 2.21 Furthermore, the previous planning application for the road expired in 2007. This planning application contained a markedly different route with the M55 Link Road being to the east of the existing road throughout its course, on the very edge of the Green Belt and avoided crossing the existing road (which would have become a bridleway).
- 2.22 Indeed, the EIA scoping opinion produced only 3 years ago for this application (22nd Dec 2008), thought the existing road alignment was the correct one. The scoping opinion states:

- Para 1.1.1 “The scheme is parallel and to the east of North Houses Land/Wild Lane”
- Para 3.1.4 “The scheme proposes development which is similar (if not the same) as that approved through the previous planning consent”
- Para 3.1.4 “The scheme proceeds to the east of the existing North House Lane / Wild Lane”
- EIA Appendix 1 – illustrates the route.

2.23 Given that this route was considered viable as recently three years ago at the start of this application it seems surprising that LCC are now trying to justify the need to move the road. The movement of the road causes considerable harm and safety risk on several accounts:

- The Road is moved further into the Green Belt, away from the very edge, and therefore increases the harm caused to the Green Belt. Previous approval in 2002 was given in the Green Belt with the road being on the very outmost edge of the Green Belt and clearly designed to follow the East of the existing road, as per the saved route in the Local Plan.
- The revised route requires extra Pegasus crossing as it now meanders across the bridleway to accommodate the revised route. This increases the safety risk as horse riders, cyclist and pedestrians would now have to cross the M55 Link Road twice (with its multi-fold increase in traffic plus hundreds of HGV movements) especially at the point around a kink in the road, and close to the roundabout.
- The position of the Pegasus crossing is likely to result in tailbacks to the roundabout with cars and HGVs approach the tailbacks (from a 50 mph road) with limited visibility of the queue ahead.
- Department for Transport guidance (TD 16/07 - Geometric Design of Roundabouts) suggests that *“If a stand-alone crossing is provided close to the give way line, there will inevitably be consequences for the operation of the roundabout and possibly for safety. An informal or zebra crossing is normally preferred as it avoids the possibility that drivers will confuse the green signal with one controlling flow into the roundabout”*.

The Inspector at the 2009 Queensway Inquiry commented (IR.349) *“Such a change (in route) may necessitate two crossings of the new (M55 Link) road if the existing one is to be converted to a bridleway on its existing line. I share some of QED’s concerns on this matter; even if appropriately designed crossings could eliminate safety risks, there would be more inconvenience for both drivers and bridleway users than if crossings were avoided.”*

2.24 It is clear from LCC’s 2007 report (see attachments) into the construction of the Southern Section of the road, that the County Council had failed to negotiate purchase of the land with the current owners but the Council noted its Compulsory Purchase Order Powers and its authority to use them, which it chose to do so on the Southern Section of the road.

2.25 However, it seems that these were never executed for the central section of the road envisaged by the 2002 planning application. Instead, a revised route has now been devised to bypass the land ownership issues. The approach to divert the road rather than use the CPO powers (which LCC clearly has and which were used effectively on the Southern Section) is putting convenience above public and motoring safety.

2.26 The M55 Link Road is presented as a strategic link road but the current planning application has been altered to overcome short term issues and in the process increase harm to the Green Belt and considerably, in the view of QED, increase safety risk to horse riders, cyclists, pedestrians and motorists alike. It will bring pedestrians into conflict with traffic in an area which this is not currently an issue and which was not envisaged to be an issue in the alignment reserved in the Local Plan.

- 2.27 It must be considered that one of the stated benefits of this road is to attract a large volume of traffic (a +206% increase) and a significant number of HGVs. These will have to overcome two Pegasus crossings, one close to a bend in the road and near to the roundabout.
- 2.28 QED argues that trying to overcome the need to CPO land really should not have resulted in alterations to a strategic route and deviating away from the saved local plan route – a route which was deemed perfectly acceptable as recently as 2009. QED are not aware that avoiding using CPO powers is justification for increasing the harm to the Green Belt as extra harm would clearly be caused by moving the road further away from the edge of the Green Belt as the route in the current M55 Link Road application proposes.
- 2.29 In summary, QED believe the Inspector should consider the following matters:
- Why the road is being moved further into the green belt from its saved route (and thereby increasing the damage from a road on the edge of the green belt to a road inside the green belt)?
 - Why the route is deviated from the 2002 planning application which expired less than 5 years ago. (Land stability and agricultural land segregation issues were not a restriction 5 years ago)?
 - Why the road is deviated from its saved route in the local plan, and along with the extra harm that this deviated route causes to the green belt, extra road safety issues which could be caused.
 - Why the route is deviated from that anticipated in the scoping opinion issued at the end of Dec 2008.
 - Why the road can't be moved out of the green belt completely
 - Whether upgrades to Peel Road should be considered instead.
 - Why the existing road can't be upgraded. Consideration should be given to in-combination effects of less invasive upgrades to the existing Moss Road and Peel Road.
- 2.30 It is clear that the current M55 Link Road layout would cause increased harm to the Green Belt compared to the 2002 application and has the potential to increase road safety concerns on a new major route. Linking the road to the Queensway application results in an increased and unnecessary harm to the Green Belt and increases permanently safety and inconvenience to all road users. Should the road application have come forward on its original defined route and not tied into the Queensway development, the scheme would have led to a better proposition. The major new road is supposed to be strategic. Its design and delivery should not be compromised to accommodate a housing development and avoid the use of CPOs.
- 2.31 In QED's view, there is no justification to warrant approval of *this* version of the M55 Link Road application, and the increased harm compared to the previous application, and the secured route in the local plan, is not justified.

T5/T6 Roundabout (and T5 road)

- 2.32 In relation to the Moss sluice roundabout (T5/T6 connector), this roundabout features in the Queensway application and the M55 Link Road application. In addition to the T6 road, the T5 road and the connecting T5/T6 road also contain development in the Green Belt.
- 2.33 Despite the T5/T6 roundabout being in the Queensway application and in-front of the Secretary of State for his determination since January 2011, in March 2011, LCC attempted to approve the T5/T6 roundabout as part of their own M55 Link Road

application, despite there being no relevance or connection of the T5/T6 roundabout with LCC's Local Transport Plan, Fylde's Local Plan (it is not referenced in either and no such plan concept exists), or any previous M55 Link Road planning application.

- 2.34 Whatever the motivations behind LCC's decision to by-pass the Queensway application (2103453) in front of the Secretary of State, the Secretary of State intervened and instructed LCC that they could not proceed with the approval of the T5/T6 roundabout (and the rest of the M55 Link Road application) which, no doubt, would have pre-determined his considerations.
- 2.35 Consequently, and technically, the T5/T6 roundabout appears in both the Queensway (2103453) and the M55 Link Road (2157314) cases.
- 2.36 The T5/T6 roundabout (and for the matter, the T5 road connecting the Queensway Road – B5261 – with the T6) were addressed at the time of the 2009 Queensway Inquiry. The Planning Inspector concluded that the T5/T6 roundabout and the T5 road were inappropriate development in the Green Belt. Subsequently, there is no need to debate this matter further. No material changes have occurred.
- 2.37 However, in the 2009 Inquiry, the Planning Inspectorate concluded there were very special circumstances justifying inappropriate development in the Green Belt. The Secretary of State disagreed and concluded there wasn't.
- 2.38 As the T5 road and the T5/T6 roundabout were part of the Queensway Inquiry and remain part of the Queensway housing application, we therefore comment on changes related to the Very Special Circumstances in the Material Changes section (5.142 to 5.225).

Section 3 - (c) in relation to both cases

Whether any planning permission granted for either Queensway or the M55 to Heyhouses Link should be accompanied by any planning obligations under s106 of the Town and Country Planning Act 1990, having regard to the statutory tests set out in Regulation 122 of the CIL Regulations 2010;

3.1 QED have no comment in this regard.

The extent to which the appropriate assessment prepared by Lancashire County Council under the terms of the Habitats Regulations 2010 in relation to the application to construct the M55 to Heyhouses Link would also enable the Secretary of State, as the competent authority in determining both that application and the Queensway appeal, to verify that the schemes - including mitigation - would not, either individually or in combination with other projects, adversely affect the integrity of the Ribble and Alt Estuaries Special Protection Area;

- 3.2 At the 2009 Inquiry, QED maintained a stance that there was insufficient data to inform an Appropriate Assessment (AA). The rationale behind this stance was the reliance on only four visits to the site by the ecologist and the reliance on data which had been collected occasionally and informally by local ecology groups. (There was nothing wrong with records produced by the local groups per se, but the records had been established based on ad-hoc reports rather than a formal study). This data was then being used to evidence that SPA bird usage of the site was more occasional than QED believed. This data set was used as the input to the AA prepared by Lancashire County Council in determining the M55 Link Road application in 2011.
- 3.3 As the Secretary of State called in the M55 Link Road application, LCC are no longer the competent authority and the responsibility for the execution of the Appropriate Assessment has moved to the Secretary of State. Therefore, the LCC produced AA has no locus.
- 3.4 QED understands that the purpose of the AA is to produce an independent assessment aside from the review of the usual mitigation and compensation plans associated with the planning process, in order to take a precautionary approach on sites of key importance. The AA process acts as a check and balance for the development process and also allows a wider review with consideration beyond the immediate application site, if necessary, to establish the accumulative impacts of other projects and developments plan which could be relevant.
- 3.5 However, this case is perhaps unusual in the LCC produced AA report was executed whilst they were both the Competent Authority and also the applicant for one of the schemes. QED believes that therein lies a potential conflict of interest which given the precautionary approach required to an AA is a little concerning. The planning system contains checks and balances and should not be a matter for self-assessment.
- 3.6 Furthermore, at the 2009 Queensway Inquiry, the author of the report had previously deferred all matters relating to the impact on the Special Protection Areas (SPAs) to other statutory and non-statutory consultees presumably as they were beyond the remit of LCC. However, for LCC's own application for the M55 Link Road, a different stance seems to have been taken, and they were now willing to produce their own Appropriate Assessment.

- 3.7 QED made no comments on the AA prior to the LCC's unscheduled DCC meeting in March 2011, as the document was not made available to members of the public until the very last minute, literally a matter of working hours before the meeting. There simply was insufficient time. Rather, QED commented on the AA in its March and April 2011 submissions as requested by the Secretary of State, and we draw the Inspector's attention to these representations.
- 3.8 The Queensway appellant made reference to QED's stance in their own April submission, but the facts remain that QED were not a rule 6 party to the Link Road application in March 2011, the AA was not made available for public review until hours before the DCC meeting (and after the required deadline for comments) and, frankly, it was the local authorities responsibility to review and acquire any necessary updated data, especially given the precautionary nature required.
- 3.9 In QED's view, the LCC produced AA:
- Repeats much material from the applicant's own Queensway environmental statement.
 - Makes many assumptions.
 - Fails to examine other projects (including one which LCC had approved adjacent to the site).
 - Is based on out of date data (and failed to examine any updated records which were available prior to its production).
- 3.10 In closing speeches of 2009, QED proposed a scoping statement for the AA following discussions with the RSPB and Natural England, This included reviewing all projects and plans, including those outside of Lancashire, which may affect the qualifying SPAs. It appears that the scope of the AA had been limited to the two applications in question.

AA - Whooper Swans

- 3.11 At the time of the production of the AA, the ES provided for the Link Road application, which informed the AA, stated that Whooper Swan counts indicated that "*Lytham Moss is not regularly used by flocks of (Whooper) swans exceeding 100 birds on a regular basis*".
- 3.12 The AA made an assessment (para 9.3) that without mitigation the impact on the Whooper Swan population using the SPA would be 20% / 25 swans (and that impact was significant) and that mitigation (i.e. the FCA) would resolve this impact. This implies that the assumptive capacity of the FCA was 125 swans, which might have seen reasonable at that time given the ES claims that the site was not used regularly by more than 100 Whooper Swans.
- 3.13 Throughout the 2009 Queensway Inquiry, all statutory consultees agreed (in fact, it was a statement of common ground) that ecological mitigation was "adequate". There was no agreed presumption of "enhancement" even though the appellant had forwarded this argument.
- 3.14 Therefore, we can safely assume from this that LCC concluded the capacity for Whooper Swans is 125.
- 3.15 Since 2009 and the production of the AA, more records for Whooper Swans have been forthcoming, which is acknowledged in the updated ESs for 2011. It is understood that many of these were triggered by bird enthusiasts who were regular visitors to the site in Winter 2010/11 following the sighting of a rare bird (a 1st-winter grey phalarope) on the Moss. While observing the rare sighting, many records of Whooper Swans were recorded and submitted to Fylde Bird Club.

- 3.16 The recent records from the winter of 2010/11 and data already recorded from this winter (backed by the appellant's consultants own survey for October 2011) show that the data input to the March 2011 Appropriate Assessment was indeed inadequate.
- 3.17 The 5 year peak mean count for Lytham Moss used to judge importance has grown and grown considerably. The peak counts for 2010/11 were 309 Whooper Swans (and there were many records above 250), and already in 2011/12 are 180. Even if the 2011/12 record for October is not exceeded, that will result in an increase in the 5 year peak mean count from 108 to 162, after last Winter, and to 180 as of this year.
- 3.18 The November 2011 ES references this quoting levels of importance (a count below 110 implies County importance, and above 110 implies National importance). The British Trust for Ornithology data is used to set thresholds. The appellant's ecologist claims that the Lytham Moss site is of local (County) importance only as the thresholds were set in 2009/10 (when the 5 year peak at Lytham Moss was 108) and the limit then was 110. The ES claims that as the national counts are not yet fully completed for 2010/11, a threshold number is not available and therefore we cannot compare the 162 mean counts with the national position. However, consultation with the BTO should have led to a different conclusion. The BTO confirm that the national threshold of 110 was set last year and will be applicable for three years (**) until more trends of data are available for review.
- 3.19 Therefore, the site is not of local importance. It qualifies as a site of National Importance. And the 180 count is considerably above the BTO National Threshold of 110 which is set for three years. In fact, it is not too far short of International Importance. To put the 180 number in context, when the Ribble Estuary was designated a SPA in the 1990s, one of its qualifying features was a 5 year peak count of 159 Whooper Swans. Indeed, should the rise in swan numbers continue it is safe assume they will need more not less foraging habitat. It is a sign of conservation success story that the numbers are rising in the SPA.
- 3.20 Whilst the numbers of Whooper Swans may be increasing generally, the number of sites qualifying as nationally important has fallen sharply. The BTO reported that in 2009/10 that 38 sites were classified as nationally important for Whooper Swans. In 2010/11, this is now down to only 15 (data kindly provided by the BTO) Not only have Whooper Swan numbers increased on Lytham Moss, but the comparative importance of the site nationally has grown too with only 15 sites in the UK being of National Importance. Given that Lytham Moss's peak count is at the upper end of the National threshold, Lytham Moss must rank as one of the most important sites in the country. This is a stark contrast for the picture painted in the ES and reflected in the AA.
- 3.21 Regardless of the level of importance, LCC's AA had clearly assumed the FCA had a capacity of 125. Lytham Moss has been used regularly with numbers considerably above this with 180 already recorded in 2011/12 and many records (even without formal surveying, still) beyond 250 and up to 309 in 2010/11. The 5 year peak mean is 180. Given, the FCA was judged by both LCC and Natural England (and agreed by the 2009 Planning Inspector – IR.373) as providing only adequate mitigation - a matter repeated in the AA at para 8.57 - supporting 125 Whooper Swans, it would seem highly unlikely that it has the capacity to accommodate the up-to-date numbers of Whooper Swans.
- 3.22 The ES also attempts to downplay that the Whooper Swans are not present all winter. However, as the AA highlights, the likelihood is that the Whooper Swans might migrate further South during winter (and move back to Lytham Moss prior to departing for the Arctic Circle). This doesn't make Lytham Moss any less important. Rather it highlights the complexity of the swans requiring multiple sites - of which this is clearly one - to survive

the winter and prepare to migrate back to their breeding grounds. The effects of reducing the capacity, and taking risks with an important site both during the construction and operational phases, needs to be fully tested in an independent appropriate assessment considering any plans for any sites in the swans network.

AA - Agricultural Land

- 3.23 The FCA is designed to set aside agricultural land to provide supplementary feeding for the Bewick and Whooper Swans. The AA identified concerns with the potential impacts of the Flood Compensation Storage area and concluded that it would be OK if the land was retained as agricultural land.
- 3.24 However, the AA hadn't taken into the change of agricultural land classification. The area had been surveyed by LCC and was identified as having a status of 3a – qualifying as the best and most versatile agricultural land. However, one of the impacts of the Flood Compensation Storage is to reduce the classification from 3a to 3b with the area no longer qualifying as BMV land. It would be safe to assume that a reduction in productive agricultural capacity must follow.
- 3.25 Reductions in capacity could be concerning especially against a backdrop of increasing bird numbers.
- 3.26 The changes to agricultural productive assumptions, and potential impacts, should be tested in the revised AA.

AA - Disturbance

- 3.27 One of the matters addressed in the Appropriate Assessment is that of disturbance and it is clear that the introduction of residents from 1150 homes poses a risk beyond current risks. In October 2011, the applicant's ecologist visited the Moss for surveying. A count of 180 Whooper Swans was recorded in fields within the red line border of the Queensway application. The following day it was reported (via Fylde Bird Clubs website) that dogs had been let loose in this field (it is private land and the birds were some distance from the footpaths) and the swans had left the area. Whatever the motives behind this, it is clear that human disturbance can have an impact. The Whooper Swans returned the following day many to the same field but groups tended to spend more time on a different part of the Moss, adjacent to the junction of the Queensway Road and the road entrance to Easterleigh Animal Sanctuary.
- 3.28 The risks of disturbance will increase with more people living closer and with the risk the available dispersal opportunities for the swans will reduce further compounding the problem, following the removal of land for houses, nature park, school, playing fields and the considerable footprint of the roads.
- 3.29 The application plans for the road include turning the existing Moss Road into a bridleway. The original plans for this (i.e. those approved in 2002), would have resulted in the bridleway being to the West of the new M55 Link Road. However, those plans have now changed with the 2011 road application, and due to relocation of the M55 Link Road (a matter addressed earlier in this representation), a large section of the bridleway would now be located to the East of the M55 Link Road. Significantly, this is very close to the edge of the swan refuge in the FCA. Had the M55 Link road followed the original 2002 route (and that in the local plan), then pedestrians would have faced a natural barrier – a busy trunk road with no assisted crossings – between themselves and the FCA. As it stands they are encouraged to get close to the FCA with the bridleway now crossing the M55 Link Road (and using a Pegasus crossing).

- 3.30 The applicants present the bridleway as a benefit and will argue it will have some popularity. We should conclude from this that many of the existing residents and users of the Moss will use it. So not only will the risks increase with the large number of new residents, but the changed route of the M55 Link Road will encourage all the users to pass close-by to the FCA. As we have seen, from the Moss incident recently, it only takes one person to disturb the Swans. The appropriate assessment needs to consider the increased risks especially in combination with fewer dispersal options available to the swans.
- 3.31 The AA is proposing a voluntary code of conduct in this regard. QED disagrees. We believe the correct approach would be to have the M55 Link Road in its planned and saved route to the East of the bridleway, rather than the altered route proposed, thereby creating a barrier between humans and the FCA. If it can't be located in its saved route, then the AA should consider whether the risks are too great.

AA – Pink Footed Geese

- 3.32 In relation to Pink Footed Geese, it is highlighted in the AA Summary that Natural England have raised concerns which the AA should address. The AA notes that the Geese are increasing in numbers generally and on Lytham Moss too and maybe part of a national network. However, the 2009/10 Waterbirds survey produced by the BTO suggests that Pink Footed Geese population distribution changes during the Winter were not as marked as in previous Winters, and the main movements involved birds moving from Scotland and North East England to Eastern England (by December).
- 3.33 The numbers in Lytham Moss reached a 5 year peak count of 3200 around 10% below the National threshold. The AA concludes that as the flock may be part of a national network, it is out of the scope of the AA to consider.
- 3.34 If it is out of the scope of the AA because the Geese maybe part of a national network, then QED questions what process it should be in? Pink Footed Geese are part of the qualifying feature of the SPA and the purpose of the appropriate assessment is to assess the impacts. If there are developments planned on other key sites linked to Pink Footed Geese, and the same approach is taken, the cumulative effects could be considerable. Just because it is more difficult to assess does not justify not doing a proper consideration of cumulative impacts.

AA – Bewick's Swan

- 3.35 A key principle of the AA is a precautionary approach. Bewick's Swans qualify of county importance in 2009/10. Against a precautionary approach backdrop, with Bewick's Swans number reducing in number nationally, (The national thresholds set in 2009/10, and are in effect for 3 years, have shown a reduction from 80 to 71, according to the British Trust for Ornithology), it must be assumed that the site is important for Bewick's Swans
- 3.36 To put this in context, since 2006/7, the highest recorded count on the Ribble Estuary and Martin Mere SPA is 94. The peak count for Lytham Moss last year was 74, nearly 80% of the highest recorded total for the SPA since 2006/7. The numbers of Bewick's Swans may be numerically smaller, but they form a large portion of the SPA population.
- 3.37 The 5 year peak mean for Lytham Moss is increasing at a time when the national threshold is reducing suggesting the site is growing relatively in importance for Bewick's Swans. The AA should assess this accordingly.

AA – Weather

- 3.38 It had been suggested that Lytham Moss is, or key parts of the Moss are used at times of bad weather. This merely highlights its importance at times of greatest need. QED have also observed some large counts (particularly of geese) on days of storm in the Estuary.
- 3.39 Already in 2011/12, numerous high counts have been recorded of Whooper Swans in the development red line area. These commenced very soon after the arrival of the Swans in the UK from their migration – in fact the first sightings were on the very same fields they left from the previous spring. The weather has been comparatively mild during this period. It would seem that Lytham Moss is one of the preferred sites for the newly arrived Whooper Swans and is often used as a staging post for migration further south.

AA – Cuadrilla

- 3.40 Lytham Moss is a test for the shale-gas extraction (fracking). The test site is adjacent to the proposed Farmland Conservation Area. The shale-gas company, Cuadrilla, has already stated how important it considers the Fylde to be for gas-drilling, and a precautionary approach needs to be considered.
- 3.41 The competent authority should consider whether the impact of plans, or potential plans, for shale-gas drilling on Lytham Moss needs to be assessed within the Appropriate Assessment.

AA – Pylon

- 3.42 In QED's view, the Appropriate Assessment should consider the suitability of the pylons crossing the site and whether they are an appropriate feature which may affect accessibility and safety.

AA – Procedures

- 3.43 In the Conservation of Habitats and Species Regulations 2010 at paragraph 62 and 66, the legislation states:

62.—(1) *If the competent authority are satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), they may agree to the plan or project notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be).*

66. *Where in accordance with regulation 62 (considerations of overriding public interest)—*
(a) a plan or project is agreed to, notwithstanding a negative assessment of the implications for a European site or a European offshore marine site, or
(b) a decision, or a consent, permission or other authorisation, is affirmed on review, notwithstanding such an assessment,
the appropriate authority must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected.

- 3.44 The phrase 'there being no alternative solutions' is in our view of critical importance in this case. Following recent High court appeals Natural England have produced a guidance paper (see attached Natural England: Guidance Note on 3 Tests). One of the examples - example 2 - makes specific references to the consideration of the availability of alternative sites, showing approval will be considered where it has been shown that there are no alternate sites. This mirrors the sequential test in PPS9 (which is also outlined in the draft NPPF).

- 3.45 The AA must consider the sites identified in Fylde's SHLAA which identified around 3,200 homes within settlement boundaries and on derelict employment land, and also identified 12,000 homes outside settlement boundaries. QED contend elsewhere in this representation, that the maximum likely requirement for homes outside settlement boundaries was a few hundred.
- 3.46 The lack of significant known interests at most of the sites should direct the assessor to the conclusion that there will be considerable certainty of no SPA impact at most if not all of the other sites, whereas the developments of Lytham Moss will inevitably bring some considerable risks.
- 3.47 The competent authority will need to apply the test to both the road and the housing applications – it is possible that different conclusions may be drawn on each.

Section 4 - Conditions

Whether any permission for either scheme should be subject to any conditions and, if so, in the case of the Queensway scheme, the extent to which those set out in the Inspector's Report dated 29 January 2010 would require modification:

- 4.1 If T6 road application is approved without the Queensway application, then a suitable ecology mitigation scheme is clearly required. In the absence of any alternative proposals, it would seem the full FCA and ecology mitigation scheme will be required. This will need to be subject to land ownership constraints being resolved in the absence of the housing approval.
- 4.2 Relocation of pylons around the FCA: The SPA birds would be concentrated in a smaller area of Lytham Moss – a line of high voltage power lines is shown in the middle of the FCA site. Collisions with High voltage power lines are a frequent source of fatalities to swans. At discussions with Fylde Bird Club, the appellant's ecologist recommended that the pylons should be relocated to improve access to the FCA.
- 4.3 The speed limit on any roads should be restricted to 40 mph for the following reasons:
 - To reduce the impact on barn owls – a schedule 1 species. The appellant's ecologist suggested in discussions with Fylde Bird Club, the road would be limited to 40 mph to overcome concerns of excessive impact on barn owls. However, that suggestion was not brought forward into common ground discussions.
 - The precedent locally of the nearby A5230 – Squires Gate Link Road. This is a similar connecting road to the T6 except it benefits from dual carriageway status, If this road has a 40mph restriction, there is no justification for a 50 mph road.
 - The other sections of the M55 Link Road are 40 mph.
- 4.4 All conditions identified in LCC's Appropriate Assessment.

Section 5 – Material changes

Any other material change in circumstances, fact or policy, which may have arisen since the Secretary of State's decision of 30 June 2010 on the Queensway scheme was issued, whether or not they pertain to the matters set out above;

The weight given to Fylde's local plan / Agricultural Land

5.1 In the original Queensway Inquiry, Fylde Council acknowledged that the application was incompatible with the local plan but assumed that the in-force RSS would carry significantly more weight.

However, following the intention to scrap the RSS, the judgement from the Mowbreck Lane Inquiry in 2011 clearly gave more weight to the local plan.

5.2 The Queensway application is incompatible for a number of reasons including outside settlement boundaries, countryside, green belt, and loss of the best and most versatile agricultural land (SP1, SP2, SP3 and EP22)

5.3 The loss of agricultural land was a key factor in the Mowbreck Lane judgement whereby 3 ha of the BMV land would have been lost, and the loss of agricultural land clearly carries more weight than it did at the time of the Queensway Inquiry.

5.4 The Queensway application would result in the loss of significantly more BMV land than at the Mowbreck Lane Inquiry, It was agreed at the 2009 Inquiry the housing application alone, would result in the loss of at least 10ha of the BMV land,. QED argued that the full extent of losses were not calculated and the losses could be greater. As there is no Grade 1 agricultural land within the Borough of Fylde, the site represents the best quality agricultural land available within the Borough.

5.5 The updated 2011 ES and agricultural assessments for the housing development show that:

- 8.5 hectares of BMV agricultural land (Grade 2 and 3a) would be lost from the housing development

Furthermore, the in-combination effects of the M55 Link Road would result in greater loss. The T6 Link Road ES and updated assessments show that:

- 2.7 hectares of BMV agricultural land (Grade 3a) would be lost from the T6 road (LCC ES, Section 10.4)
- 6.7 hectares of BMV agricultural land (Grade 3a) would be downgraded to Grade 3b following the construction of the Flood Compensation Area
- 2.2 hectares of Grade 2 of BMV agricultural land would be downgraded to Grade 3a. However, QED believe that this is in the footprint of the housing development and would be lost also.

5.6 In-combination losses would be 17.9 hectares (excluding the 2.2ha reported in the Link Road ES under housing).

5.7 The Queensway ES claims that "*There has been no local soil assessment carried out by the local authority but it is understood that the quality of agricultural land within the borough is high and any similar green field development would have comparable impacts*". However, the agricultural land maps are being shown to be out of date and not to be relied upon, as this application shows.

5.8 In addition, there has been a soil assessment carried out though for the Whyndyke Farm (2000 homes green field application) which shows that shows only 4% of the 84.6ha site (3.4 ha) to be Grade 3a. (No Grade 1 or 2). (Ref: FBC Application 11/0221 Ref C/2848)

- 5.9 The Mowbreck Lane Inquiry decision concluded that the loss of (only) 3 ha of agricultural land was significant and “*would be at odds with PPS7*”.
- 5.10 Policy EP22 of the FBLP relates to the protection of agricultural land. It states that development will not be permitted which would involve the permanent loss of the best and most versatile agricultural land (grades 1, 2 and 3a) where it could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas or on poorer quality agricultural land.
- 5.11 PPS7 paragraph 15 states that planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible enhanced. Paragraph 16 (iii) states that in determining planning applications for development in the countryside, authorities should take account of the need to protect natural resources.
- 5.12 Therefore, and having full regard to EP22, the objective relating to the efficient use of land contained within PPS3 and paragraph 28/29 of PPS7 the key questions to be considered are:
- Whether the development could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas or on poorer quality agricultural land;
 - Whether the development of agricultural land is unavoidable
 - Whether the proposal makes best and most efficient use of land
- 5.13 PPS7 is clear that the loss of BMV agricultural land should be taken into account alongside other sustainability considerations where significant development of agricultural land is unavoidable. The proper mechanism for such a comparative analysis – including a balanced view of all sustainability considerations – is through the Local Development Framework (LDF). This is the mechanism through which the amount of development necessary in Fylde in general and Lytham St Annes more specifically will be advanced and therefore the extent of agricultural land which will need to be lost to development can be properly considered against all available sites.

Paragraph 29 of PPS7 is clear that it is for development plans to include policies that identify any major areas of agricultural land that are planned for development. Therefore the loss of such a large area of BMV agricultural land through an appeal would be contrary to this guidance. PPS7 goes on to state that it is for local planning authorities to decide whether best and most versatile agricultural land can be developed, having carefully weighed the options in light of competent advice. Again, it is contended that the LDF is the appropriate mechanism for carefully weighing up all of the options in the context of a comprehensive sustainability appraisal.

- 5.14 The loss of this agricultural land to permanent development was considered at an appeal (Ref: APP/M2325/A/11/2150738/NWF) relating to the Ballam Road site. In her appeal decision, the previous Inspector noted that:

“The site is not only greenfield but also Grade 2 agricultural land according to the MAGIC Agricultural Land Classification system. PPS7 expects the presence of best and most versatile agricultural land to be taken into account alongside other sustainability considerations. In my view, the loss of Grade 2 pasture must, in principle, be considered a disadvantage of the proposal.” (para 42)

- 5.15 At the appeal at Mowbreck Lane, Wesham, consideration was given to a residential development of up to 264 dwellings on a 14.7ha site on the edge of the settlement of Wesham. That proposal included the loss of approximately 3ha of BMV agricultural.

At paragraph 11.17 of his report, the Inspector in that appeal noted that

“The Appellants argue that some green field land outside settlement boundaries will need to be released in order to meet in full the Borough’s housing need, and that is indeed accepted in the SCG [Statement of Common Ground] if any substantial housing target has to be met. That does not mean, however, that the level of development proposed for the appeal site now could not reasonably take place at this stage on sites comprising previously developed land, land within existing settlement boundaries or poorer quality agricultural land.”

- 5.16 He went on to conclude that:

“In my view, therefore, the requirements of FBLP Policy EP22 for the immediate release of this area of BMV agricultural land have not been met, and I consider that the appeal proposal would be contrary to that Development Plan policy.”

- 5.17 The Mowbreck Lane appeal had been recovered by the Secretary of State and in his consideration of the implications of the loss of BMV agricultural land, the Secretary of State concluded at paragraph 14 of his decision letter: “For the reasons given at IR11.49-11.55, the Secretary of State agrees with the Inspector at IR11.57 that the appeal proposal would lead to the permanent loss of at least 3 ha of best and most versatile (BMV) agricultural land and that, even though it could not be farmed as BMV land, its loss would still be at odds with the approach of PPS7. The Secretary of State also agrees with the Inspector’s conclusion at IR11.57 that it has not been shown that the development of agricultural land is unavoidable now.”
- 5.18 QED considers that the current appeal should be determined in accordance with the stance taken by the Secretary of State in the Mowbreck Lane appeal.
- 5.19 Further, PPS3 emphasises, on several occasions, the need to make the most efficient use of land. The policy objectives and outcomes of PPS3 are set out at paragraph 10 and include that the planning system should deliver “A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate”.
- 5.20 It is contended that the LDF is the appropriate mechanism for carefully weighing up all of the options including deciding what losses of agricultural land should be accommodated and where, and indeed, if any losses are needed at all.
- 5.21 Fylde’s SHLAA, concluded since the last Inquiry, identified sites with potential for over 12,300 homes on Greenfield land outside settlement boundaries. It identified around 2,500 homes within settlement boundaries without development plan restrictions and many more inside boundaries with restrictions that Fylde could consider releasing through its LDF process (e.g. unused or derelict land previously used for employment, over 700 homes). The reducing housing targets will significantly reduce any requirement for greenfield development, let alone development resulting in the large losses of the Best and Most Versatile Agricultural land.
- 5.22 Fylde have so many sites to consider in its LDF process many of which may not result in the loss of such large scale BMV agricultural land, and it cannot be demonstrated that development is unavoidable now on this site justifying one of the largest losses of Fylde’s BMV agricultural land in Fylde’s modern history.

- 5.23 It is contended that the loss of agricultural land for the housing development and separately in-combination with the link road would be at odds with the approach of PPS7 and PPS3. QED contend, as per the Secretary of States judgement at the Mowbreck Lane decision that it has not been shown that the development of agricultural land is unavoidable now and that the decisions around potential losses of agricultural land should be taken with the LDF context and decisions taken locally in accordance with the emerging Localism policies.

Recent Planning Inquiries

- 5.24 There have been several recent planning inquiries which are all relevant to this case. They are referenced elsewhere in this document but it is worthwhile noting the key points in summary here.

Mowbreck Lane in Fylde (APP/M2325/A/10/2127459)

- 5.25 In March 2011, a green field application for 264 homes (including 30% affordable homes) on green field land was refused by a planning Inspector and supported by the Secretary of State.
- 5.26 The Secretary of State concluded that the applications lack of conformity with the local plan including settlement boundaries, countryside, and agricultural land all outweighed the under supply of housing required from PPS3.
- 5.27 He also concluded that allowing the appeal would “*pre-empt decisions on revised settlement boundaries before current uncertainties with regard to population growth and distribution can be settled in a statutory planning context*”.
- 5.28 If an application for 264 homes including 30% affordable homes is pre-emptive then an application for more than 4 times that amount with 10% affordable homes is certainly so.
- 5.29 Clearly the rationale behind the Mowbreck Lane decision applies to the Queensway application.

Ballam Road in Fylde (APP/M2325/A/11/2150738)

- 5.30 Although this application was for only 10 homes, it was outside settlement boundaries and involved development on the Best and Most Versatile Land in Fylde. The decision date was 26th October 2011.
- 5.31 The Inspector concluded that the application would “*not be an efficient use of this BMV land.....*” and ‘*In these respects it would conflict with PPS3 and the considerations within paragraph 69 of the document*’
- 5.32 The same rationale from the Ballam Road Inquiry is applicable to the Queensway Inquiry.

Cala Homes / Barton Farm (APP/LI765/A/10/2126522)

- 5.33 In October 2011, an application by Cala Homes at Barton Farm in Winchester was refused by the Secretary of State. This was a similar application in terms of size and scale, and included the provision of new road infrastructure.
- 5.34 The Barton Farm site had already been identified in the local planning framework as a site, but there was a five year housing supply issue. No green belt issues were present.
- 5.35 Some key judgements from the Barton Farm case are applicable to the Queensway case. The Secretary of State outlined in his reasons for refusal:
- *“PPS3 anticipates that longer term housing requirements (i.e. 6-10 years) will be addressed through local development documents”.*
 - *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities.... This is a key planning priority for the Government”*
 - *“It is indeed understandable that there are many who believe that any decision to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating (IR421).”*
- 5.36 The Cala Homes / Barton Farm decision clearly relates to the Queensway case on a number of matters including PPS3 and longer term housing requirements, Localism and prematurity.

Cornwall – Wainhomes, Treverbyn Road (APP/D0840/A/10/2130022)

- 5.37 In October 2011, an application by Wainhomes for 1300 homes and mixed use site in Cornwall was refused by the Secretary of State.
- 5.38 A five year housing supply issues was applicable to this application, as the council could not demonstrate a 5 year supply.
- 5.39 The Secretary of State agreed with his *“Inspector’s reasoning and conclusions as set out at IR10.28 – 10.36 on whether the release of this large site would be premature in advance of the Council’s Core Strategy”*:
- *“He agrees that all that can be reasonably be said at this stage is that the appeal site is one of a number of potential candidates which may be required to deliver the housing needs of the town (IR10.30).”*
 - *“He agrees that, consequently, the grant of planning permission now would inevitably reduce the choices otherwise available to the forthcoming LDF site selection process and could prejudice future decisions (IR10.31).”*
 - *“He further agrees that the grant of planning permission now would deny the local community the opportunity of determining its preferred choice of housing sites for St Austell and that, without full public consultation on all potential options, a complete representation of local opinion would not emerge (IR10.36).”*
- 5.40 The Secretary of State added: *“The Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities. This is a key planning priority for the Government and the Secretary of State considers that in this particular case it is important to give Cornwall the opportunity to complete its Core Strategy process. Taking all the factors referred to by the Inspector into account, the Secretary of State agrees that there is a strong argument that the appeal proposal is of such a scale that to permit it now would prejudice decisions that ought properly to be taken as part of the LDF process (IR10.37).”*

- 5.41 The Secretary of State concluded: *“it is probable that a five year supply of housing land does not exist in Cornwall and that, on this basis, the PPS3 paragraph 71 presumption in favour of the grant of planning permission applies, subject to the considerations set out in paragraph 69 of PPS3. However, he also concludes that the appeal proposal is of such a scale that to permit it now would prejudice decisions that ought properly to be taken locally as part of the LDF process”*
- 5.42 The Secretary of State added *“...benefits of the proposal include the provision of a sizeable number of new homes so as to meet a shortfall in the five year supply of housing land in Cornwall.”, and “increased choices in the supply of both market housing and serviced employment land, and a range of improvements to local infrastructure are further benefits of the scheme. Overall, he concludes that these and other benefits are not sufficient to outweigh the conflict with the development plan and the Government’s strong desire that decisions about the future strategy for an area should be taken by the local community through the LDF process.”*
- 5.43 QED contend that these matters in the Cornwall Wainhomes application which is of a similar size and scale to Queensway apply equally to the Queensway application.

SHLAA (March 2011)

- 5.44 Fylde latest Strategic Housing Landing Assessment (base date 31/03/2003) provides an up-to-date assessment of the housing supply and potential supply in Fylde.
It outlines the 5 year supply of housing, 6-10 year supply, supply within settlement boundaries, potential vacant employment land to be used as housing as well as potential settlement extensions.
- 5.45 The housing supply numbers are based on the requirement to deliver 306 homes per year with years 1-5 having a housing requirement of 382 following an undersupply of housing relating to the backdating of housing requirements to 2003 from 2008. It is against the 382 requirement, the appellant claims there to be 1.4 years housing supply.
- 5.46 However, rather than focus on one figure, it is important to look at the whole position for a 15 year plan period (to 2027).
- 5.47 The appellant has consistently argued that Fylde will have to release land outside settlement boundaries on greenfield land - a matter which they will argue that a planning officer has agreed (although that is not a formal adopted position of the council, except for small greenfield sites – as per the Interim Housing Policy). The planning officer stance has never been quantified in terms of need and can only be described as an informal opinion.
- 5.48 However, Fylde Council have also stated that green field is not the only option to consider in the LDF process. They could consider the release of vacant and derelict employment land or release green open space in settlement boundaries (and relocate it outside the settlement boundaries).
- 5.49 In relation to these matters, the March 2011 SHLAA identifies the following supply over 15 years within settlement boundaries and on:

Total supply 2011 to 2027 within settlement boundaries (Table 4b)	2469
Capacity of redundant / vacant employment sites as per Local Plan (Table 5)	711 ***

Total (settlement boundaries plus previous developed land)	3180
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*** One of the sites in the redundant/ vacant employment capacity has a calculated capacity of 52 but was the subject of planning application for 102 homes by Kensington Developments. However, for the benefit of the calculations below, the lower number of 52 will be used. However, there is the clear expectation from developers that the capacity is actually somewhat above 711.

- 5.50 Since the SHLAA base-date of March 2011, some small green field sites have been released and planning applications approved which are above and beyond the SHLAA data. These amount to a total of 48 homes and include:
- 10 homes at Westfield Nurseries (greenfield)
 - 38 homes adjacent to Whitehills (greenfield)
- 5.51 It should be added that Fylde have demonstrated a consistent principle in favour of releasing previous employment sites which include Lytham Quays, Dock Road and Pontins rather than releasing large greenfield sites, a position entirely consistent with its adopted interim policies.
- 5.52 Therefore, total supply including settlement boundaries, redundant previously developed land and small greenfield sites already released is 3228 (3180 plus 48), although there are several small greenfield applications still in pipeline, which will add to these numbers.
- 5.53 The total 15 year housing supply requirement is unlikely to be $306 * 15$ or 4590. Rather based on an assessment of 260 or 280 houses per year, it is likely to be in a range from 3900 to 4200.
- 5.54 Over the next 15 years, even if every remaining home, further to those identified in the SHLAA, to meet the supply requirement was provided on Greenfield land, the Greenfield need is likely to range from 670 to 970 (and just over 500 homes if the revised housing number agreed is 250).
- 5.55 Approving Queensway would result in an over-supply of the potential greenfield requirement in a range from 200 to 500 even if not another single home was approved on greenfield across the whole of Fylde borough in the next 15 years alone.
- 5.56 QED argues that there is simply not the evidence within the SHLAA that a single greenfield site of anything like the size of this application will be required in Fylde within the next 15 years. Nor is there any planning policy that suggests that all the remaining houses should be delivered as a single very large green field application in a single location.
- 5.57 Furthermore, the SHLAA exercise identified that the “dwelling capacity of settlement extensions” (Table 6) is 12,324. That is Fylde’s LDF process will be able to consider the options relating to over 12 thousand and three hundred homes in deciding which settlement extensions it should consider, if indeed Fylde does conclude that a settlement extension is required.
- 5.58 Not only is there no evidence within the SHLAA for anywhere near 1150 homes on greenfield land in the next 15 years, but whatever the requirement, Fylde has many options to consider in deciding where they should go (it has already been presented with another planning application for 2000 homes on greenfield land nearby to Queensway). These options should be considered within the LDF process and not by a single appeal. This view is shared by the Secretary of State in the decision in the original 2009 Queensway Inquiry, the Mowbreck Lane Inquiry and also, outside Fylde, in the Cala Homes Inquiry and at the Wainhomes appeal in Cornwall.
- 5.59 Rather than demonstrating a need for significant greenfield land, the 2011 SHLAA actually shows that a significant amount of greenfield is not needed (and that amount will

be reduced if more derelict and vacant employment land is brought forward) especially as the housing requirement is lowered.

- 5.60 Fylde Council is also showing that it could meet its requirement by delivering its green field requirement using several smaller greenfield applications distributed across the whole of Fylde, avoiding the absolute harm of one huge application, e.g. Queensway, in one area.

Housing supply shortage

- 5.61 Fylde's housing supply is similar to that of the last Queensway Inquiry due to the backdating of requirements, although in reality it will improve immediately once a revised supply figure is adopted, although there is the possibility that a shortfall will remain.
- 5.62 However, the triggering of PPS 3 Para 71 in relation to the supply shortage did not outweigh other harm caused by the application in the previous Queensway Inquiry nor did it do so at the Mowbreck Lane Inquiry or at the Ballam Road Inquiry, all of which had a similar housing supply position.
- 5.63 Outside of Fylde, the Secretary of State determined the same at the Cala Homes Inquiry and again at the Wainhomes Inquiry in Cornwall.

Prematurity

- 5.64 At the 2009 Inquiry, the Inspector considered that as it was possible that the LDF process would lead to some housing development being proposed on the appeal site, the prejudicial affect would be modest.
- 5.65 Circumstances relating to prematurity have changed considerable since the last Inquiry in 2009. Fylde's LDF steering group are in the process of considering its strategic options including:
- whether housing should be distributed around or concentrated in key areas
 - what locations housing should be developed
 - Whether to in-fill within existing settlement boundaries and deliver open space outside existing settlement boundaries
 - which derelict employment sites within settlement boundaries to keep and which to release for housing
 - the impacts of the Enterprise Zone in Warton (another town in Fylde) and the implications on development, the priority for development and the require road infrastructure.
 - how they want to shape the local communities.
 - when development should happen in which areas
 - what mix of housing requirements there is and what mix should be in which areas
 - where employment sites are required and the mixed use requirements for sites
 - what Greenfield sites are required,, when they should be released, where they should be released and to what scale
 - where the best and most versatile agricultural land should be protected
- 5.66 For example, Warton – another urban area in Fylde - has just been granted Enterprise Zone status (Sept 2011) and the effect of this needs to be considered in the relative priorities for each area of Fylde. It is not beyond the realms of possibility that Fylde could conclude that its short and medium term focus should be on the Warton area prioritising development here focusing on developments which would improve the road network here. Although Fylde would have the option to beat its 5 year supply targets, there would

be considerable risk in creating an oversupply whilst the economy is fragile and recovering slowly.

- 5.67 Recent appeal decisions have also enforced the priority which should be given to the rights of local communities to determine its LDF.

The Mowbreck Lane (in Fylde) Inquiry in 2011 – a 264 home development with 30% affordable homes on Greenfield land – the Secretary of State concluded, in rejecting the application, that it would pre-empt decisions on revised settlement boundaries before current uncertainties with regard to population growth and distribution can be settled in a statutory planning context. Both the Inspector and Secretary of State agreed that the application would accord with PPS3 and that “the appeal site would provide a sustainable location for housing, contributing towards meeting the shortfall resulting from the Council’s failure to demonstrate a five-year supply of housing land across the Borough, in achieving a good mix of housing on a sustainable site and in helping to meet the affordable housing shortfall in the area”.

- 5.68 If an application for 264 homes delivering the target rate of affordable homes is prejudicial, it would be reasonable to assume that an application more than 4 times the size (and delivering a much lower rate of affordable homes) to be more so.
- 5.69 The Mowbreck Lane decision was challenged in the High Court. The challenge failed and the decision upheld.
- 5.70 Furthermore, in September 2011, a decision was made by the Secretary of State in relation to the Cala Homes application in Winchester (APP/LI765/A/10/2126522). The Cala Homes application has many similarities to the Queensway application, large scale, Greenfield, contrary to local plan, delivering a considerable road infrastructure, and Winchester Council are in the midst of developing their Core Strategy. The Cala Homes application contains no impact on the Green Belt.
- 5.71 In the decision, the Secretary of State judge, in refusing planning permission, that *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities.... This is a key planning priority for the Government “ and “The Secretary of State sees no reason to disagree with the Inspector’s comments at IR421-422. He agrees with her that, given the Government’s commitment to decentralising power to the local levels and making local communities accountable for the decisions that affect their areas, it is indeed understandable that there are many who believe that any decision to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating (IR421). The Secretary of State has indicated that he considers it important that Winchester is given the opportunity to complete its Blueprint (part of Core Strategy) work in a meaningful way “*

This situation clearly applies to the Queensway case.

- 5.72 The Secretary of State judged that Localism was a very weighty matter. It will be argued by the appellant, no doubt, that the provision of the M55 Link Road is popular. Fylde Council clearly support the M55 Link Road application (as it is part of the local plan) stating in 2011 representations to Lancs County Council relating to the M55 Link Road application that it strongly supported the road.
- 5.73 Clearly, the approval of the Queensway application for 1150 homes would be absolutely inconsistent with the Secretary of State’s direction at the Cala Homes Inquiry.

- *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities.... This is a key planning priority for the Government”*
- The Secretary State directed that PPS3 anticipates that longer term housing requirements will be addressed through local development documents. This 2009 Inquiry concluded that this application would deliver at least 800 homes beyond the 1-5 year supply period.

5.74 The same situation was also endorsed by the Wainhomes application in Cornwall.

5.75 Approving this 1150 home application at appeal would be contrary to Government policy and direction.

5.76 As outlined in the Localism Agenda section (5.7) in this representation, Fylde Council has been consistent a) objecting to the Queensway application and b) insisting that the M55 Link Road is not so important that Queensway must be approved to fund it.

Prematurity – Effect on the 10 year housing supply.

5.77 The appellant is using the 5 year supply figure based on the out-dated RSS figures including the backlog to argue for the approval of the application, These figures are quoted from Fylde’s SHLAA from March 2011 and suggest that Fylde has only housing supply of 536 homes.

5.78 However, in determining prematurity it is important to consider the longer term period over which the 1150 homes would be delivered if approved.

5.79 The March 2011 SHLAA also outlines the 6-10 year housing supply (in our earlier sections, QED outlined that many of Fylde’s approvals were being counted in the 6-10 year supply rather than the 5 year supply). The 6-10 year supply is stated as 1422.

Total housing supply from years 1 to 10 is 536 plus 1422 = 1958 homes.

If Queensway was approved, this would equate to 1958 plus 1150 = 3108.

Even using the RSS numbers of 306 per year (i.e. 3060 over 10 years), this would equate to more than 10 years supply of land Fylde could abandon its LDF process for many years to come. That is approving Queensway would result in Fylde not just having a 10 year supply of housing.

Now, Fylde are reconsidering their housing numbers.

- If they conclude 280 per year, approving Queensway would result in an 11 year supply.
- If they conclude 260 per year, approving Queensway would result in a 12 year supply.

5.80 If Queensway was approved, QED contends that Fylde’s LDF would not need to consider options in its short and mid-term housing supply. There wouldn’t be much of a need for the LDF. It would be determined by this appeal for the next decade or so.

5.81 And that is even before Fylde has a chance to complete the process on a nearby brownfield site of 335 homes. If that is approved alongside Queensway, it could have a 13 year supply of housing.

5.82 It would also mean that if Fylde chose to consider the Whyndyke application of 2000 homes it would result in a 19 or 20 year supply of housing.

Prematurity – Distribution of Housing.

5.83 St Annes is the largest urban area in Fylde Borough with around 20,000 residents of a total population of over 75,000. It represents around 25% of Fylde's population.

A number of planning applications have been approved in St Annes, and are awaiting commencement, including:

- 275 at Pontins in St Anne's
- 73 at Pontins (extension) in St Anne's
- 48 homes at former Kwik Save in St Anne's
- 72 homes at Westgate, St Anne's

5.84 Even without adding in small applications or using any of the windfall allowance, these equate to 468 homes to be delivered in the next 10 years amounting to 17% or 18% of the requirement for 10 years (based on 280 and 260 homes per year). A further large application on previously developed land is proceeding through the planning process at Heyhouses. This also intends to deliver 335 homes in St Annes.

468 plus 335 equates to 803 homes, equivalent of 29% or 31% of the 10 year requirement (based on 280, 260 respectively).

5.85 Already St Annes would be receiving a disproportionate amount of housing over the next 10 years. However, if the 1150 homes from Queensway in St Annes is taken into account, this would equate 1953 homes which is between 70% and 75% of the 10 year requirement in one area. (Even if Heyhouses wasn't approved it would amount to between 58% and 62%).

5.86 Even without windfall and small applications, up to 75% of the housing target for 10 years would be delivered in one area. This area accounts for only around 25% of the population (and a considerable amount smaller of the total land area).

5.87 Also, as at March 2011, St Annes had 10,627 households. Approving this would result in a growth rate for St Annes of over 18% over a 10 year period. QED contend that this is excessive and reflects that the size and scale of the application is not suited to the location.

Prematurity - Green Belt

5.88 At the 2009 Inquiry, the Inspector concluded that the harm to the Green Belt is substantial. Even if this site was allocated in the up and coming LDF process, it is inconceivable that the site would be allocated and constructed with the T5 road and the T5/T6 roundabout in the Green Belt. It is only this specific application that requires the T5 road and connecting roundabout in the green belt. Therefore, by approving this particular application, there would be a permanent harm which was described by the Inspector as substantial. The prejudicial effect would be substantial and permanent.

5.89 Furthermore, there is so little green belt in Fylde. This piece of green belt is therefore significant. Therefore, the net impact on the total green belt in Fylde is great and what little green belt remains in Fylde, should be afforded greater protection.

5.90 The Government recently (Oct 2011) published Strategic Environmental Assessments required to revoke the Regional Spatial Strategies. In doing so, the Government stated in its supporting notes (6), "*The Government is introducing a stronger locally-led planning*

system, where local communities decide where development goes and receive benefits from that development through the New Homes Bonus and Community Infrastructure Levy. Communities will also have the power to prevent encroachment on the Green Belt and will benefit from a new special protection for green spaces under the Localism Bill"

- 5.91 It further added in note (7), *"The draft National Planning Policy Framework also safeguards valued, national protection for our countryside including Green Belt, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest to protect them from encroachment"* (See <http://www.communities.gov.uk/news/corporate/200951211> for Notes).

Prematurity – Agricultural Land

- 5.92 Furthermore, this site (and these combined applications) contain a sizeable portion of the Best and Most Versatile Agricultural Land. It is likely to represent one of the biggest losses of sites identified in the SHLAA (see earlier section on BMV in the weight given to local plan –section 5.1).
- 5.93 Fylde Council, at the 2009 Inquiry did not argue against the loss of BMVs (QED did). However, since then, Fylde have decided to defend losses of BMV and successfully argued against the loss of BMV at the Mowbreck Lane Inquiry. (The loss was only 3ha with the Mowbreck Lane application) and at the Ballam Road Inquiry both in 2011. The in-combination effects of the Queensway scheme and the M55 Link Road would be almost 18 HA of the Best and Most Versatile Agricultural Land lost. This is a greater loss proportionately (to the houses) than the Mowbreck Lane Scheme.
- 5.94 It is contended that the LDF is the appropriate mechanism for carefully weighing up all of the options including deciding what losses of agricultural land are required and where, and indeed, if any losses are needed at all.

Prematurity – Ecology

- 5.95 To quote from the Appellants own ES at section 5.4.7:
- "PPS9: Biodiversity and Geological Conservation provides guidance on the Government's objectives with regard to conserving and protecting the diversity of England's wildlife and geology. The guidance aims to prevent planning decisions from harming biodiversity and geological conservation interests. If significant harm is envisaged the Local Planning Authority will need to be satisfied that the development cannot be reasonably located on any alternative sites that would result in less or no harm. If no alternatives are available before planning permission is granted adequate mitigation measures must be put in place. If significant harm cannot be prevented or mitigated against appropriate compensation measures should be sought. If none of these can be provided permission should not be given."*
- 5.96 Under PPS9, planners should be satisfied that development is situated where it will do the least harm to biodiversity. Well informed forward planning should identify the most appropriate development sites early on. Planning decisions should be informed by an assessment of other potential development sites, and reasons as to why these are not realistic alternatives. Alternative sites should be considered in advance of impact-avoidance measures – prevention before mitigation. This is sound economic as well as environmental reasoning. The prioritisation of low biodiversity sites provides a benefit in that the costs of mitigation or compensation to developers will be lower, as well as reducing the impacts on wildlife.
- 5.97 In the 2009 Inquiry the Inspector stated (IR.375), *"However ecological considerations do not, in my judgement, count positively in favour of allowing the appeal. Indeed, I have*

some sympathy for the argument advanced by QED that, given the choice, it would make sense to avoid building on sites that have nature conservation interest”.

5.98 The current Queensway ES notes at section 9.3.90:

“Although the site has no statutory nature conservation such as Site of Special Scientific Interest (SSSI) and no local designation (BHS), there is the possibility that the site may qualify for BHS status on account of its bird interests, 4-spotted Chaser dragonfly and the presence of the Moss bladder Snail. Further butterfly surveys may also provide justification for BHS designation”.

5.99 The 2010/11 SHLAA identifies a huge range of options – it has identified around 2500 homes in settlement boundaries, with potential sites for over 700 homes on vacant and derelict employment land and over 12,300 homes on greenfield sites. The Council has a duty to weigh the sites importance in the LDF process. There is clearly no need to bring forward a site of considerable ecological interest prior to the LDF - approving this application would bring forward one of Fylde’s best ecological sites prior to the consideration of interests across the full identified sites in the SHLAA which has been developed since the last Inquiry.

5.100 The 2009 Inspector concluded that, relating to ecology, (IR, 430). *“Nevertheless, extensive (ecological mitigation) measures are required and if alternative sites existed that did not give rise to such requirements there could, in my view, be merit in prioritising them. Indeed I note that the appellants’ own assessment [in KPT3a] rates some other sites more highly on this count”.*

5.101 QED ask the question – how important does it a site need to be, how many priority species are required and how many designations are needed to afford a site protection based on a sequential test per PPS9?

Prematurity - Countryside

5.102 In the 2009 Queensway Inquiry, the Inspector conclude that *“Inevitably building 1150 houses on the site would greatly change its character and appearance”*, whilst concluding that *“this change in character and appearance is necessarily a fatal objection to the proposal.”* (IR.305).

However, there are many options for delivering Fylde’s housing requirements over the plan period, some of which may (or may not) involve delivery on countryside and the merits or these may be

5.103 In the Wainhomes Cornwall case, the Secretary of State concluded that the countryside location weighed against the proposal and *“the appeal scheme might be better or worse than other potential sites for large scale housing development (IR10.53).”*

5.104 These matters should be assessed through the LDF, and if countryside sites are required then the harm caused by the potential schemes comparably assessed.

Prematurity – Affordable Homes

5.105 The demand by area within Fylde for affordable homes (see appendix B) was not presented to the 2009 Inquiry (as QED understands). The demand statement shows that within Fylde’s affordable housing requirement, St Anne’s in particular has a considerable requirement (it makes up a large part of the demand).

- 5.106 By releasing this site outside of the strategic planning process, there is a considerable risk that this application would significantly compromise the ability of Fylde Council to meet its affordable home targets and, in particular, within which locations. Although, it does provide some affordable homes, it prioritises a road and a short-term boost over the, what-would-be-the compromised, long-term need to deliver a considerable number of affordable homes in St Anne's with the required mix and type produced in the evidence base.
- 5.107 To approve any site of this site with so low a level of affordable housing, the affordable homes need in St Anne's would require other applications to deliver a significantly greater portion of affordable homes than they otherwise would have (and could make not viable).
- 5.108 As highlighted in the section of PPS3, approving this application now, could result in an under deliver of affordable homes across the plan period and particularly in St Anne's, if the LDF process identifies that some, or all, of this site is required, and the affordable homes requirement remains high for St Anne's.
- 5.109 Approval of the application is likely to risk the delivery of the total affordable homes application and could result in an in appropriate distribution in the location of affordable homes.

Prematurity – Settlement Boundaries / SHLAA / LDF Options

- 5.110 The Appellants argue that the settlement limits in the Local Plan are out-dated, because they pre-dated the requirements of the Regional Spatial Strategies and the associated housing requirements.
- 5.111 However, Policy SP1 (settlement boundaries) was amongst those policies saved by direction of the Secretary of State under the Planning and Compulsory Purchase Act 2004 in September 2007 and October 2008, and this was after the original publication of PPS3, the Government's national policy guidance on housing. In QED's view, the boundaries are still serving their intended purpose as recent applications have been concentrated on brownfield sites.
- 5.112 In addition, the original decision of the Secretary of State in the Queensway appeal makes it clear that the Secretary of State attaches continuing importance to the saved settlement boundaries in the adopted Local Plan.
- 5.113 He agreed this matter again when determining the 264 home Mowbreck Lane appeal, declaring that the conflict with the local plan including settlement boundaries tipped the scales against the proposal and added (para 20) *“allowing the appeal would pre-empt decisions on revised settlement boundaries before current uncertainties with regard to population growth and distribution can be settled in a statutory planning context”*.
- 5.114 QED outlined earlier in this document the situation relating to the SHLAA as at March 2011. The SHLAA has highlighted a potential capacity of over 12,300 for settlement extensions. QED also highlighted earlier that in the next 15 years, it is unlikely that anywhere near 1000 homes will be required outside of settlement boundaries. Approval of this housing application would likely mean that there would be few extant decisions remaining to be taken by the LDF process.
- 5.115 The SHLAA includes a wide choice of potential settlement extension sites so as to provide the widest possible range of options for the Council in the LDF process. (As

advanced by Fylde Council at the Mowbreck Lane Inquiry). The Mowbreck Lane Inspector concluded that there was justification in keeping the settlement boundaries until the LDF process is complete (IR 11.92) concluding “*that those boundaries are deserving of continuing support.*”

5.116 Approving this application would pre-judge decisions on settlement boundaries, and would pre-determine which of the sites containing the 12,300 homes should come forward, if indeed many of them are required. If the housing application for Queensway is approved, it is very likely that no further consideration would need to be given for any homes outside settlement boundaries for the whole of the next planning period to 2027.

Prematurity – Greenfield/Brownfield and Settlement Boundary options in the LDF.

5.117 At the 2009 Inquiry, the Planning Inspector concluded (P320) that “*Releasing this site now would however reduce the scope for greenfield allocations elsewhere when this matter comes to be considered as part of the LDF process.*”

5.118 He also stated (P319) that further green field releases would need to be “strictly limited” if brownfield targets were to be achieved.

5.119 At present, the RSS requires a minimum of 65% brownfield target would occur in Fylde. PPS3 also assumes that a target for previous developed land would be at least 60%. There is no other evidence base to assume anything other than a significant

5.120 However, Fylde’s housing targets are now likely to reduce. Using the RSS targets of 306 per year, it was assumed that Fylde should (and would be able to) deliver, at least, 3150 homes on previously developed land over a 15 year period.

5.121 This is clearly supported by the evidence base in the SHLAA.

- The SHLAA has identified 2469 sites within settlement boundaries deliverable within the plan period.
- The SHLAA has identified a capacity of 711 homes on vacant or derelict employment land (It should be highlighted here that the 711 capacity results from developer proposals during the SHLAA consultation stage that these sites could be allocated, and implies intent to build over the plan period. The capacity on vacant or derelict sites is likely to be greater. The 2011 SHLAA (Appendix 4) states that “*At a later stage in a subsequent review of the SHLAA all employment sites which are underused, underdeveloped or likely to become redundant will be assessed to see if any of them are suitable for housing.*”. Even before this exercise is carried out, further sites are coming forward including the former Stanways site in Lytham. **
- In addition, since the SHLAA was calculated, further applications have been approved which were not in the March 2011 SHLAA, which add 48 to the calculations
- A total of 3228 homes are available within settlement boundaries / vacant and derelict employment land, even before further vacant land comes forward.

5.122 The Fylde Borough Employment Land Study stated that in the event of a low growth scenario, the requirement for employment land would reduce.

5.123 Based on a target of 260 homes, Fylde would be required to deliver 3900 homes over the next 15 years and has already approved a substantial number of houses to meet this target. With 3228 already identified within settlement boundaries or on derelict employment land, around 600 more homes are required should Fylde choose to bring forward derelict employment land for housing as part of the LDF.

5.124 Therefore, Fylde would not need to deliver so many houses on green field land nor seek more than around few hundreded homes outside of settlement boundaries to meet this target. This even assumes that no more vacant employment land comes forward.

- 5.125 As part of the LDF process, Fylde Council will consider its housing delivery options. It is a highly likely scenario, that it will require housing to be delivered within settlement boundaries or require small green field allowances (this would be entirely in accordance with its adopted interim policies).
- 5.126 Fylde is unlikely to need such a large green field application to meet its targets. It clearly has no need to rely on a green field application of this size and scale whatsoever. Approving this application would be absolutely premature to the LDF process and would severely constrain the options Fylde has to consider.
- 5.127 Furthermore, Fylde has other green field applications to consider which have already been submitted. These include
- 2000 homes at Whyndyke Farm, around M55 J4
 - 100 homes at Mowbreck Lane, Wesham
- 5.128 The SHLAA has identified capacity for 12,324 homes on potential sites outside settlement boundaries. The SHLAA confirms that there is little evidence to suggest large scale release of green field sites will be required, especially when the housing targets are reduced from 382 to within a range of 250 to 280, and certainly not one of the Queensway scale. Should green field sites be required, then the decisions on which sites should be released, should be taken within the proper strategic planning process within the context of the LDF.
- 5.129 The place for considering significant alterations to settlement boundaries and allocation of green field land is within the LDF process. Approval of the Queensway application, when it has not yet been determined whether so many houses are required on green field land, in advance of consideration of other greenfield options would be absolutely premature.
- 5.130 It is entirely feasible that not a single home would be required on the Queensway site to achieve the next 15 years housing target. It is very unlikely that 1150 homes would be required on the site. The planning system, and the LDF process, aims to take a strategic approach to planning. The system is not supposed to tolerate a first-past-the-post system on one of Fylde's largest ever planning applications before the LDF process has completed.

Prematurity – General Principles.

- 5.131 Paragraph 19 of “The Planning System: General Principles” indicates that, where permission is refused on grounds of prematurity, there is a need to demonstrate clearly how the granting of permission would prejudice the outcome of the DPD process. QED's arguments here clearly demonstrate that.
- 5.132 A vast range of potential future housing sites both within and outside settlement boundaries has been identified in the SHLAA some of which can continue to come forward in line with the policies of the existing Local Plan and are also consistent with the approach taken in the IHP in the short term.
- 5.133 Prematurity matters are to be judged by reference to paragraphs 17 to 19 of General Principles, the companion document to PPS1
- 5.134 The scale of the development proposed is significant enough to engage the operation of the principle of prematurity (this was the conclusion of the Mowbreck Lane Inspector when referring to an application for 264 homes in Fylde, a decision agreed by the Secretary of State).

- 5.135 There is no requirement for there to be a local policy document in existence before a prematurity objection is raised; simply that a DPD is being prepared, as is the case in the present situation.
- 5.136 The development proposed in this application would clearly prejudice the outcome of the LDF process by predetermining decisions about the scale and location of development in the area, over development throughout Fylde, over locations of green field development, over settlement boundaries, agricultural land and impact on the green belt.
- 5.137 The appropriate process for determining the strategic question of the future scale and location of housing in Fylde is through the LDF. Only by that process can there be full public engagement on these key decisions and full consideration of the potential availability of the necessary infrastructure to sustain the level of growth involved. It would predetermine scale of housing in St Annes, changes to settlement boundaries, use BMV agricultural land and affect the location and delivery rates of affordable homes.
- 5.138 Approving the Queensway application would be absolutely premature to the LDF process. In QED's view, seldom has an application been more premature.
- 5.139 In summary, approving the Queensway application would not result in a modest pre-determinate effect. In fact, QED argues it would not just be significant but complete and absolute.
- The application would completely conclude the 10 year housing supply even before the LDF process is concluded. It could result in an 11 or 12 years supply.
 - It would result in the wrong balance of affordable homes in the next 10 year planning period
 - It would result in the wrong balance of affordable homes in St Annes particularly and across Fylde generally.
 - It would pre-empt decisions on settlement boundaries whereby Fylde has a potential capacity (ref: SHLAA) of over 12,300 homes outside settlement boundaries to consider.
 - It would pre-determine location of housing concentrating a disproportionate number of housing in one quarter of the borough
 - It would pre-empt decisions on greenfield and countryside sites and would result in an over-delivery on greenfield land compared to previously developed land far beyond what the greenfield requirement for the next 15 years is likely to be according to the SHLAA evidence base
 - It would result in permanent inappropriate development in the Green Belt which would otherwise not occur following the LDF process
 - It would result in the premature loss of the Best and Most Versatile Agricultural Land which is likely to be avoidable if considered against other sites (PPS7)
 - It would result in one of Fylde's best ecological sites being developed on, when the LDF process may consider that this site should contain little or no development in accordance with sequential principles in the current planning system (PPS9) and those outlined in the draft NPPF.
 - It would pre-empt the consideration of many large greenfield sites including the 2000 homes Whyndyke application which should be compared and assessed through the LDF process.
 - It would pre-determine and create an imbalance in the rate of use of greenfield and previously developed land, including derelict and vacant employment land.

- It would remove almost all of the countryside adjacent to St Annes without any consultation whatsoever via the LDF process.
 - It might pre-empt the new emerging version of the Strategic Flood Risk Assessment.
 - The final location and impact of shale gas drilling and its impact on the LDF process is not known.
- 5.140 The applicant argues that it is likely that green field sites will need to be released to meet the housing targets and that this site is likely to be one of the sites. However, it is clear that such large green field sites are not necessary and the options for any green field sites or changes to settlement boundaries should be considered within the context of the LDF process and not via individual planning applications, especially when the planning applications are of the size and scale of this one.
- 5.141 Fundamentally, it would be in stark contrast to a key Governmental planning priority. In both the Cala Homes and Wainhomes Inquiries, the Secretary of State stated that *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities. This is a key planning priority for the Government”*.

Green Belt development: T5 Road and T5/T6 Roundabout – Changes related to the assessment of Very Special Circumstances

- 5.142 The T5 forms part of the Queensway application and the T5/T6 connecting roundabout features in both the Queensway and M55 Link Road applications. However, both the T5 road and T5/T6 connecting roundabout were assessed and tested in the 2009 Inquiry.
- 5.143 The Planning Inspector concluded (Para 389 and Para 456) that the development of the roads were Inappropriate Development in the Green Belt and contrary to planning policy including Fylde’s local plan policy SP3.
- 5.144 Since then, the T5/T6 roundabout has been moved a further 28 metres into the Green Belt further compounding its inappropriateness.
- 5.145 Whilst we do not agree with the T6 road, its need or its alignment in the green belt, the T6 road is at least part of the local plan and the local transport plan. No such status exists for the T5 road or T5/T6 connecting roundabout, and no planning permission has ever existed for them.
- 5.146 During the Inquiry process, the Inspector has three options to consider:
- 1) Recommend approval of both the Queensway and M55 Link Road applications
 - 2) Recommend approval of the M55 Link Road but recommend refusal of the Queensway scheme
 - 3) Recommend refusal of both.
- 5.147 The test of very special circumstances needs to be applied to the M55 Heyhouses Link Road (T6) separately from the Green Belt road construction (Heyhouses / T5 and the T5/T6 roundabout) in the Queensway application. The applications are separate and the tests and justification are separate. The M55 Link Road application relates to a road concept from the Local Plan; the Queensway application has no concept whatsoever in the local plan or from any planning policy.

- 5.148 The T5 (East-West) road and the T5/T6 connecting (Moss sluice) roundabout form part of the Queensway application and were debated at Inquiry. The Planning Inspector concluded that these developments were inappropriate development in the Green Belt but very special circumstances existed. His views of very special circumstances were overturned by the Secretary of State before the High Court decision which related to the abolition of the RSS
- 5.149 In 2009, the Planning Inspector did conclude that the harm caused by the Inappropriate Development of the Queensway scheme was substantial (IR P456) (and by inference that a high bar is required for the very special circumstances test).
- 5.150 In 2009, the Planning Inspector came to the view that very special circumstances existed because of a combination of factors:
- 1) The 5 year housing supply was acute and there were “no others that to my knowledge are at such an advanced stage that they can be relied on in the immediate future.”(P455)
 - 2) The contribution to the affordable housing and the lack of alternative schemes at a stage which could address it.
 - 3) The view that it is likely that the LDF process would lead to some housing development being proposed on the appeal site and the prejudicial affect would be modest.
 - 4) No other firm proposal is of the scale or reached the stage where it could make substantial contribution to the road.
 - 5) Whether an alternative scheme could avoid the Green Belt usage caused by T5 and the roundabout.
- 5.151 QED contends that it is clear that there have been material changes to these circumstances and the test of Very Special Circumstances in relation to the T5 road and the T5/T6 roundabout in the Green Belt now fails. The following sections explain.

2009 Inquiry VSCs Factor 1: In relation to the 5 year housing supply, the 5 year housing supply was acute and there are no other applications that can be relied upon

- 5.152 At the last Queensway Inquiry, the position at the last Inquiry was agreed at 1.5 years supply based on the RSS numbers of 306 per year. The Secretary of State decided that this did not warrant justification of the development.
- 5.153 Fylde’s SHLAA 2011 calculated the 5 year supply at 1.4 years supply. However, this was based on a backdated RSS housing requirement of 382 homes per years.
- 5.154 In August 2011, after the calculation of the March 2011 SHLAA, Fylde argued at the Ballam Road Inquiry, that it had a 2.5 year supply of housing (970 homes) again based on a requirement of 382 homes per year (see Appendix A).
- 5.155 Fylde is also preparing its Local Development Framework and as part of that process is re-considering its evidence base. The evidence used to calculate housing requirements is likely to generate a lower housing target and it is expected that Fylde’s target will be reduced from 382 to around 250 homes per year.
- 5.156 Fylde are also preparing consideration of a profiling of housing numbers, in line with the forecasts provided in its Annual Monitoring Report, and may well require a lower number in earlier years It is perfectly feasible that this on its own would resolve Fylde’s 5 year housing supply in the short term without any further approvals.

- 5.157 Furthermore, Fylde's housing supply calculation, now defined in the SHLAA, excludes approvals which are waiting S106s. Many such applications have been approved but do not count towards the 5 year housing supply due to "deliverability" (although no doubt all would have had to pass the deliverability tests in PPS3 to get approved). Therefore, Fylde's 5 year supply calculation gives an overly pessimistic view of the 5 year housing supply. (It is not clear to QED that this method is prevalent in other Council's 5 year supply calculations).
- 5.158 In fact, from major applications alone (excluding small applications), around 1000 homes have been approved and fall into this category, almost 600 of them in the last 12 months. The Queensway appellant has many of these applications.
- 5.159 Fylde's housing supply calculation does not currently demonstrate a 5 year housing supply. However, it is clear that Fylde's housing supply is materially better than the 1.4 suggested by the appellant.
- 5.160 The RSS figure is out-of-date and will soon be replaced, and there are many actions that will result in an approved number without even considering any more housing applications:
- Replacing the target figure with the revised number based on the updated evidence base. For example, if Fylde accept 260 for example as the target, it will reduce the housing supply requirement by 122 per year for the next 5 years – A total of over 600 homes, removed from the calculation
 - A revised target of 260 would generate almost 4 years supply based on the 970 calculations used for the August 2011 Ballam Road Inquiry. (Even based on the March 2011 data, it would result in greater than 2 years supply)
 - The signing of a S106 for any of the 1000 homes applications already approved.
 - The profiling of the housing requirement with a lower requirement in early years increasing in later.
- 5.161 It is clear that the housing supply issue is improving and will improve considerably even without the need for any short term housing approvals.
- Also, recent cases have highlighted that the housing supply scenario, is not sufficient to override harm (of which the previous Inspector consider there to be substantial) and warrant approval.
For example:
- March 2011 - Mowbreck Lane in Fylde (where Fylde could demonstrate a 1.5 years supply)
 - August 2011 - Ballam Road
 - September 2011 – Cala Homes
- 5.162 In fact, the Secretary of State decided that the previous housing supply of 1.5 years at the time of the last Queensway Inquiry did not warrant approval of the Queensway scheme.
- 5.163 It is clear that the housing supply issue does not warrant premature and harmful applications which are contrary to the local plan.
- 5.164 One of the Inspector's key concerns that there were no others applications at such an advanced stage that they can be relied on in the immediate future. That concern is no longer warranted.
- 5.165 Planning permission now exists for the following developments:
- 275 at Pontins in St Anne's

- 73 at Pontins (extension) in St Anne's
- 48 homes at former Kwik Save in St Anne's
- 67 homes at Warton (greenfield)
- 90 homes at Hollywood nurseries (greenfield) (revised application submitted for 63)
- 28 homes at Staining
- 102 homes at Dock Road, Lytham (from EMP site)
- 180 homes at AEGON site in Lytham (revised application for 73 homes submitted)
- 10 homes at Westfield Nurseries (greenfield)
- 38 homes at Whitehills (greenfield)
- 72 homes at Westgate, St Anne's

5.166 Many planning permissions have come forward since the Inquiry and several large ones have been approved. In the last year alone, these include 348 in St Anne's (Pontins), 67 at Warton, 28 homes at Staining, 48 at Whitehills and Westfield and 102 at Lytham. Without considering small applications, almost 600 homes have been approved in 2011 alone and S106s are awaited for around 1000. In the case of the 348 homes at Pontin's, S106s are drafted and published on Fylde's website. (There are decisions pending on another 390 homes this month alone).

5.167 It is QED's view that these applications are entirely suitable solutions to address any residue short term housing supply issue.

5.168 Furthermore, planning applications are in pipeline for

- Heyhouses 335 homes (on brownfield land in St Anne's adjacent to the Queensway site).
- Whyndyke Farm 2000 homes (on Greenfield land on the Blackpool settlement extension).
- 100 homes at Mowbreck Lane In Wesham
- 34 homes at former Stanways site in Lytham (redundant brownfield site)
- 14 homes adjacent to Westfield Nurseries
- 40 homes at the Victoria Pub site in St Annes
- 14 homes at the former Blue Anchor site at Greenhalgh

5.169 None of the above applications would cause any harm to the Green Belt

5.170 Fylde has many options available to address any residue 5 year supply issue. Clearly, and as expressed in the Cala Homes Inquiry, it is not appropriate to use the 5 year supply issue to approve a huge and premature planning application which delivers most of its houses in years 6-10.

5.171 Material changes have occurred since the last Inquiry which result in the situation with Fylde's housing supply being significantly improved and will be improved with a revised target, and there are many advanced options to improve the housing supply further. Recent appeal decisions in Fylde and outside, have enforced the policy that the 5 year supply argument does not overrule harm and prematurity.

2009 Inquiry VSCs Factor 2: In relation to the contribution to the affordable housing and the lack of alternative schemes at a stage which could address it.

5.172 In the earlier section in this representation on PPS3 and prematurity, QED addressed the issue of affordable homes, and why approving this scheme would risk the overall

affordable housing targets in an earlier section on PPS3 and the distribution of affordable homes throughout the borough. Those issues apply here to this matter too.

- 5.173 At the time of the last Inquiry, the Inspector considered that he was not aware of other schemes which could provide the short term affordable housing need.
- 5.174 Clearly as stated earlier, there are many applications coming forward which could address the short term need for affordable housing, could meet the 30% target and which wouldn't put the overall affordable housing targets at risk.
- 5.175 For example, the approved St Anne's Pontins applications will provide 30% affordable housing from its 348 homes scheme. The 116 affordable homes provided by Pontins in St Anne's are the same number provided by the 1150 home Queensway application. Furthermore, QED contends these might expect to be delivered much quicker than the Queensway application, as the rate of affordable homes is staggered throughout the development delivery which itself is dependent upon provision of significant road infrastructure at the point where homes are occupied (not just built).
- 5.176 There are many other schemes in the planning systems, approved or being assessed, which can contribute further. For example, the large brownfield application in St Anne's, Heyhouses, is required to deliver 30% of its 330 plus homes as affordable. The 1000 homes already approved but not yet started will generate another 300 affordable homes, including 200 affordable homes from schemes approved in 2011 alone.
- 5.177 Clearly, the situation leading to the Inspector's concerns over the lack of other schemes to meet the affordable homes requirement in the immediate term has now changed materially. There can no longer be a reason to justify special circumstances over the boost to affordable housing especially when other schemes are much more likely to deliver affordable housing long before the Queensway application would complete its requirement and with the potential harm to policy objectives (i.e. 30% affordable housing) that is required in Fylde, that approving Queensway would cause.

2009 Inquiry VSCs Factor 3: In relation to the LDF process would lead to some housing development being proposed on the appeal site and the prejudicial affect would be modest.

- 5.178 It seems from the report that the Inspector at the 2009 Inquiry considered the prejudicial effect on house locations but not on a range of other factors.
- 5.179 At the 2009 Inquiry, the Inspector concluded that the harm to the Green Belt is substantial. Even if this site was allocated in the up and coming LDF process, it is inconceivable that the site would be allocated and constructed with the T5 road and the T5/T6 roundabout in the Green Belt. It is only this specific application that requires the T5 road and connecting roundabout in the green belt. Therefore, by approving this particular application, there would be a permanent harm which was described by the Inspector as substantial. The prejudicial effect would be substantial and permanent.
- 5.180 Furthermore, there is little green belt in Fylde. This piece of green belt is therefore significant. Therefore, the net impact on the total green belt in Fylde is great and what little green belt remains in Fylde, should be afforded greater protection.
- 5.181 The demand by area within Fylde for affordable homes (see appendix B) was not presented to the 2009 Inquiry (as QED understands). The demand statement shows that within Fylde's affordable housing requirement, St Anne's in particular has a considerable requirement (it makes up a large part of the demand).

- 5.182 By releasing this site outside of the strategic planning process, there is a considerable risk and almost probability that this application would significantly compromise the ability of Fylde Council to meet its affordable home targets and, in particular, within which locations. Although, it does provide some affordable homes, it prioritises a short-term boost over the, what-would-be-the compromised, long-term need to deliver a considerable number of affordable homes in St Anne's.
- 5.183 In the earlier section in Material Changes on Prematurity since the June 2010, QED highlighted numerous material changes which effect the assessment of prematurity. These include new evidence, analysis of recent planning Inquiries, likelihood of reduced housing numbers, evidence from the LDF process, the SHLAA assessment, effects of approved applications and current planning applications.
- 5.184 It is clear that the prematurity situation has moved on and moved on considerably. QED contend that the impact on prematurity is now absolute and not modest. Impacts would include affordable housing balance and locations, over use of greenfield land, predetermine locations of greenfield allocations, settlement boundaries, limited effect on 5 year supply, disproportionate allocation of housing in St Anne's, permanent Green Belt harm, loss of BMV agricultural land, out of sequence allocation of one of Fylde's best ecological sites and the premature removal of countryside.

The impact on the LDF can no longer be described as modest but it is considerable and absolute.

- 5.185 Fylde's LDF steering group are in the process of considering its strategic options including:
- Whether housing should be distributed around or concentrated in key areas
 - What locations housing should be developed
 - Whether to in-fill within existing settlement boundaries and deliver open space outside existing settlement boundaries
 - Which derelict employment sites within settlement boundaries to keep and which to release for housing
 - The impacts of the Enterprise Zone in Warton (another town in Fylde) and the implications on development, the priority for development and the required road infrastructure.
 - How they want to shape the local communities.
 - When development should happen in which areas
 - What mix of housing requirements there is and what mix should be in which areas
 - Where employment sites are required and the mixed use requirements for sites
 - What Greenfield sites are required and when they should be released
 - If and where the best and most versatile agricultural land should be protected
- 5.186 For example, Warton – another urban area in Fylde - has just been granted Enterprise Zone status (Sept 2011) and the effect of this needs to be considered in the relative priorities for each area of Fylde. It is not beyond the realms of possibility that Fylde could conclude that its short and medium term focus should be on the Warton area prioritising development here focusing on developments which would improve the road network here. Although Fylde would have the option to beat its 5 year supply targets, there would be considerable risk in creating an oversupply whilst the economy is fragile and recovering slowly.
- 5.187 The Mowbreck Lane (in Fylde) Inquiry in 2011 – a 264 home development with 30% affordable homes on Greenfield land – the Secretary of State concluded, in rejecting the application, that it would pre-empt decisions on revised settlement boundaries before current uncertainties with regard to population growth and distribution can be settled in a

statutory planning context. Both the Inspector and Secretary of State agreed that the application would accord with PPS3 and that “the appeal site would provide a sustainable location for housing, contributing towards meeting the shortfall resulting from the Council’s failure to demonstrate a five-year supply of housing land across the Borough, in achieving a good mix of housing on a sustainable site and in helping to meet the affordable housing shortfall in the area”.

- 5.188 If an application for 264 homes delivering the target rate of affordable homes is prejudicial, it would be reasonable to assume that an application more than 4 times the size (and delivering a much higher rate of affordable homes) to be more so. This decision was challenged in the High Court. The challenge failed and the decision upheld.
- 5.189 In September 2011, a decision was made by the Secretary of State in relation to the Cala Homes application in Winchester (insert ref here). The Cala Homes application has many similarities to the Queensway application, large scale, Greenfield, contrary to local plan, delivering a considerable road infrastructure, and Winchester Council are in the midst of developing their Core Strategy. The Cala Homes application contains no impact on the Green Belt.
- 5.190 In the decision, the Secretary of State judge, in refusing planning permission, that “Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities.... This is a key planning priority for the Government “ and “The Secretary of State sees no reason to disagree with the Inspector’s comments at IR421-422. He agrees with her that, given the Government’s commitment to decentralising power to the local levels and making local communities accountable for the decisions that affect their areas, it is indeed understandable that there are many who believe that any decision to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating (IR421). The Secretary of State has indicated that he considers it important that Winchester is given the opportunity to complete its Blueprint (part of Core Strategy) work in a meaningful way “. This key planning priority was also further endorsed in the Wainhomes case in Cornwall.

This situation clearly applies to the Queensway case. The impact on the LDF process is absolute and recent large scale applications have enforced the importance of the local plan and the rights of Councils to determine its strategy via the LDF process.

2009 Inquiry VSCs Factor 4: No other firm proposal is of the scale or reached the stage where it could make substantial contribution to the (T6) road.

- 5.191 It is clear from Fylde’s local plan that TR13 states that contributions for a significant portion of the T6 road should come from employment land development “*Financial contributions to the proposed (T6) road south of Whitehill Road (up to its junction with Anna’s Road) will be required as and when the land west of the existing planning permission at Whitehills Park allocated under Policy EMP1, is developed*”. This area equates to half of the remaining T6 road. Without doubt, the T6 road should not be funded completely by housing development, according to the Local Plan.
- 5.192 Housing development schemes are only expected to make contributions to the remaining half of the road, although there is nothing in the local plan that prevents EMP land from funding all of the remaining section of the road.
- 5.193 The defined purpose of the Link Road, and reflected in the LTP 2010, is to provide access to Growth Areas. It seems reasonable to assume that those Growth Areas should

fund a fair share of the road. Local plan policy TR13 clearly states this, naming specific sites.

- 5.194 There is no substantive evidence either that justifies the construction of the T6 road now at the expense of absolute conflict with the Local Plan and absolute pre-determination of the LDF.
- LCC's 2010 Local Transport Plan did not highlight any pressing need for this T6 road whatsoever and the congestion studies executed for the LTP raised no issues with this area.
 - LCC do not think that the T6 road compares high in priority to other schemes in Lancashire and have chosen not to add it the central funding requirements
 - LCC are not even planning to produce "a Fylde ... Highways and Transport Master Plan" until post March 2014" such is the comparatively low priority.
 - LCC and, initially Fylde, sought no contributions to the T6 Road when one of the schemes which is earmarked to fund it was brought forward by the appellant prior to its withdrawal in 2010.
 - The predictive traffic models do not suggest that the T6 road is required urgently, and certainly do not merit 1150 homes being constructed immediately
 - Even the draft Vision and Objective statements for the LDF, state the road will be built by 2028 (and that it will either be a new construction or an upgrade of the existing road). Clearly, the option to upgrade is to be considered in the LDF.
- 5.195 The place to determine which schemes should fund the T6 Link Road is in the local plan and the LDF. It may be that no houses on this site whatsoever will be required to make a contribution to the T6 road.
- 5.196 As an example, a strategic study, developed with Blackpool, Fylde and Lancashire County Council, produced a master plan for the area around the M55 Junction 4 area (referred to in LCC's Local Transport Plan). This study originated in 2009 as a growth point bid, but following the decision not to proceed with the additional bid, the scheme has been brought up-to-date in 2010.
- 5.197 Fylde will be able to consider the M55 Hub concept as part of its LDF process. Indeed, the report states (p1.7), "*The Conceptual Master Plan provides a solution to delivering growth in Fylde and Blackpool and may be taken forward as an option in the relevant Core Strategies. The final report has been written in a format that could form the basis of a Supplementary Planning Document, should the M55 Hub be chosen as a suitable location for development within their respective Core Strategies*". The Blackpool side of the scheme is being adopted within Blackpool's LDF.
- 5.198 The final report identifies over 50 hectares of additional employment land and potential for 5500 homes in Blackpool and Fylde (the majority being in Fylde).
- 5.199 The strategic study identified the potential for employment growth area expansion around M55 Junction 4. It concludes the M55 Link Road (i.e. the T6) could be funded by these (see para 3.16 of the M55 Hub Report).
- 5.200 The appellant will no doubt argue that such a scheme is conceptual and not adopted. However, the same applies to the Queensway scheme. It does not exist in any planning framework whatsoever.
- 5.201 The M55 Junction 4 area is endorsed in the GVA Grimley Report. This suggests that demand for employment sites around J4 will be high with employment sites within the borough becoming vacant.

- 5.202 Furthermore, in its current planning application for the T6 road, LCC's ES confirmed that the road is not dependent upon the Queensway scheme stating
- in para 1.1.11: *"the option remains to fund the remaining part of the link road from any other suitable development"*.
 - In para 1.23: *"If for any reason the Queensway Development does not proceed the County Council will attempt to ensure that any other suitable developments in the area either partially or completely fund the highway scheme."*
- 5.203 It is contended that the funding options should either be consistent with those schemes and housing development sites identified in the Local Plan or alternatives should be considered within the LDF process.
- 5.204 Under the local plan, it is not envisaged that the Queensway development should make any contribution whatsoever to the funding of the T6, as the concept of such a development does not exist.
- 5.205 The essence of the case being proposed here (and which subsequently could set a precedent and be applied anywhere in the country where road is required to be funded by the development, if this scheme is approved) is that if there is a road which is to be funded by development, then it would be acceptable to justify any development even if it is not envisaged by the adopted local plans and even if the housing scheme contained inappropriate development in the Green Belt, so long as it funds the road. It would make no sense in planning terms, and clearly not justify very special circumstances.
- 5.206 It was stated that the funding of the M55 Link Road is an unusual feature of this application. CIL tests clearly envisage a defined relationship between developments and contributions. It is unusual for a reason. QED contend that it shouldn't happen and large development sites should be allocated by statutory planning processes and not based on an offer to fund a road.
- 5.207 Furthermore, there is nothing in the CIL that suggests a single development has to fund infrastructure projects. In fact, there is specific provision that up to five separate planning obligations can be pooled to fund a scheme.
- 5.208 The proper place to determine funding sources is via the local plan, and that envisages EMP1 contributing to half of the remaining T6 road. If further decisions are required, then these should be addressed via the LDF process.

2009 Inquiry VSCs Factor 5: Whether an alternative scheme could avoid the Green Belt usage caused by T5 and the roundabout.

- 5.209 There are no alternative schemes on the table for this site and, accordingly, it is not appropriate for any weight is given to the only scheme on that basis. The appellant has not been asked to provide alternative options.
- 5.210 The scheme has been designed with exit points only onto the T5 road. However, it is clear from the Queensway ES that the T5 will be lightly used with excessive reserve capacity. In such an outcome, the Inspector might consider whether alternative designs (more in keeping with design standards as reference by the 2009 Inspector) connecting directly onto the T6, Queensway and Heyhouses could eliminate the need for the T5 altogether and, in doing so, remove the need for a green belt location.
- 5.211 Alternative options, which actually might fit better with the LCC document Policy and Design Guidance in Creating Civilised Streets on access to developments, could include

providing connections at either end of the scheme and avoiding constructing the T5 altogether.

5.212 The 2009 planning inspector thought the design was less than adequate. It should be said also that the scheme refused in 2005, which funded half the T6, did not have the T5 road in the Green Belt.

5.213 The LCC Policy and Design Guidance (Section 5.5/ Page 17) shows what it defines as a Poorly connected development with a single entrance/exit. (It also shows what it defines as well connected development).



Figure 5-2 Poorly connected development with a single entrance/exit for all modes



Figure 5-3 A well connected development with multiple links including 3 walk/cycle only links

5.214 The Queensway scheme mirrors the poorly designed scheme as illustrated. Had a well connected design for the Queensway scheme been produced, compatible with LCC's Policy Guidance, the T5 road might not be needed at all. This would save the cost of the T5 and T5/T6 roundabout construction (and increase the ability to provide an increased

level of affordable homes), provide better connectivity and result in no damage to the Green Belt from the T5 or its roundabout.

- 5.215 Fylde Council had already suggested an option with the T5 road being delivered outside the green belt and adjacent to the housing.
- 5.216 The only housing option being presented includes significant harm to the Green Belt caused by the T5 and the T5/T6 connecting roundabout.
- 5.217 It may be the case that the appellant is not prescribed to demonstrate other options. However, the lack of alternative options examined should not warrant any weight being given to this particular housing scheme, and it clearly cannot be tantamount to any contribution to any special circumstances especially when alternatives could be considered, and the need for the T5 road itself which is shown to carry very light traffic even at peak, never mind being located in the Green Belt, is hardly a compelling case.
- 5.218 The application is trying to justify the T5 and T5/T6 road in the Green Belt as a means to enable the development and fund the T6 road.
- 5.219 However, the design is clearly not well connected and is contrary to policy guidance on design, a matter the Secretary of State agreed with at the 2009 Inquiry. The Secretary of State concluded "It is also a less than ideal location in terms of connectivity with the rest of the settlement."
- 5.220 The Secretary of State is being asked to approve the T5 and T5/T6 roundabout in the green belt due to very special circumstances.
- 5.221 The T5 road is scarcely used. The development might be better served with better designed connections, with or without the T5 in the scheme. Not only are there alternative designs which would be preferred to the current one, but those options could eliminate the requirement for the T5 road, avoid the T5 road in the Green Belt and generate financial savings resulting in a smaller development with less harm whilst providing more affordable housing.
- 5.222 Accordingly, approving the T5 road and T5/T6 connecting roundabout in the Green Belt would not only cause substantial harm to the Green Belt, but is the result of a design of a housing estate with poor access and connectivity. Poor design not should be a special circumstance. QED contend that there are no special circumstances which warrant such a justification.
- 5.223 The Inspector in the 2009 Inquiry provided a case that very special circumstances existed to justify the T5 and T5/T6 connecting road in the Green Belt, based on a combination of factors. QED contend those factors have changed and should carry much less weight.
- 5.223 Accordingly, QED contend that very special circumstances do not apply and the T5 road and T5/T6 connecting roundabout cannot be justified in the Green Belt.
- 5.225 QED also agree with the Secretary of State's 2010 Queensway decision that no weight should be applied to the road as it pre-dates the housing, and the direct relationship between the housing and the T6 road does not exist.

Localism and the Localism Act

- 5.226 The Localism Bill is a material change since the 2009 Inquiry and was the subject of discussion the Cala Homes Inquiry.

At the Cala Homes Inquiry, in relation to the localism agenda, the Secretary of State stated that *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities”*

- 5.227 He also stated that decisions affecting the long term housing supply (referring to 6-10 years) should be taken within the LDF process i.e. Local Councils should have the right to determine the delivery of their housing options.
- 5.228 These matters were further endorsed in the Wainhomes case in Cornwall at the end of October 2011.
- 5.229 In November 2011, the Localism Bill became the Localism Act and more weight should be afforded on the rights of Councils via proper public consultation to determine, and act within, their local plan especially in relation to major strategic decisions.
- 5.230 No doubt, the appellant will argue that the T6 Link Road has some popularity and that popularity is consistent with Localism. However, unofficial, unstructured and unaudited surveys are not an indicator often used by any statutory process
- 5.231 The original T6 Link Road route is included in local plans and therefore the concept of such a road by nature is supported by the local plan. However, it is evident though, that its construction should not come at any cost.
- 5.232 In relation to decision making powers in housing and planning to local authorities, QED argue that considerable weight should be given to the approach Fylde Council has taken with the Queensway 1150 homes application and that it should not be used to fund the M55 Link Road.
- 5.233 Fylde Council via its Development Control Committee (DCC) – now Development Management Control (DMC) - have been consistent that the M55 Link Road should not be delivered by this application:
- In 2009, prior to the Inquiry, the DCC voted unanimously to oppose the Queensway Inquiry despite its provision of the M55 Link Road.
 - In Jan 2011, in making representations to Lancs CC application for the road, the DCC unanimously opposed the T5/T6 roundabout in the Green Belt (which would pave the way for the Queensway development), thereby once again agreeing that the M55 Link Road should not be funded by the Queensway development.
 - In providing further representations to the Secretary of State at the re-opening of the Queensway case in March 2011, Fylde Council decided to continue to make further representations opposing the application, its impact on the green belt despite the on-going inclusion of the M55 Link Road.
 - And in October 2011, Fylde Council’s Development Management Committee unanimously agreed to continue to oppose the Queensway application despite the support the upgrade of the M55 Link Road.
- 5.234 The Council supports the M55 Link Road in principle. Yet time and time again, over a long period of time and also as recently as October 2011, and with different committees that span elections, it has consistently declared UNANIMOUSLY that that it does not believe that the M55 Link Road is so important or urgent that the Queensway 1150 homes application should be approved to fund it. Even at the DCC Control Committee of Lancs County Council in March 2011 which sat to consider the M55 Link Road application, three councillors representing Fylde voted not to approve the road plans.

- 5.235 At the Cala Homes Inquiry, the Secretary of State stated that *“Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities”*
- 5.236 This decision making process is enabled via the LDF process. This process is essential to determine, in consultation with local communities:
- Where its housing should go
 - What agricultural land (if any) is required for development
 - Where the housing priorities should be
 - The levels and locations of affordable housing
 - The impact of the 2011 awarded Enterprise Zone status for Warton
 - The use of vacant and derelict employment land
 - The priorities for transport
 - The decision on whether to upgrade the existing Wild Lane, or replace it, to create a M55 Link Road
 - If the road is to be funded by development, which developments should contribute
 - Infrastructure
 - The overall scale of the Link Road and whether it should deliver HGVs to residential areas in Lytham St Anne’s (There is nothing in the local plan to suggest that it should).
 - The sequence of development affecting sites of biodiversity value, agricultural land, greenfield and countryside.
- 5.237 In addition, the Localism Act will introduce the concept of Neighbourhood plans which are to be produced by town or parish councils. It is worth adding here that the body who can produce a neighbourhood plan for the area in question – i.e. St Annes Town Council - has consistently objected to the housing scheme at Queensway.

The RSS and the related Strategic Environment Assessment

- 5.238 The requirement to deliver 306 homes in Fylde, and now 382 homes per year due to the backdating to 2003 of the RSS is technically in-force. However, the conclusion of a number of planning appeals, in Fylde and elsewhere, has resulted in limited weight being given to the evidence base informing the RSS.
- 5.239 The abolition of the RSS is a stated government intention, which has moved closed following the Localism Bill becoming the Localism Act in November 2011.

Furthermore, one of the requirements to revoking the RSS was the provision of a Strategic Environment Assessment (SEA). The SEAs have now been produced and published in October 2011 for consultation. The period of consultation will be 12 weeks ending on 20 January 2012. Subject to the assessment process the Government expects the orders revoking the existing Regional Plans to take effect in Spring (2012).

In announcing the SEA, Local Government Minister Bob Neill said:

"This Government is putting an end to unpopular, undemocratic Regional Plans, which imposed development on communities and threatened the countryside.

"These reports make it clear that revoking the Plans will protect communities and the environment from top down pressure to build on the Green Belt.

"We are putting planning powers into the hands of local people to take charge of local housing challenges in a way that makes sense for them while protecting the local countryside and green spaces they value."

5.240 Consequently we conclude that the RSS remains in force but it should be afforded only limited weight in the planning balance.

Growth and Jobs

5.241 The Government's recent Ministerial Statement 'Planning for Growth' outlined the importance of the relationship between growth and planning.

5.242 It is fair to say that construction jobs will no doubt be created should the scheme be approved. However, the bulk of the construction is likely to take place after 5 years and accordingly much of the construction job opportunities will emerge sometime later. Fylde will be mandated to deliver its identified target rate of housing. With that delivery, there are and will be construction jobs and opportunities whichever schemes are approved. The debate with this scheme is not about jobs and growth but which are the right schemes in the right locations to provide the right jobs and growth for the future.

5.243 Many of the larger schemes coming forward, e.g. Heyhouses and Whyndyke, offer mixed use development providing job and growth opportunities beyond construction with employment in retail and business. They provide sustainable employment opportunities.

5.244 Fylde's LDF will identify the schemes and locations for housing and employment opportunities and will consider the balance across locations and sites.

- It will be able to consider the employment options of proposed schemes.
- It will be able to consider the impact of the Enterprise Zone Status recently allocated in the borough at Warton.
- It will be able to consider the integrated mixed-use employment and housing propositions at the Strategic Junction 4 site referred to in the M55 Hub document (which can also fund the M55 Link Road).
- It will need to consider the impact of the upgrading of the Blackpool rail line.
- It will consider the impact of shale gas extraction in Fylde.

5.245 The short-term and mid-term construction job opportunities are already in the pipeline. Fylde has already approved schemes to delivery over 1500 homes with over 500 under construction. QED would welcome developers commencing working on many of the other schemes already approved – particularly those on derelict brown field sites. In fact, QED would welcome the appellant making a start on their own existing planning permissions for which they have already secured approval. Jobs and growth are not limited to council borders either – the appellant has planning permission for over 500 homes just a couple of kilometres from the Queensway site just over the St Annes border in Blackpool.

5.246 QED comments later on the impact of shale gas drilling in Fylde and its relevance to this application.

Countryside

5.247 In the 2009 Queensway Inquiry, the Inspector observed that *"Inevitably building 1150 houses on the site would greatly change its character and appearance."* He concluded that he did *"not consider that this change in character and appearance is necessarily a fatal objection to the proposal."*

- 5.248 Clearly, with the bringing forward of the M55 Link Road application in 2011, and with the detailed design of the raised road through the flood zone, the Inspector will have the opportunity to consider the in-combination effects of the Queensway scheme, T5, T5/T6 roundabout and the T6 road.
- 5.249 QED contends there are good reasons countryside should be afforded more protection on the periphery of St Anne's. Fylde is made up of many settlements spread throughout its borough in a mixture of urban but largely rural settings.
- St Anne's is unique amongst the Fylde settlements in that access to the countryside is very limited. Unlike many settlements, it is not surrounded by countryside on all sides.
- On one side is Blackpool and Blackpool Airport with land inaccessible to residents, on another the sea, and on the third is the settlement of Lytham. The eastern edge is the only countryside area and even this is an unusually small edge due to the nature of the shape of the town and the proximity of Blackpool. The land at the Queensway site on Lytham Moss is the only countryside area adjoining St Anne's.
- Furthermore, St Anne's contains some of Fylde most deprived communities with areas of social housing resident to the east of the town, and within walking distance of this countryside.
- 5.250 It is widely recognised how important the natural environment is to communities and particular so to those from less affluent areas. A key aim of Natural England's 'Access to Nature' scheme www.naturalengland.org.uk/ourwork/enjoying/outdoorsforall/accesstonature/default.aspx is to increase access to nature to all areas of the community and priority is given to less affluent areas of the community.
- 5.251 The Access to Nature scheme outlines that *"growing medical evidence shows that access to the natural environment improves health and wellbeing, prevents disease and helps people recover from illness. Experiencing nature in the outdoors can help tackle obesity, coronary heart disease and mental health problems."*
- 5.252 The appellants provide a Nature Park as a benefit. However, the Park will be surrounded by a huge housing estate and two major new trunk roads. It may be a green open space but QED contends that it would not be countryside.
- 5.253 The M55 Link Road scheme does provide a bridleway with the conversion of the existing Moss Road. However, this provides a route alongside what will be a very busy trunk road. Again, it is hardly access to the countryside.
- 5.254 Existing residents can enjoy access to the countryside experience tranquil surroundings in a very short space of time. QED contends that this will be lost with the approval of these schemes.
- 5.255 Countryside will be lost under housing development and road development. Access to some of the remaining countryside will be removed also due to the requirements of the Farmland Conservation Area and the need to protect it from disturbance. The Appropriate Assessment required that "the proposed bridleway to the east of the link road should be removed from the (M55 Link Road) scheme" and "consideration could be given to the temporary closure of sections of footpaths".
- 5.256 The Queensway ES refers to a mound of imported material on the site. For the benefit of the Inspector, QED understands that this mound dates back to a previous planning application. Planning permission was sought to temporarily retain the mound, which subsequently expired but the Council allowed the mound to be retained whilst the Queensway Inquiry was held in 2009 and the decision awaited which remains the case.

5.257 Fylde Council will seek the removal of the mound should the application be refused.

The 2011 ES is therefore perhaps a little incongruous in making claims that the housing scheme will deliver a 'minor positive' effect on the local landscape when the mound is waiting to be removed if the scheme is refused.

Therefore, refusing the scheme will have a 'minor positive' effect on the landscape. The Queensway scheme should not be claiming it as a benefit it will deliver.

5.258 The 2009 Inspector concluded (IR.306) *"I attach little significance to the present condition of the western part of the site. It does not provide an attractive approach to St Annes. However, this could be addressed without building large numbers of houses and to conclude otherwise would send an entirely inappropriate message to landowners."*

5.259 Perhaps the final say on the countryside and ecology around St Anne's should be left to one local business. They state *"(the site)...itself affords views of the Ribble Estuary National Nature Reserve which is the most important site in the UK for wildfowl and is an internationally important site for 20 species of bird. Surrounding Lytham and St Annes is the rural charm of the Fylde Countryside."*

The quote comes from Kensington Developments own website for the nearby Lytham Quays site. (<http://www.lythamquays.co.uk/local%20enviroment.html>)

Annual Monitoring Report

5.260 In the March 2011 submissions to the Secretary of State, Mr McAteer used the current Annual Monitoring Report (AMR) in relation to what was claimed to be the "chronic shortage" of housing land. However, in the same AMR, the population projections for Fylde present a different story than claimed. They show a low forecast of population increase even before the latest statistics on population growth are applied.

5.261 For example, in the six years from 2011, it is forecast that the population across the whole of Fylde (i.e. not just St Annes) will grow by only 1200 people which equates (based on current occupancy rates and assumptions of slightly more than 2 people per home) of less than 600 homes required in 6 years. This equates to – rounded up - 100 homes per year across the whole of the Fylde Borough.

5.262 Within its LDF process and in determining its revised housing numbers, Fylde are considering a 'profiled' housing supply, whereby the annual requirement in early years would be lower and would increase in later years of the plan period to deliver the total requirement. It would appear from the AMR that this would be substantiated and would help address, if not completely resolve, the 5 year supply issue depending on the profile chosen.

5.263 In addition, The Empty Property Position Statement Report to Fylde Borough Council Community Focus Scrutiny Committee in October 2010 (latest version), highlighted that there are approximately 1,095 empty properties in Fylde Borough and nearly half have been empty for at least 6 months.

5.264 There are almost as many empty houses in Fylde as contained in this planning application and we estimate that there are considerably more empty houses currently than the whole of the housing requirement growth forecasted in the AMR over the next six years.

5.265 The AMR also envisages a growth rate of 6% for the whole of the period through to 2025. This application in-combination with one recently approved application would increase the population of St Anne's by 13.5% and including the more suitable brownfield site on Heyhouses for 335 homes, this would result in 16.5% increase.

5.266 In a very short space of time, the growth rate would be significantly above the forecast 6% increase in population for St Anne's over a 15 year period.

5.267 QED contend that consideration of making better use of the existing housing stock should be assessed in the planning balance.

Draft National Planning Policy Framework (NPPF)

5.268 The Planning Inspectorate requested comments on the NPPF. These are included in Appendix C.

Cuadrilla – Shale Gas Drilling

5.269 The Fylde Coast is currently being prospected for shale gas extraction. The company carrying out the tests have announced that significant reserves were found on the Fylde Coast and that it intended to proceed with plans to extract the gas.

5.270 Land on the edge of Lytham Moss currently hosts one of the prospecting sites. At this stage it is a test rig – but this could in future become a permanent feature. The location of the test drilling site is important for two reasons:

- The scale and impact of shale gas extraction generally and any additional infrastructure it may require (for access, storage or piping of gas) on the surrounding area is simply not known.
- This activity is in close proximity to the proposed farmland conservation area. We can find no reference to it in any of the environmental documentation submitted to date. The minor earthquakes caused by the 'fracking' process in Fylde have made national news so it is not a secret. It is clearly a material factor in assessing the suitability and location of the farmland conservation area given the potential for pollution/contamination of ground water, should this become a permanent site.

5.271 At this stage the impact of shale gas extraction in Fylde is not known and the potential once known will undoubtedly be reflected in Fylde's strategic planning should it go ahead. QED contend this is a material consideration when determining long term land use plans for Lytham Moss. Such discussions are properly effected in the strategic planning process. The planning process should take into account the options for this shale gas extraction especially in the light that moving the FCA (ecological mitigation) next to the existing extraction site may be in conflict and undermine either the function of the mitigation or the ability to use the site for gas extraction.

Section 6 - Any other matters which the Inspector considers to be relevant.

Section 6.1 Need for the (M55 Link Road) and its relation to planning policy

Need for the road.

- 6.1 The T6 (M55 Link Road) concept is identified in Fylde's Local plan policy TR13. It is also referenced in LCC's Local Transport Plan 2011-2021 produced in 2010 since the end of the Queensway Inquiry.
- 6.2 Fylde's Core Strategy is under production and in 2011 it produced draft vision and objectives statements. The M55 Link Road also featured in the Draft Vision Statement, issued for consultation, which states that by 2027, "the Lytham St Annes to M55 Link Road will have been completed". It is supported in the draft objectives statement "that it will have been improved / constructed (by then)".
- 6.3 TR13 states that the funding of the road "will be provided by private sector".
- 6.4 In terms of the purpose of the road, TR13 states that "new growth will need to be accommodated". There is no definition or reference to what growth is or where it is located. It would seem reasonable that as it is located at the Northern End of the M55 Link Road, the Whitehills Business Park is part of that "growth". The first two phases of Whitehills have been long established with Phase 3 yet to commence. (A planning application was submitted in 2009 and then withdrawn; QED reference this later).
- 6.5 There are no areas of housing growth identified in the local plan whatsoever on countryside areas adjacent to, or near, the proposed link road. The only areas identified in the local plan in countryside areas relate to the Employment Area at Whitehills.
- 6.6 Also, in terms of purpose of the road, TR13 states that an "... advantage of the proposed link is that it would form an extension to the Fylde Coast Easterly By-Pass". As QED highlighted, at the 2009 Inquiry, that the link road was included in transport plans to complete the Fylde Coast Easterly By-Pass (a planned new road running the full length of the Fylde Coast from Fleetwood in the North to Lytham St Anne's in the South). However, the particular saved route for the Bypass is no longer a saved policy, and the M55 Link Road no longer forms any part of the Fylde Coast Easterly Bypass.
- 6.7 In relation to "growth", LCC LTP's add some clarity to the definition of growth quoting "plans to realise the potential of strategic employment sites" including the "M55 Junction 4 area". It is worth reviewing what is meant by the "M55 Junction 4 area". This is a term which Fylde Council asked LCC to include in the plans. They have deliberately not used the term "Whitehills Business Park". The version dated November 2010 of the LCC LTP prior to the final version (May 2011) being presented to LCC Council, referenced the area now referred to as the "M55 Junction 4 area" as the "M55 Hub".
- 6.8 The "M55 Hub" is a concept generated from a growth point bid study jointly commissioned by Blackpool and Fylde Council which examined the potential growth purposes of the lands around the area of the M55 Junction 4 area. That study proposed that the area be used for substantial growth in quantities of housing and for significant areas of growth for business, employment and new services.
- 6.9 The "growth point" scheme itself was not taken forward but, nevertheless, most of the land is identified in the SHLAA for Fylde (with some, a lesser amount, in Blackpool's) and can be considered as a strategic option under Fylde's LDF process (it is Blackpool Council's preferred option within their boundary).

- 6.10 Accordingly, it would seem that as defined, in development plan and local plan terms, the identified need relates to access to employment areas with no reference anywhere to the provision of housing (or any other matter).
- 6.11 It seems curious, therefore, that the case for funding the road is now being made entirely from a single housing development. In the LTP, the road has been consistently seen as a lower priority compared to other road improvement schemes. The road is to be funded from private sector development rather than central funding as LCC consider that other roads in Lancashire have a stronger justification for using the central funds.
- 6.12 Furthermore, despite the defined requirement for the road to provide access to growth areas, LCC's ES now states that an objective is to "To facilitate new development, both residential and commercial". However, the local plan does not identify new residential development in the countryside around the M55 Link Road, and the commercial development is earmarked at Whitehills Phase 3. There is no evidence in the local plan whatsoever of any new housing development required to be facilitated within the local plan.
- 6.13 Additionally, the County Council appeared so unconcerned about the road that it was happy to allow the previous planning permission for the road to expire just before the Queensway application was submitted. We also noted in the lead up to the Inquiry, that LCC officers said they were not even prepared to fund the planning application, let alone the road itself. This again is a measure of the low importance LCC attached to the road, even very recently. Accordingly, QED understands that the Queensway appellant has had to make considerable contributions to the current M55 Link Road application costs.
- 6.14 LCC seemed rather unexcited by the Queensway application in 2009. Curiously, during the planning application process, Lancashire County Council made only what can be best described as a lukewarm representation relating to the contribution to the Link Road, Instead, it highlighted a number of issues which needed to be addressed (ironically, one wasn't and was one of the reasons the Secretary of State refused the application). In conclusion, it merely noted the contribution to the M55 Link Road in relation to the RSS. It expressed little support for the contribution Queensway housing application would make to LCC's strategic objectives. (See attached LCC Queensway 2009 Application comments)
- 6.15 LCC's priorities for capital development in the LTP implementation plan (to 2014) continues to exclude the M55 Link Road, focusing instead on public transport and other schemes. In fact, Fylde is sufficiently low priority that the LTP implementation states that it will only produce "a Fylde and Wyre Highways and Transport Master Plan" post March 2014.

Need for the road: "Congestion"?

- 6.16 In relation to congestion, traffic studies for the 2009 Inquiry showed that the existing road network was not at capacity. The revised Queensway ES produced in 2011 re-affirms that position. The Cole Easton Study for Queensway clearly demonstrates all the roads around Queensway area operating within reserve capacity (many even at peak with over 70% reserve capacity) but they find issue with the capacity of junctions – principally the traffic lights at School Road is highlighted. The following ES data shows that capacity will remain on all but Wild Lane up to the modelled date of 2026.

	Peak Reserve Capacity			
	Baseline	Scenario 1	Scenario 3	Scenario 7

Link	Road capacity	2011	Year 2016 – Without Development and Without T5 and T6 Links	Year 2021 – Without Development and Without T5/T6 Links	Year 2026 – Without Development and Without T5/T6 Links
Kilnhouse Lane west of Queensway	2,167	73%	71%	69%	67%
B5261 Common Edge Road south of School Road	2,650	21%	18%	16%	14%
B5261 Common Edge Road north of School Road	2550	29%	25%	23%	20%
School Road east of Common Edge Road	2450	58%	58%	58%	58%
Wild lane	460	-1.50%	-1.50%	-3.50%	-5%
T6 Link	2650	n/a	n/a	n/a	n/a
T6 Link north of T5	2650	n/a	n/a	n/a	n/a
T6 Link south of T5	2650	n/a	n/a	n/a	n/a
T5 Link west of Queensway development	2650	n/a	n/a	n/a	n/a
T5 Link east of Queensway development	2650	n/a	n/a	n/a	n/a

6.17 The above demonstrates there is no pressing need for the road in terms of road capacity. In terms of junctions in the above scenarios, issue is taken mainly with a single junction the B5261 Common Edge Road / School Road. The Queensway ES says of scenario 1 the year up to 2016:

“Table 7.12 above indicates that for Scenario 1, maximum degrees of saturation in both the AM and PM peak hours are marginally below 90%. Practical reserve capacity is 0.2% and 0.4% in the AM and PM peak hours respectively. The mean maximum queue lengths relate to the northbound Common Edge Road junction approach, suggesting queues of between 21.9 and 27.1 passenger car units (pcus), relating to a queue length of up to some 156m (where 1pcu = 5.75m). This junction is therefore approaching capacity without the influence of any development traffic.”

6.18 From the same report:

“However, the fact that this junction is now under MOVA control, will mean that it will tend to operate better than that predicted by the LINSIG computer software. MOVA will continually adjust the cycle time throughout any given one hour period in order to best manage queue lengths. That said, it is agreed with LCC that Junction 5 cannot accommodate the vehicle trip generation associated with a Queensway development in excess of 375 dwellings.”

- 6.19 Therefore, LCC have already agreed that the junction can cope with an additional 375 dwellings traffic - this equates to 239 peak hour movements (per the ES typically 165 Out and 79 into the Estate). From the data in the other scenarios it is assumed that around 130 (of 165) vehicles will head north towards the School Road junction.
- 6.10 The predicted number of am peak vehicle movement at year 2026 without development is 2,278 – the current prediction for 2016 on which the junction calculated was made position is 2,161 a difference of 117.
- 6.11 What this does demonstrate is that firstly, the congestion of this junction is not directly related to the development; It pre-dates it and it is operating close to capacity already but does have a small reserve to accommodate a small increase in traffic albeit at the expense of some delays at the height of the morning rush hour. Clearly building 375 houses makes the situation worse and is therefore the straw that breaks the camels back all other things being equal.
- 6.12 QED understands the junction is now already under MOVA control and have observed significant improvements. QED also believes that traffic on this section of road and associated junctions is also reducing due to the:
- Run down of the Heyhouses Government offices which has reduced the amount of traffic in the area. The Heyhouses housing application is predicting that the housing application will generate significantly less traffic than its previous employment use. Lancashire County Council is raising no objection to the 335 unit housing application on Heyhouses on Highway Grounds.
 - Other effects of the downturn including rising fuel prices.
- 6.13 Furthermore, QED's own casual observations of the School Road junction are that there must be scope to better engineer the approach – in our view a large part of the problem is the right turning traffic blocking the North bound straight ahead traffic. There is plenty of width on the public land on the right approaching the junction which could be investigated to engineer a wider approach to the junction aiding free flow.
- 6.14 QED note that the LCC's M55 Link Road ES takes a wider perspective and includes additional links in the wider conurbation – particularly giving additional focus on the A584 Clifton Drive and other roads around Lytham.
- 6.15 Since the ES was first produced and whilst LCC were considering the M55 Link Road application, two significant applications came forward both on the aforementioned A584 Clifton Drive North at the former Pontins site – 350 houses in total. Neither LCC (or for that matter FBC) objected to these applications on the grounds of congestion and no contribution to the M55 Link Road were requested from these applications. If in 2010 and in March 2011, LCC believed that *"congestion on A584 Clifton Drive North ... necessitates the completion of the M55 to Heyhouses Link."*, then it is surprising that neither an objection for congestion was made by LCC nor was any financial contribution to the link road secured.
- 6.16 Similarly other developments in and around Squires gate have not raised Highway concerns or requested contributions. In 2009 outline approval for 584 Houses has been given on Midgeland Rd – while this application fell within Blackpool Borough Council's remit - no contribution to M55 link road was sought to improve traffic conditions. Another development at Westgate in the vicinity of the problematic School Road junction was approved - once again no Highway concerns or requests for contributions.
- 6.17 In 2011, the application for 335 homes on Heyhouses (FBC 11/0173 and very close to the Queensway site) along with a 1,860 square metre retail food store (class A1) and 930 square metres of commercial floor space has required a traffic assessment. The

traffic assessment proposed that there was sufficient capacity in the highway quoting "Overall the proposed development has no significant transport impact on current traffic conditions and there should be no grounds for refusal of the outline planning application on transport or traffic grounds".

- 6.18 The Heyhouses traffic assessment paints a different picture to that of the Queensway traffic assessment, and it is more recent than LCCs 2010 ES. It does seem though that the Heyhouses assessment does not support the congestion problems reported.
- 6.19 QED, as a community group, do not have the resources to commission its own study. Rather we rely on the inconsistencies of LCCs actions at numerous very recent planning applications and our own local observations, to suggest that the road network is nowhere near the state now claimed in the M55 Link Road ES.
- 6.20 Despite the submitted traffic assessment, the Inspector at the 2009 Inquiry pointed out in his report of the Queensway Inquiry, "*However, my own observations indicate that conditions are not poor compared to very many urban areas. Indeed, for much of the day I found that the roads were often lightly trafficked and that traffic flowed freely*".
- 6.21 For reference, QED included photographs, in its April 2011 SofS submissions showing parts of the "congested highway" and the junctions particularly affected.
- 6.22 Since the traffic studies in the LCC ES were produced, a number of other changes have occurred affecting the traffic models.
- Three of Fylde's largest employers contribute significantly to Fylde's employment status. AXA, AEGON and BAE Systems. All of these have seen considerable job losses in 2011 which will continue through to 2012. All affect the volume of traffic on the road, affecting all the roads in general but particularly Queensway and Peel/Ballam Road. Further contraction of the public sector one of Fylde's other large employers is likely given the scale of current public sector budget cuts.
 - The immediate roads also now benefit from the end-of-March 2011 closure of the hugely popular and heavily used household waste recycling facility adjacent. QED carried out anecdotal surveys of the traffic and observed that up to 25 cars entered the site every 5 minutes, which would add up to a considerable daily volume (and the popularity of the facility was one of the reasons why so many people campaigned unsuccessfully to stop it from closing). The removal of this traffic from the Queensway area will more than compensate for the previously predicted growth in the area.
 - LCC advised QED verbally that assumptions were made in the Queensway assessment that Whitehills Phase 3 was included in the assessments. This application has now been withdrawn.

Impact on Junctions off Blackpool Road, Ansdell

- 6.23 QED note the LCC ES and traffic surveys prepared for the Link road application do not show the same level of detail compared to the traffic assessments produced for the Queensway Application by Cole Easton.

The analysis generally concentrates on the total number of daily road movements and presents no detailed analysis of nearby junction performance or the impact of peak traffic measurements other than broad statements. This is significant because while the Cole Easton Study for Queensway clearly demonstrates all the roads around Queensway operating within capacity (many even at peak with over 70% reserve capacity) issue is taken with the capacity of junctions – principally the traffic lights at School Road.

Cole Easton's comprehensive traffic assessment of the junctions around the Queensway site did not extend beyond the junction of Heyhouses and Blackpool Road and certainly did not include roads such as Clifton Drive, as far as QED can tell.

Cole Easton's model for the Queensway application shows the Blackpool Road/Heyhouses junction reaching capacity (at the peak levels currently deemed unacceptable for the current School Road junction) when the full Queensway and the T6 scheme is in place at year 2026.

6.24 This is of concern because the traffic assessment is showing significant increases of traffic around the Heyhouses and Blackpool Road junction (24% growth on Blackpool Road at 2016 and likely a further 10% growth up to 2031) from the T6 alone.

6.25 The traffic arriving at this junction to enter the T6 will either be traversing the junctions around Ansdell from the Lytham direction or filtering up through Church Road (we note a 62% increase in traffic on Smithy Lane at 2016 alone). Traffic will converge on this junction from all directions. Peak traffic delays already often occur at the following locations:

- At the mini roundabout at Church Road/Blackpool Road - the reason in the morning is obvious as traffic dropping children off at school on Church Road attempts to turn right across the flow of traffic on Blackpool road heading towards Blackpool from Lytham and traffic from church road attempts to turn right on the roundabout. This has the potential to cause 20+ car (100m) queues in the morning peak.
- At the junction of Ansdell and Blackpool Road – once again as traffic attempts to turn right across the approaching traffic and the narrow width of the road at the intersection causes traffic to stop and back up.
- At the junction of South Park and Blackpool Road – once again traffic backs up as it is unable to make right turns across the junction. Delays of 5 minutes or more and queues of 20 or more vehicle are not unusual.
- Traffic (including buses) frequently struggle to turn right across the traffic at the junctions adjacent to Ansdell Baptist Church.
- There has been no assessment of the impact of the traffic attempting to exit Cyprus point into this junction area and no traffic improvements are proposed – clearly traffic from Cyprus point will be attempting to make right turns across what will become a major highway. The Cyprus point scheme has poor accessibility with only a single entrance/exit for all the traffic. A 2016 this exit point will see a 204% increase in traffic on the road it is attempting to cross or turn into and HGV's and buses will also now be on that section of road.

QED's view is that the Inspector should consider the impact of the T6 road on roads and junctions in the Blackpool Road area in Ansdell to ensure that the problems at School Road are not simply moved to Ansdell.

Impact on other roads which will become short cuts

6.26 There are some other clear losers identified in the LCC ES which deserve mention:

- Smithy lane sees a significant increase in traffic – this road is highly likely to become a 'rat run' through to church road for traffic attempting to avoid peak congestion around Ansdell.
- Cropper Road – another sub-standard road not much better than Wild Lane - receives an increase of 57.45% and will be used as a 'rat run' to join the M55.
- QED note the proposed sequencing of the road build which delivers the full T6 only after the 375th house. It is clear from the traffic assessments that it is the building of

the T6 alone which delivers significant traffic improvements. We question the wisdom of leaving a short rat-run section at the end of the T6 for so long – particularly if for whatever reason the housing build-out is delayed. In our view the traffic volumes on the final incomplete section would far exceed the estimates shown.

- 6.27 In conclusion - our own local observations suggest that traffic throughout Lytham St Anne's is not generally a serious problem, and certainly does not justify the construction of 1150 homes at Queensway. Of course, everybody would prefer traffic to be lighter but any traffic queues in Lytham St Anne's are very minor in comparison to those experienced in neighbouring areas. This was also the clear view of the Inspector in 2009.

That is not to say that improvements should not be made. The question is one of timing as clearly some action needs to be taken to address the peak traffic flow at key junctions in the medium term.

QED's assessment of the T6 traffic models suggest that the problems of the School Road might be transferred to the Heyhouses Blackpool Road junction on completion of the T6

Need for the road: "Congestion": LTP ?

- 6.28 LCC have recently produced its revised local transport plan – the LTP 2011 - 2021. In its assembly, it consulted with various stakeholders and local authorities.
- 6.29 LCC published its consultation findings including its consultation with members in the document "Outcomes from early Consultation with County Council Members June 2010" and also published the outcomes in its wider consultation in the document "Outcomes from Consultation on the draft Local Transport Plan May 2011"

Not one single representation was made in the Member consultation in relation to the M55 Link Road and congestion. In fact, no representations relating to the M55 Link Road were made whatsoever, for any reason. Many other roads were mentioned, including the congestion around the A585 (road to Fleetwood) in Fylde and the need to improve access to Warton but nothing whatsoever on the Lytham St Anne's M55 Link Road.

- 6.30 In the "Outcomes from Consultation on the draft Local Transport Plan May 2011", not one single reference is made to any congestion in Lytham St Anne's or in relation to the M55 Link Road whether by LCC Members, the Borough Council or members of the public.
- 6.31 Indeed, Fylde Council's only response was to change the name of the M55 Hub to the M55 Junction 4 Area.
- 6.32 Further in relation to members of the public comments it is stated, "Whilst comments revealed a wide range of views, there was general support for investment in public transport and improvement in safety for pedestrians and cyclists. There were also recurring concerns about the cost of public transport and the wide variation in fare structures. It is also clear that the public perceptions of travel are not tempered by administrative boundaries".
- 6.33 Congestion in St Anne's didn't appear to be top of the list. Congestion was raised elsewhere in many areas throughout Lancashire.

- 6.34 In response to issues raised, LCC state in the report “*We have undertaken to provide an objective assessment of traffic delays and congestion hotspots in Lancashire. This work has highlighted significant congestion problems in Lancaster, Preston, Colne, Ormskirk, and South Ribble, as well as along the trunk road to Fleetwood*”.
- 6.35 Remarkably, LCC’s own objective assessment outlined in the May 2011 report did not identify the same congestion problems which the developer funded ES claimed (only a few months earlier). Nor did the LCC Environment Directorate (in whose name the M55 Link Road application is being submitted), LCC Council Members or Fylde Borough Council raise any such concerns throughout the consultation period.
- 6.36 Rather it would seem that an objective assessment and consultation with the local authorities highlighted no pressing problems of congestion justifying the M55 Link Road whatsoever.

Impact of HGVs

- 6.37 Furthermore, the suggested benefits of the M55 Link road claim that it will divert traffic from existing roads onto the new T6 link road including HGVs. QED, large number of residents and councillors QED have spoken too, do not consider the re-direction of HGVs to be a benefit at all. Rather, it is a major disadvantage.
- 6.38 There is nothing in the local plan that makes reference to the need to divert HGVs onto this road and into central residential areas of Lytham St Annes. The towns of Lytham and St Annes (plus Ansdell and Fairhaven) have been developed over many years and their designs have resulted in key areas of industrial and retail units being either located on the edges of the settlement or in town centres which are well served by the local highways, which have been designed for such a purpose.
- 6.39 Many planning applications for supermarkets, retail units, industrial units, and large commercial offices have all come forward over the years and LCC have supported their approval confirming that the road network and structures are suitable for their access particularly by HGVs.
- 6.40 The M55 Link Road proposed will accommodate HGVs and is highly likely to be used by HGVs as one of the main routes into the towns not least because ‘satnav’ systems will detect the shorter journey distance. The Link Road ES analysis tends to support this view. The M55 Link Road will deliver HGVs to the end of Cypress Point; a heavily residential area. Those HGVs will then have to make their way through residential streets to their required destination. Given the % increase of this class of vehicle this must be viewed as a substantial adverse impact. Given that other initiatives as part of the schemes is to increase cycling and walking on roads around Heyhouses, this does raise safety concerns.
- 6.41 Furthermore, the area around is subject to subsidence. It is a major issue for many residents. In its 2011 Road objection, QED stated it understood that an ES should examine direct and indirect impacts of a development. QED believed that the impacts of HGVs that the ES should have examined the impacts of delivering HGVs to the end of Cypress Point and beyond through to their destinations.
- 6.42 We invite the Inspector to examine the routes for himself by imagining he is driving a HGV to survey the various routes to the current HGV destinations.

For example:

- 1) To assess how suitable the route would be from Cypress Point to St Anne's town centre via the signposted routes and alternatives
 - Via Albany Road, Church Road (at opening and closing time past Fylde's largest High School), St Thomas Road and St David's Road imagining turning at the junctions.
 - Or via Albany Road, Church Road, and then St Albans
 - Or via Albany Road, Church Road and turning onto St Annes Rd East
 - Or along the subsided Heyhouses Lane

And then compare that with A5230 Progress Way, The dual-carriageway Squires Gate Lane and the wide-open Clifton Drive to St Anne's Town Centre.

- 2) To assess how suitable the route would be from Cypress Point to Lytham Town Centre
 - Via Blackpool Road, Skew bridge and Church Road and into Lytham Centre

And then compare it with the access via Lytham Road (A584) which connects to roads deemed acceptable for an Aerospace industry employing 7,000 people.

- 3) To assess how suitable the route would be from Cypress Point to the Lytham Industrial Area on the outskirts of Lytham
 - Via Blackpool Road, Skew bridge and Church Road and into Lytham Centre and then beyond to the Industrial Areas of Lytham

And then compare it with the access to the Industrial Areas via Lytham Road (A584) which connects to roads deemed acceptable for an Aerospace industry employing 7,000 people

- 4) To assess how suitable Heyhouses Lane, Kilnhouse Lane, Headroomgate Lane for a significant increase in HGVs and how suitable their junctions are for HGVs.

T6 Road and Relation to planning policy

- 6.43 QED acknowledge the saved route of the M55 Link Road in the Local Plan under Policy TR13.
- 6.44 QED also acknowledge that the road is referenced in the LTP 2011 – 2021, although we are not certain that this document has DPD status (it is certainly not referenced as part of the development plan for either Fylde or LCC in the October 2011 Strategic Environment Assessment for NW of England)
- 6.45 In relation to the saved route of the M55 Link Road in TR13, the M55 Link Road application deviates from this route in the process causing increased harm to the Green Belt and increases safety concerns resulting in a dual pegasus crossing – one of which is after a curve in the road.
- 6.46 QED also acknowledge the increased weight given to Fylde's Local Plan in various recent appeals, and the weight increases as the RSS gets closer to revocation. Indeed, October 2011's Strategic Environment Assessment for NW of England states that post revocation, Fylde's development plan document will consist of its (current) local plan.
- 6.47 However, there is nothing whatsoever in the same Local Plan that suggests that the Queensway housing site is anyway directly related to the road. There is nothing in policy TR13 that suggests this site alone or even this site at all should fund the central section of the road. TR13 foremost only saves the route of the road from other development.

- 6.48 The local plan suggests that development should fund the road but also prevents any development on the Queensway site whatsoever.
- 6.49 In his reasons for refusal, the Secretary of State was most correct. He stated, in relation to the three statutory tests set out in Regulation 122 of the CIL Regulations 2010, *“he does not consider that it (the road) is..... directly related to the development (given that the principle of such a road predates the appeal scheme).”*
- 6.50 The situation has not changed at all. The road scheme exists in the local plan. The housing scheme (this housing scheme nor any other on the same site) does not.
- 6.51 Fylde’s Local Plan was subject to full public consultation and was duly tested during its approval. TR13 envisaged funding of the road via development but the local plan did not envisage that any of that development would be on the land at Queensway. The Local Plan envisaged the Link Road was to be delivered by other private sector developments.
- 6.52 Indeed rather than funding all of the remaining parts of the road, the local plan says that the Queensway site should not contribute anything whatsoever to the funding of the road.
- 6.53 Fylde’s Local Plan states the road has no relation with these houses or any part of this specific site at all. Local plan policy TR13 envisaged funding of the road from development. In the same local plan, policies SP1 and SP2 restricted any development on this site. The Local Plan was approved as valid and fit for purpose. The Local Plan therefore envisages that the intended funding of the road must come from other developments which were in accordance with the Local Plan.
- 6.54 The Local Plan was approved on the basis that the road would be funded without a single house being constructed on the Queensway site. The Local Plan demonstrates that the houses are not directly related to the road.
- 6.55 Clearly, Fylde Borough Council had other developments in mind when concluding that its local plan was deliverable.
- 6.56 It cannot be argued therefore that using the Queensway housing scheme to fund the road should count as any weight in the applications favour.
- 6.57 QED made further reference to this in its April 2011 submissions.

Relation to planning policy: funding.

- 6.58 In relation to funding of the M55 Link Road policy TR13 states that funding of the road should come from private sector development.
- 6.59 Paragraph 5.111 of the local plan, in relation to funding in TR13 states that ***“Financial contributions to the proposed road south of Whitehill Road (up to its junction with Anna’s Road) will be required as and when the land west of the existing planning permission at Whitehills Park allocated under Policy EMP1, is developed”***.
- 6.60 It is claimed by the appellant, and was claimed at the 2009 Inquiry, that the Queensway development is the only way to fund the Link Road. However, the Local Plan disagrees. Funding for a considerable section of the road, should come from development of land around Whitehills Park.

- 6.61 The section referred to in Para 5.111, accounts for around half of the remaining road to be constructed (See Fylde Map from Whitehills Road to Heyhouses).
- 6.62 Even if Fylde had envisaged housing development (and it would be away from Queensway) to pay for the road, it did not envisage that it would pay for the section North of Anna’s Road. In fact, the local plan explicitly states that this funding should come from EMP1 (employment land) contributions. **The local plan clearly states that the much of the road should be funded by development under policy EMP1.**
- 6.63 This was also the conclusion of a more recent strategic study – The Grimley Report which is part of the evidence base for the LDF- commissioned by Fylde which examined funding options for the Link Road.

M55 to Heyhouses Site Link Road	Development of a link road from the M55 to facilitate better connections for business	Funding contributions linked to development of Whitehills Phase 3
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- 6.64 Neither is there anything in the local plan that states that a single development should fund the remaining section of the link road. To-date, the link road has been constructed in 3 separate phases, the most recent being many years after contributions were secured.
- 6.65 The appellant’s claim that the Queensway development is the only way to fund the Link Road is not supported by Fylde Council or its local plan. Fylde Council has maintained its consistent position that although it strongly supports the link road, it does not believe that it should be funded entirely by the Queensway planning application.
- 6.66 Similarly, the appellant’s claim that the Queensway development is the only way to fund the Link Road is not supported by Lancs County Council. In the ES produced for LCCs Link Road Planning application in March 2011, funding of the road is considered.
- 6.67 In the introductory section, para 1.1.11, the ES states, *“The remaining section of road to be completed, known as the Central Section, is the subject of this Planning Application. It is likely that this section will be funded by the proposed Queensway Development **but the option remains to fund the remaining part of the link road from any other suitable development.**”*
- 6.68 Further it adds in Section 1.7 Promotion and Funding of the Scheme, Para 1.7.3 *“If for any reason the Queensway Development does not proceed the County Council will attempt to ensure that any other suitable developments in the area either partially or completely fund the highway scheme.”*
- 6.69 The County Council claim that the road is highly important to them. It features in the updated LTP as it did in the previous version. However, the reality of the situation is that their actions prior to, and since the M55 Link Road application, in relation to identifying contributions to the road paint a different picture. (For that matter, so do that of Fylde Council who despite strongly supporting the road have made little attempt to secure contributions from development).
- 6.70 In 2009, a planning application for the latest phase of the Whitehill’s business park (Whitehills Phase 3 on EMP1 land) considered before Fylde Council’s DCC in July 2009 and recommended for approval subject to 106s and other matters. Whitehills and EMP1

are the very area referred to as contributory developments to the M55 Link Road funding (TR13 para 5.111). Despite the obvious relationship with the M55 Link Road and the specific direction of Local Plan policy TR13 and para 5.111 (for which the Whitehills scheme relates), no contributions were sought by Fylde Council or Lancashire County Council for the Link Road (see attached minutes from Fylde's DCC July 2009).

- 6.71 It should be added that it cannot be argued that Fylde Council did not seek a contribution from other applications due to any reliance or preference for the Queensway application as Fylde's DCC 2009 committee rejected the Queensway application). Lancs County Council made no representations for funding for the link road, despite it being an aim of the LTP and that a purpose of development on this site was to contribute to the M55 Link Road (Instead, LCC requested cycle paths).
- 6.72 In Oct 2009, Fylde Council realised its mistake and the Whitehill's application was brought back before Fylde's DCC to secure contributions to the link road (see attached minutes from Fylde's DCC Oct 2009).
- 6.73 In extract, *"Summary of Officer Recommendation. This application was previously considered by Committee on 29 July 2009 when members resolved to grant planning permission subject to the completion of a Section 106 agreement to secure contributions towards public transport and sustainable transport initiatives. Since consideration of the application, questions have been raised regarding the requirement of the development to contribute towards the construction of the Heyhouses M55 link road in accordance with Policy TR13 of the Fylde Borough Local Plan, as amended October 2009. The application is, therefore, placed before the Page 14 Committee for further consideration. This report deals solely with the issues relating to highways matters. A copy of the original report is attached as an appendix and deals with all other matters. Members are recommended to approve the application but extend the scope of contributions to include potential contributions to the M55 Heyhouses link road in accordance with Policy TR13. The exact amount of contributions must be determined following an assessment of the viability of the scheme."*
- 6.74 The matter was deferred following guidance from Fylde's Head of Governance. QED understands that the Whitehills applicant, Kensington PT Partnership, took the application to appeal on the 4th November 2009. However, subsequent to the Queensway Inquiry, QED understands that the appeal (ref: APP/M2325/A/09/2116211) was withdrawn.
- 6.75 QED asserts that this application clearly demonstrates:
- Firstly, that even as recently as the second half of 2009, that neither Lancashire County Council nor Fylde Council identified the M55 Link Road as such a strong priority that any contribution whatsoever was required to the remaining section of the M55 Link Road (despite – see Oct minutes – there be a clear reason, direction and mandate, to seek such a contribution under local plan policy) TR13, and despite the Link Road being clearly related to the Whitehills business park).
 - Secondly, that having later sought to acquire a contribution to the M55 Link Road (prior to the application being withdrawn) it demonstrates that Fylde Council believe that there are other applications which could provide funding contributions to the road.
- 6.76 The applicant obviously had their reasons for withdrawal and they were clearly entitled to do so. QED would observe though that raising a debate about this Whitehill's application and alternative funding options for the M55 Link Road, in front of the Secretary of State, would look at cross purposes when it was argued in the Queensway Inquiry, that the Queensway application should be approved as the only feasible way to fund the M55 Link Road.

6.77 Furthermore, 4 planning applications for housing have all come forward around the M55 Link Road in and around the employment land at Whitehills Business Park and are closer to the funding clause in TR13. These are adjacent to, in some cases on the kerbstones of the M55 Link Road, and are much closer to the Link Road than the Queensway development. Whilst these applications may be smaller than Queensway (around 150 homes in total), the principle remains that even since the March 2011 Link Road Planning Application, neither LCC nor FBC have not actively sought contributions to the Link Road.

So, if not Queensway, what other funding options are there?

6.78 QED note LCC's favourable cost benefit analysis calculations produced to endorse the road. Whilst we have some reservations about the data included in the table provided being 10 years out of date and it appearing to contain the wrong cost of the T6 road – clearly such a positive endorsement and the strategic nature of the road means that some level of public funding should not be ruled out. Indeed many local taxpayers would be surprised that LCC cannot find some funding for local projects in Fylde over the medium term.

6.79 There is nothing in the local plan that says a single development should pay for the remaining section. In fact, it suggests that more than one development should pay for the road with contributions for the remaining Northern half coming from the EMP1 land at Whitehills (and ergo, other developments should pay for the rest). Clearly, future phases of Whitehills can contribute to the Link Road. That is established in the local plan under policy TR13 and is the directed method of contributing to half of the remaining road.

6.80 QED has also referenced earlier smaller applications (c150 homes) surrounding the Northern End of the central section of the Link Road which could contribute. These applications are still in progress and S106s have not been agreed (at the time of writing). A large brownfield site "Heyhouses" has also come forward and is going through the planning application process in 2011. This is very close to the Southern section of the link road and would accord with TR13. The application consists of 335 homes, large retail food store and commercial floor space. In discussions with FBC's senior planning officers, they expressed the view that the Heyhouses application was indeed a candidate development for making a contribution to the M55 Link Road - however, QED understand LCC are only seeking £300,000 as a funding contribution from this development.

6.81 In addition, LCC's ES states that the road is required to relieve congestion on the A584. Two new housing developments there for around 350 homes are awaiting the S106s to be agreed. Perhaps LCC should stand by its statements and seek contributions from those applications (it hasn't to-date).

6.82 One of the options, QED raised at the Queensway Inquiry, was the potential for large scale housing and commercial development elsewhere in the Borough including the M55 Hub development. The Inspector decided not to consider this in his funding assessments as the scheme was not far enough advanced. That has now changed. Recently, an application (known as Whyndyke) for 2000 homes at the M55 Junction 4 on the site referred previously referred to as the M55 Hub has been submitted. At present, the scheme is for 2000 houses with provision of services (i.e. primary school, shops, recreation and business) and is proceeding through the planning system. This scheme has similarities with the M55 Hub scheme dismissed at the Inquiry and appears to be a subset of that scheme.

- 6.83 The proposed scheme would occupy a green field site very close to the Northern End of the M55 Link Road. The site has previously scored very favourably in sustainability appraisals, being an urban extension of Blackpool on land in Fylde and having direct connectivity with the M55, business/employment sites and main established trunk roads to Blackpool and Preston. Whilst at present being neutral on the scheme itself, QED notes that the scheme intends to provide a mixed range of services within the scheme rather than putting pressure on those services elsewhere (and also reducing the need to travel to them). We recognise that this planning application may incur some of the same prematurity arguments as the Queensway application. However, it does provide evidence and example that there are serious considerations for other large scale applications which could, if required, fund or contribute to the M55 Link Road.
- 6.84 Furthermore, the M55 Hub report (reference earlier), has been updated since the last Inquiry proposing a vision of a mixed use area including housing and employment land. This scheme is written as an option for consideration under Fylde's and Blackpool Core Strategies, The report itself outlines the contribution that can be made to the M55 Link Road from extended employment land around the M55 Junction 4 area.
- 6.85 Furthermore, the SHLAA has now concluded and there are many sites in the immediate area which are available which could make a contribution to the link road during the lifetime of the current planning cycle. And in a comparatively very short space of time since the Inquiry, many of those options are already emerging, including Whyndyke Farm. The plan period still has a very long time to run and it would be very unlikely that options do not continue to emerge.
- 6.86 Indeed, rather than justifying approval of Queensway as it was the only potential funding source for the M55 Link Road, it would now seem that the developer now needs to rush through approval for Queensway in advance of all the other schemes which could contribute to fund the road. We argue therefore that circumstances have materially changed since the Inquiry and the funding argument used to support Queensway (and that it is the only option to do so) should carry very little weight, if any weight at all.
- 6.87 We are not necessarily suggesting that each of the schemes will ultimately make a contribution. However, the point remains that there are many current opportunities and there will be no doubt many more without having to approve 1150 homes on Queensway and endure the 'substantial harm' outlined by the 2009 Inspector.
- 6.86 However, if sites other than those envisaged in the local plan are required in the future to fund the road, then those decisions on which sites, their locations and their respective contributions should be taken with the statutory planning context and the decisions subject to full public consultation.

Community Infrastructure Levy

- 6.87 The Community Infrastructure Levy (CIL) which came into force on 6th April 2010, and as amended, applies to all planning applications.

The CIL outlines three tests which must all be passed:

- (a) Necessary to make the development acceptable in planning terms
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development

These tests need to be examined in relation to the funding of the T6 by the Queensway scheme

- 6.88 The Queensway application appears to require the T6 road to make it necessary. Test a) is passed as LCC have stated that the full application is of such a scale that it couldn't proceed without the T6 road.
- 6.89 For test b), the Queensway application clearly fails. The local plan assumes that the T6 road is to be funded by development but also restricts development on the Queensway site. No houses on this site were envisaged the road and therefore there can be no doubt there is no direct relationship between this development and the T6. Furthermore, in their ES LCC are arguing that the road is required to relieve congestion in the wider Lytham St Annes conurbation and as far as Blackpool and the exit routes from the far side of Lytham. They view the road as necessary irrespective of whether the Queensway scheme proceeds or not and have stated such.
- 6.90 Furthermore, the local plan is explicit. The section of road between Whitehill Road and Anna's road should be funded by contributions by EMP1. This section of road amounts to around 50% of the length remaining of the T6 road planning application. Indeed, the local plan specifically identifies the EMP1.
- 6.91 Therefore, on test b) alone, there is no doubt the application fails the CIL regulations tests. The CIL states that it is unlawful that any planning obligation cannot be taken into account when determining applications. This clearly applies to the Queensway application (or any part thereof). Therefore, no weight can be given to the funding contribution of the M55 Link Road.
- 6.92 In addition, test c) states that the obligation should be fairly and reasonably related in scale and kind to the development. However, the identified clear need in St Anne's is for affordable housing at a rate of 30%. This development offers 10% and uses the IHP (which the appellant has argued carries little weight) to justify the reduction from 30% to 10%. Therefore, the scale of the contribution to the road is disproportionate given its affect on the obligation to contribute to the affordable housing requirements which are a clear stated priority on Government, the RSS and the local Council.
- 6.93 This is manifestly not fairly and reasonably related in scale and kind to the development. As previously shown other applications are making little or no contribution and the full cost is falling on a single application. In his reasons for refusal, the Secretary of State concluded that he did not consider "the proposed functions of the road are fairly and reasonably related in scale and kind to the development. "

QED agree with the Secretary of State that the application fails test c) also.

- 6.94 Furthermore, there is nothing in the CIL that suggests a single development has to fund infrastructure projects. In fact, there is specific provision that up to five separate planning obligations can be pooled to fund a scheme. The section North of Annas Road is already intended to be paid for by EMP1 contributions around Whitehills – that leaves £5m to be found assuming the cost of T6 is £10m.

The T5 road/T5/T6 roundabout and its relation to planning policy

- 6.95 Neither the T5 road nor the T5/T6 connecting roundabout exist in planning policy whatsoever.

Road Safety

- 6.96 Wild Lane was portrayed at the Queensway Inquiry as a dangerous road. It is interesting to note its relative safety record when compared to all the roads in the area as documented in LCC's ES for the T6 road – rather than simply looking at Wild Lane in isolation. Table 2.2.7 extract below shows the observed accidents for the 5 year period.

Lancashire County Council Environment Directorate Special Projects		13445 Completion of M55 to Heyhouses Link Environmental Statement, Volume 1A: Report 2 Purposes of the Scheme			
Table 2.2.7 Observed Accident Rates					
Road	From	To	Accidents (July 2005-June 2010)	Accident Rate (plai/mvkm)	Weighted * COBA Rate (plai/mvkm)
A584	A5230 Squires Gate Lane	B5259 Station Road	83	0.340	0.742
B5261	A5230 Squires Gate Lane	Church Road	41	0.206	0.736
B5253 St Annes Road East/West	A584 Clifton Drive North	B5261 Heyhouses Lane	37	1.635	0.736
North Houses Lane / Wild Lane	B5410 Lytham St Annes Way Roundabout	B5261 Blackpool Road	5	0.246	0.398
Ballam Road	Peel Road	Park View Road	14	0.434	0.448
Peel Road	Whitehill Road	Ballam Road	6	0.225	0.398
School Road	B5261 Common Edge Road	B5410 Lytham St Annes Way Roundabout	12	0.374	0.609
Highbury Road / Kilnhouse Lane	A584 Clifton Drive North	B5261 Queensway	26	0.862	0.736

*Weighted by distance of route of each road type and speed

2.2.42 The default accident rates used by COBA range from 0.844 for single carriageway standard (S2/WS2, 30/40 mph) roads to 1.004 for dual carriageway standard (D2/D3, 30/40 mph) roads and from 0.131 for modern D2/D3 50/60/70 mph roads with hard strips to 0.404 for other 50/60/70 mph S2 roads. The weighted COBA column in Table 2.2.7 reflects the varying nature of some of the routes, which differ in character from urban to rural and in road type.

2.2.43 Table 2.2.7 shows an accident rate on B5253 St Annes Road East/West that is more than double the COBA norm. And Highbury Road / Kilnhouse Lane has an accident rate that is 17% above the COBA norm. The remaining routes highlighted in Table 2.2.7 have accident rates well below the COBA norm, on average 42% lower. In particular, the composite B5261 rate is some 72% lower than the COBA norm.

- 6.97 All the roads perform well compared to the national benchmark – the sub-standard Wild Lane very well. Any claims for accident savings would appear to be from roads other than Wild Lane.
- 6.98 Furthermore, LCC's ES promotes the T6 road as improving road safety as it is a more direct route into Lytham St Anne's than some of the existing routes, and the final stages of journeys can be ones where accidents occur as the roads become less familiar. However, the T6 road will deliver exactly that scenario that they are trying to avoid, especially for HGVs. Each of the Fylde's existing routes into Lytham St Anne's has a

requirement and defined need for HGVs i.e. industrial sites, employment sites, supermarkets and retail sites.

- 6.99 There are no such sites around the terminus of the T6 and every HGV will have to navigate unsuitable residential roads, not designed for HGVs, with narrow junctions, for some distance before arriving at their destination. The ES states there will be around 400 movements per day (calculated as 2.8% of 12,000),

So an extra 400 HGV movements a day will face this increased safety risk if the T6 goes ahead.

Flood Risk

The Inspector requested at the Pre-Inquiry meeting comments on changes related to Flood Risk.

- 6.100 Throughout the Lifecycle of the Queensway Application, many residents have raised concerns about flooding and drainage. QED have shared these concerns. We have observed severe winter flooding in the past 2 winters from surface water accumulation and have argued a precautionary approach should be taken.
- 6.101 QED maintains it is wrong to build houses and a school right up to the very edges of the current flood zone. Since the original Inquiry, PPS25 has changed and in addition 3 important local documents informing drainage and flooding have been produced and we wish to place these before the Inquiry.
- Ribble Catchment Flood Management Plan – Environment Agency Report December 2009
 - Blackpool and Fylde Coast Protection Strategy - August 2011.
 - Draft Strategic Flood Risk Assessment - Fylde Borough Council Updated November 2011 and considered by Fylde's LDF Steering Group in November 2011
- 6.102 The core principle of PPS25 - Development and Flood Risk aims to ensure that flood risk is taken into account at all stages in the planning process, directing development away from area at highest risk. A sequential approach to the consideration of flood risk and development is provided and requires development to be directed to sites at the lowest probability of flooding from all sources.
- 6.103 QED observe firstly that the environment statements for the appellant - although updated in November 2011 - continue to reference the now out of date 2006 Ribble Catchment Flood Management Plan and make no mention at all of the emerging evidence from the Blackpool and Fylde Coastal Protection Strategy. Furthermore, according to statements in the ES flood risk assessment, the flood modelling appears to still reference the 2006 data model.
- 6.104 The appellant continues to place great reliance on the current Environment Agency flood zone mappings. Whilst the EA Flood Map shows current best estimates of the risk of flooding from rivers and the sea – they do not currently take account of climate change impacts. Per the Q & A section from the EA's own website:

“The likelihood of flooding has been calculated using predicted water levels and taking the location, type and condition of any flood defences into account, whether or not they are currently shown on the Flood Map. NaFRA is an assessment of flood risk based on information last updated in 2008. It shows the likelihood and consequences of flooding

that could happen now. It does consider climate changes that have already happened but it does not show how the risks will increase in the future due to climate change. However, we are planning to develop and use this method to determine how flood likelihood may change in the future with climate change. It is worth bearing in mind that the potential extent of an extreme flood shown on the Flood Map might in future become more 'normal' as a result of climate change."

6.105 PPS25 requires that the spatial planning process should take account of the longer term impacts. Both the Blackpool and Fylde Coast Protection Strategy and revised draft Fylde Borough Strategic Flood Risk Assessment are forward looking and beginning to take a more precautionary viewpoint.

6.106 Turning first to the Environment Agency Ribble Catchment Flood Management Plan from Dec 2009. This makes special mention of Lytham St Annes.

"This predominantly urban sub-area contains the large town of Blackpool and the smaller town of Lytham St Annes. Given its size, flood risk is relatively high with 540 properties currently at risk, rising significantly to 1940 in the future due to the effects of climate change, with an extra three schools, two health care facilities and two community centres are expected to be at risk. Flood risk is predominantly in Lytham St Annes and is due to the impact of sea level rise on the ability of Liggard Brook to discharge into the Ribble estuary. The risk of flooding from rivers in Blackpool is very low, with the main risk in the town associated with coastal flooding from the sea. This aspect is not considered as part this plan and is instead addressed in the SMP (Shoreline Management Plan)."

6.107 The key messages from the Environment Agency:

- *Flood risk in Lytham St Annes is high and will rise significantly in the future due to the effects of climate change.*
- *Liggard Brook presents the biggest risk of flooding, which will increase as levels rise in the Ribble estuary.*
- *We need to work with our partners to reduce flood risk.*

6.108 Their vision and preferred policy is option 5: Areas of moderate to high flood risk where we can generally take further action to reduce flood risk.

"Flood risk is already high, and is projected to significantly increase in the future. Work is required to reduce this risk. Whilst Liggard Brook already contains flood defences along its lower stretches, investigations are required to determine the feasibility of other flood risk management options. In addition, the local authorities in this sub area will play a key role in using their powers to control development in flood risk areas. Other sources of flooding such as from the sewer network and the highways drainage system need to be better understood; with partners working together on these risks."

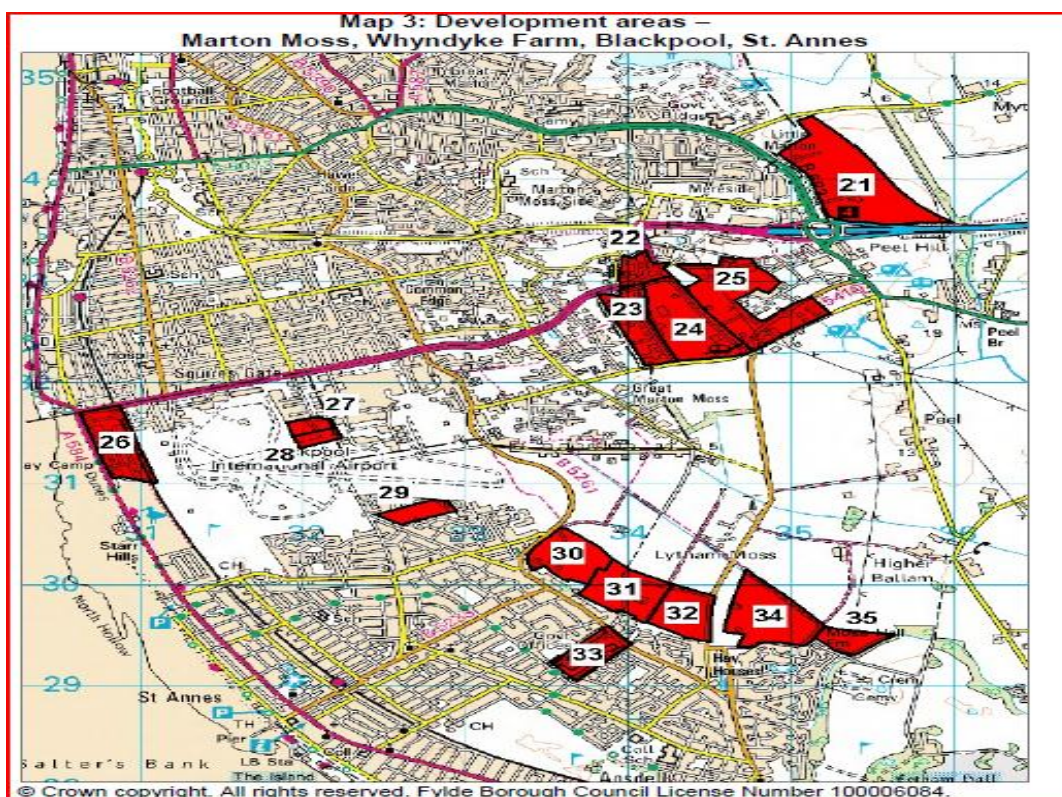
6.109 The Environment Agency's proposed actions to implement the preferred policy:

The essential actions to achieve our policy aim are listed below:

- Investigate the causes of flooding in the Lytham St Annes/Fylde area, and highlight feasible works to reduce flood risk.

- The local authorities in the sub area need to produce Strategic Flood Risk Assessments (SFRA) and utilise the planning system to discourage inappropriate development on the floodplain. Local authorities need to encourage the implementation of SUDS in new and existing developments.
- Investigate the causes of surface and sewer flooding in Blackpool and Lytham St Annes and carry out remedial actions.

6.110 Particular note should be taken of the requirement to produce the SFRA and to use the planning system to discourage inappropriate development on the floodplain. This is what Fylde are in the process of doing. The revised Fylde Borough Strategic Flood Risk Assessment has been prepared by Wyre Council to ensure objectivity in the report (this is in line with the earlier SFRA). The Map below is extracted from the latest report and shows the development site locality. The current application is represented broadly by sites 30 and 31 – although it should be noted that the full red line for the current applications extends beyond the lines shown.



6.111 “As at July 2011, taking into account the changes to the flood map - Site 15 in Warton, Site 17 in Freckleton, Site 6 in Newton-with-Scales and Sites 31 and 32 in Lytham Moss are now all within Flood Zone 3, after previously being within Flood Zone 1. Sites 23 and 24 at Marton Moss are now within Flood Zone 1, after previously being within Flood Zone 2. Site 26 at Pontins is now in Flood Zone 1, after previously being within flood zone 2. Site 21 at Whyndyke Farm is now within Flood Zone 2, after previously being within flood zone 1.”

6.112 Note site 31 which is approximately half the current application is now placed in Flood zone 3. The proposed guidance for the site is now stated as follows:

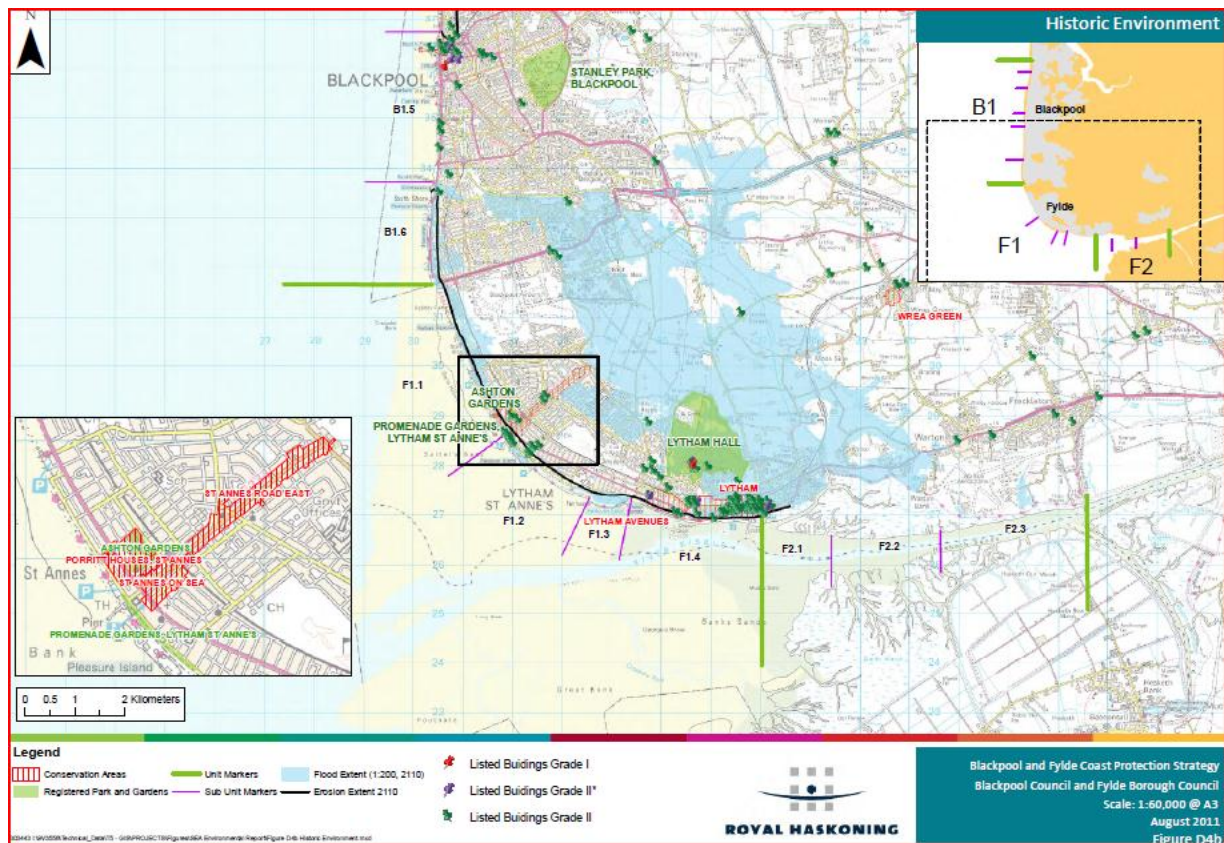
“Only appropriate development would be permitted within this area subject to the Sequential Test and the Exception Test being carried out where appropriate. A Level 2 SFRA will need to be undertaken to justify any proposed site allocation in Flood Zone 3a. Any development in Flood Zone 3a (whether allocated or not) should be accompanied by

a site-specific Flood Risk Assessment to demonstrate that the development is not at risk of unnecessary risk of flooding and will not exacerbate flood risk elsewhere. Consultation with the Environment Agency is recommended.”

- 6.113 Clearly, Wyre have applied a cautionary approach in preparing their recommendations.
- 6.114 Turning finally to the Blackpool and Fylde Coast Protection Strategy. A comment from section 2.2 of the Executive Summary sums up the issue facing St Annes.

“The problem at Unit F1, from Squires Gate to St Annes, is predominately one of erosion of the dune system and subsequent roll-back of the dunes with sea level rise into the future. At Unit F2, from St Annes to Lytham Dock, the problem is also one of erosion, due to the poor condition of the defences. This Unit is also subject to tidal flood rise. The primary flood route, based on ground levels, is through the defences at Warton, then on to the properties at the north of Lytham travelling northwest towards Blackpool. With sea level rise the pressure on the defences along this frontage will be increased thus leading to an increased probability of a breach.”

The map below from the Blackpool and Fylde Coast Protection Strategy shows the predictions of the future potential flood extent. Note Lytham Moss including the development site area is completely covered.



- 6.115 Per Appendix D of PPS25:

D4. Strategic Flood Risk Assessments (SFRAs) (see Annex E) will refine information on the probability of flooding, taking other sources of flooding (see Annex C) and the impacts of climate change into account. **The SFRA will provide the basis for applying the Sequential Test, on the basis of the Zones in Table D.1.** Where Table D.1 indicates the need to apply the Exception Test, the scope of the SFRA will be widened to consider the impact of the flood risk management infrastructure on the frequency, impact, speed of onset, depth and velocity of flooding within the Flood Zones considering a range of flood risk management maintenance scenarios. **Where a SFRA is not**

available, the Sequential Test will be based on the Environment Agency Flood Zones.

6.116 Per Appendix E of PPS25:

E.5 The SFRA should be used to inform the Sustainability Appraisal (incorporating the SEA Directive) of the Local Development Documents (LDDs), and will provide the basis from which to apply the Sequential Test and Exception Test in the development allocation and development control process (see Annex D).

E6. Where decision-makers have been unable to allocate all proposed development and infrastructure in accordance with the Sequential Test, taking account of the flood vulnerability category of the intended use, it will be necessary to increase the scope of the SFRA to provide the information necessary for application of the Exception Test.

6.117 Since the original Inquiry consultation, we are not aware that the Environment Agency has been asked to formally comment on the plans and have seen no record of their comments on the scheme posted for public scrutiny – this is surprising given the EA comments in the Ribble Catchment Flood Management Plan 2009. In light of Wyre’s recommendations in the emerging Fylde SFRA 2011 which will form part of the LDF evidence base, QED believe the Inspector will need to establish the weight that can be placed on the emerging Fylde SFRA document and therefore consider whether the sequential test should be strictly applied as per PPS25 appendix D immediately.

6.118 This is a further example of pre-maturity – this site could be at higher relative risk of flooding than other sites identified in the LDF. SFRAs form a key part of and inform Sustainability Appraisals and contribute to the evidence base of Local Development Documents. An increase in risk is also evidenced by the appellant’s decision to raise the floor levels by a further 100mm in the current version of the ES. The EA addresses both these points in its PPS25 factsheet:

“Carrying out Strategic Flood Risk Assessments and undertaking the Sequential Test will help authorities to allocate development sites and prepare policies in the future. We believe that the Sequential Test in its current form is a fundamental principle of spatial use planning, and expect it to be carried out fully.”

“Avoiding risk is a more sustainable and long-term solution than relying on construction of flood defences or local mitigation measures, such as the raising of floor levels.”

6.119 Local history indicates why low lying St Annes will need to take the threat of flooding and the dangers posed from the rising sea levels very seriously. Even without sea level rise storm surges have caused considerable damage and flooding in 1720 (a massive inundation destroyed much of what was a small farming community), 1870, 1896, 1920 and 1927.

6.120 It is QED’s view that development for the long term in the Fylde (and Lytham St Anne’s specifically) should be being directed away from the low lying areas that will be at risk in the future as a result of climate change - this should indicate sites on the higher ground inland should be being allocated in the LDF fully consistent with the sequential approach of PPS25. The same low lying area is rich in wildlife that thrives in such conditions and QED contends that it should be left as such.

Appendix A – Ballam Road, FBC Housing Supply Analysis.

- 1.1. I would reiterate that the figures put forward were based on evidence and circumstances in 2005 / 2006. Since then a significant amount of work has been undertaken to further develop the evidence base on housing issues at the local level, for example the completion of the Strategic Housing Market Assessment and Strategic Land Availability Assessment along with a series of issues relating to infrastructure constraints emerging from the Infrastructure Delivery Plan. The wider economic climate has also changed significantly. As a consequence, it is highly likely that in light of those changes, Fylde Borough Council will take a different view on housing through the LDF and as such the weight to be attached to historic figures should be reduced.
- 1.2. The RSS identifies a plan period requirement of 5,500 dwellings, which equates to 306 dwellings per annum when split evenly across the plan period. The figures in the table below are based upon those identified in the Housing Land Availability Schedule (March 2011) and represent the current housing supply position as of 31st March 2011.¹

A	North West RSS Requirement 2003-2021	5,500 dwellings
B	Net Housing completions 2003-2010	1,684 dwellings
C	North West RSS requirement 2010 – 2021 (A – B)	3,816 dwellings
D	Number of years remaining in the North West Plan	10 years
E	Annual requirement (C divided by D)	382 dwellings
F	Five year requirement (E x 5)	1,910 dwellings

- 1.3. Based on the RSS average completion rate of 306 dwellings per annum, from a plan base date of 2003, there has been a shortfall of 764 dwellings delivered across the period to March 2011.
- 1.4. Factoring in this shortfall over the remaining RSS period would have required 382 dwellings to be completed per annum. This would have been equivalent to 1910 dwellings over the next five years.
- 1.5. The table below provides a breakdown of Fylde’s deliverable housing land supply (in terms of outstanding planning permissions) as of 31st March 2011.

Supply	Dwellings under construction (brownfield in brackets)	Dwellings not started (brownfield in brackets)
Lytham St Annes		
Large sites permissions	60 (60)	355 (355)
Small sites permissions	40 (34)	103 (103)
Freckleton & Warton		
Large sites permissions	0 (0)	1 (0)
Small sites	3 (1)	12 (11)

¹ Core Document 4.4

permissions		
Kirkham & Wesham		
Large sites permissions	131 (118)	41 (41)
Small sites permissions	48 (48)	12(10)
Rural Area		
Large sites permissions	3 (2)	130 (115)
Small sites permissions	15 (10)	16 (14)
Total		
	300	670
Total Supply	970 dwellings	
RSS 5 year Supply Requirement	1910 dwellings	
Surplus/deficit	-940 dwellings	
Years Supply (Based on RSS Figure)	2.5 years	

1.6. The Local Planning Authority readily accepts that it is unable to demonstrate a 5 year supply of land based on the annual completion rate set out in the RSS. However, this was the situation at the time of determination of the appeals at Queensway and Mowbreck Lane where the Secretary of State considered that less weight should be given to the failure of the Council to provide a 5 year supply of land based on RSS housing targets and greater weight was given to the urban containment policies of the local plan. I see no reason to depart from that approach in the determination of the current appeal.

Appendix B – Demand for affordable homes by area

Extract from Proof of Evidence of Mark Evans (Fylde Borough Council) - Inspectorate Ref: APP/M2325/A/11/2150738/NWF. Aug 2011.

9. Affordable Housing

9.2 Table 6.3 of the Housing Needs and Demand Study Update 2007 identifies the distribution of housing need in different parts of the borough. It showed:

Area	Need	Supply	TOTAL	% of net shortfall	Supply as a % of need
Lytham	264	76	187	33%	29%
St Anne's	261	44	218	38.3%	16.7%
Kirkham / Wesham	89	26	63	11.1%	29.5%
Freckleton / Warton	89	41	48	8.5%	46.2%
Remaining rural	79	27	52	9.2%	33.8%
TOTAL	782	214	568	100%	27.4%

Appendix C - Draft National Planning Policy Framework (NPPF)

Core Principles

The NPPF core principle (p19) states that:

- *“planning should be genuinely plan-led’ and “Plans should provide a practical framework within which decision making can be made with a high degree of certainty and efficiency”*. Commentary: On the plan-led basis alone the application is in conflict with the NPPF. Approving the Queensway application now would be based on presumptions and uncertainty.
- *“Planning policies and decisions should seek to protect and enhance environmental assets in a manner appropriate to their significance”*. Commentary: Lytham Moss has been confirmed as functionally linked to the Ribble and Alt Estuary Special Protection Area (SPA). It is a site of high significance and is acting as part of the SPA. It is one of the most significant sites in Fylde from a biodiversity point of view outside of the SPA and SSSI. At the last Inquiry, LCC accepted that the ecological mitigation plans provided adequate mitigation. Ecological mitigation is not an exact science and by providing adequate mitigation at best, there is no provision to enhance the environmental asset. Instead, it takes a huge gamble with one of Fylde’s best sites for biodiversity. This is a site used by migratory birds in Winter and is a key breeding site for many species of a high conservation value in Summer.
- *“Where practical and consistent with other objectives, allocations of land for development should prefer land of lesser environmental value”*. Commentary: Allocating the Queensway site now would be completely at odds with this principle. The site is one of Fylde’s highest environmental value not just from an ecological point of view, but from an agricultural, countryside and green belt. This site is not likely to be allocated early in the site allocation process and to approve it now would be prejudicial.

Infrastructure requirements

P43 states that *“Infrastructure and development policies should be planned at the same time in the local plan. Any affordable housing and local standards that may be applied to development should be assessed at the plan making stage”*. Fylde had assessed their affordable requirements recently in the Interim Housing policy and concluded an overall need for Fylde of 30% affordable with St Anne’s a priority area and key need.

As per the earlier section relating to PPS3, QED contend that approving this would prejudice the plan making process over the long term and highly likely to result in a significant under-achievement of affordable housing in St Anne’s over the planning period.

P31 states that authorities *“should assess the quality of transport, water, energy, telecommunications, utilities, health, and social care, waste and flood defence infrastructure and its ability to meet forecast demands..* By approving this application now, it would be doing so in the absence of the strategic infrastructure plan and it would prioritise a road which was determined as so low priority that the County Council would not fund the road separately, would not fund the application costs and did not even stop the previous application lapsing in 2007. It would be prioritising the road above all other matters even before they are considered. All of the matters of, for example, schools, utilities, health and social care have been consistently raised by residents time and time again. The local planning authority should be able to plan for all the above and then decide what is contributed from development. In fact, rather than resolving shortfalls in service provision, or maintaining current levels, the impacts of this application would be completely uncertain. It is possible that it may exacerbate existing shortfalls, or create new ones, and leave the planning authority with future problems to solve and with limited options to

solve them. That is not to say that the developer needs to pay for all the services, but rather the local authority needs time to determine its requirements and how best to achieve them.

Given the size and scale of this application, approving this application would be premature and pre-determinate.

Minerals

P32 states that “*Local planning authorities should use the best available information to develop and maintain an understanding of the extent and location of mineral reserves in their areas and assess the projected demand for their use.*”

Lytham Moss was identified as a test site for shale gas drilling along with other sites across the Fylde Coast. The company carrying out the test announced that significant resources were found on the Fylde Coast and that it intended to proceed with plans to extract the gas.

The planning process should take into account the options for this shale gas extraction especially in the light that moving the FCA (ecological mitigation) next to the existing extraction test site location may be in conflict and undermine either the function of the mitigation or the ability to use the site for gas extraction.

Green Belt.

The draft NPPF re-enforces the protection of the green belt, which has been supported by many ministerial statements.

P134 state that the five quoted purposes of the Green Belt are:

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

Both applications (Queensway and the M55 Link Road) are clearly contrary to the stated purposes outlined in the NPPF.

P143 states that LPAs substantial weight should be given to any harm to the Green Belt and ‘very special circumstances’ will not exist unless the harm is “clearly outweighed by other considerations”.

P145 states that local transport infrastructure is permitted which can demonstrate a requirement for a Green Belt location. Clearly, the roads infrastructure of the Queensway application and the M55 Link road *could both or individually be located outside of the green belt. It is a nature of the particularly applications that want the roads in the Green Belt. They do not need to be there. It is eminently feasible, to locate the M55 Link Road (T6) outside the Green Belt and the only requirement for the T5 to be in the Green Belt stems from an less than ideal design compared with the design standards outlined by Lancs CC (See Creating Civilised Streets – Policy and Design Guidance – Feb 2010, LCC and earlier comments relating to).*

Further P145 states that if the local road infrastructure is permitted is must pass further tests in that it must preserve the openness of the Green Belt and should not conflict with the purposes of including land in the Green Belt (i.e. P134).

At the 2009 Queensway Inquiry, the Inspector concluded that the harm was substantial, the development in the Green Belt was inappropriate and openness was impacted.

The key principle outlined in P133 is the Government attaches great importance to Green Belts with the fundamental aim is “to keep land permanently open; the essential characteristics of Green Belts are their openness and their permanence”. As part of the consultation, minister after minister assured the public of the protection for the green belt.

The T6 has now moved from its original alignment (approved in 2002) and has now moved considerably further into the Green Belt. Accordingly, QED contend it should be judged alongside the T5 as inappropriate.

Approving either of the *applications* will impact the openness of the Green Belt, impact the countryside and the impacts will be permanent and irreversible.

Furthermore, Government statements accompanying the published Strategic Environment Assessments in October 2011, state *“The draft National Planning Policy Framework also safeguards valued, national protection for our countryside including Green Belt, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest to protect them from encroachment.”*

Clearly, the Queensway development with its T5 road would involve inappropriate development in the Green Belt and would be contrary to the draft NPPF, as would the altered route of the M55 Link Road application having deviated it away from its saved route.

Natural Environment

P164 states the system should be “protecting valued landscape” and “providing net gains in biodiversity”. P165 states that “Plans should allocate land with the least environmental or amenity value where practical”.

- At the 2009 Inquiry, it was agreed that this site was of significant environment value being functionally linked to the Ribble and Alt Estuary SPA.
- It is a site of high agricultural land value (it would represent one of Fylde’s biggest losses in recent years)
- It is a site of tranquil open countryside which is highly valued to many residents of St Anne’s and across Fylde generally (objections have been received from all over the Fylde Coast).

This is further evidenced by the sheer scale and range of mitigation required.

The Queensway application provides no net gains in biodiversity – this was a statement of common ground and a matter the Inspector concluded did not weigh in favour of the development (IR.P375 and especially when options exist). Instead, it attempts to protect some of what is already there and takes a huge risk with it. Indeed, it was accepted that some species would be disadvantaged including the schedule 1 species, Barn Owl, which would be put at serious risk from the new trunk roads. Other species will be put at risk from impact from disturbance and human activity including predation from cats.

P166 states that authorities *“should set criteria based policies against which proposals for any development on or affecting protected wildlife sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites”*. The site already has several designations of biological heritage sites but, more importantly, is functionally linked to the Ribble and Alt Estuary SPA (and a RAMSAR site)

which is of international importance. The site has internationally and nationally significant numbers of bird species and contains protected species.

Approving the application would be premature and prejudicial to the planning process.

Also, P167 states that authorities should *“take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations or the Local Plan’s growth strategy and where poorer quality land is unavailable or unsuitable”*. Fylde’s LDF process is the place to consider this matter across all of its sites identified in the SHLAA.

This application fails the test on agricultural land.

In a site allocation process using the draft National Planning Framework, QED contend that the natural environment arguments would weigh heavily against allocating this site early or even at all.

P170 states that “Development likely to have a significant effect on sites protected under the Birds and Habitats Directives would not be sustainable under the terms of the presumption in favour of sustainable development.” It was agreed at a statement of common ground that the development, without mitigation, has a likely significant effect on the Ribble and Alt Estuary. There is no test of mitigation in this statement.

The Inspector reported that, “In addition, NE as well as the RSPB and the County Council now consider that, without mitigation, the appeal proposal would be likely to have a significant and adverse effect on features of interest of the SPA (ie Whooper and Bewick’s swans) “

However, P170 makes no reference to mitigation. Para 169 which deals with other designations, clearly considers mitigation as a potential consideration. This has been dropped from the Para 170, with good reason. Housing development on a SPA would not be allowed even if it was mitigatable. Therefore, developing on sites – and taking risks with mitigation – equally is not permissible.

Both these applications would be in contradiction of para 170 of the draft NPPF.

Furthermore, the site is functionally linked to the Ribble and Alt Estuary SPA and on that basis, QED consider that the Secretary of State may consider that as the site is functionally linked to an SPA, its protection should be considered equal to the SPA itself in line with para 170 of the NPPF..

In P173 the draft NPPF, states that “Planning policies and decisions should aim to: identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”. Lytham Moss falls into this category. The area is a tranquil, relatively undisturbed countryside area enjoyed by residents. The Inspector will recognise from the number of objections throughout the appeals the number of residents who have taken the time and trouble to write personal letters in this regard.

P10 Sustainable Development

The Inspector in the 2009 Inquiry made numerous comments relating to the Queensway site, some positive and some negative. He raised a number of issues at the time including:

IR.357 *"I conclude that it would be better design, and more in accord with national advice on integrating new housing areas, for there to be vehicular access from the southwest"*

IR.358 *"On the No 14 bus. However, it too has a circuitous route that outside the site is even less direct than that available to private motorists."*

IR.361 *"Direct vehicular access in the direction of the main built-up area of St Annes falls short of the highest quality of design"*

IR.361 *"It does however, in my judgement, mean that the appeal site is a less satisfactory location for a major housing development than its position next to one of the main settlements in Fylde might suggest."*

IR.327 *"For my part, I have some reservations about the appellants' assessment. In particular, the site is over 2km from a railway station and the train service, though relatively frequent, is otherwise of a modest branch line nature. In these circumstances, despite the linking bus service, I have doubts about giving the site the highest rating on this count."*

IR.305 *"Inevitably building 1150 houses on the site would greatly change its character and appearance."*

IR.373 *"I do not share the appellants' view that with the (ecology) mitigation proposed there would be a net improvement in nature conservation terms. "*

IR.375 *"However ecological considerations do not, in my judgement, count positively in favour of allowing the appeal. Indeed, I have some sympathy for the argument advanced by QED that, given the choice, it would make sense to avoid building on sites that have nature conservation interest."*

IR.349 *"Such a change (in route) may necessitate two crossings of the new (M55 Link) road if the existing one is to be converted to a bridleway on its existing line. I share some of QED's concerns on this matter; even if appropriately designed crossings could eliminate safety risks, there would be more inconvenience for both drivers and bridleway users than if crossings were avoided."*

IR.422 *"I have also taken into account QED's concerns regarding the effect on the town centre. I accept that the M55 link road (which though not part of the appeal proposal is essential to its full implementation) would make it easier for local residents to access other shopping facilities."*

IR.430 *"Connectivity, flooding, soil, agricultural land quality and proximity to Blackpool Airport are other matters that do not preclude the appeal development but might count against it in a comparison with other sites"*

IR.439 *"The road and the traffic on it would also, in my judgement, injure the visual amenities of this part of the Green Belt. the harm caused to the Green Belt, which by definition is substantial"*

IR.441 *"The development would not be connected to the existing urban area as directly as might be desirable. However, I consider that this is not a sufficient reason to resist the proposal, though it may make it a less appropriate site to develop than its location next to one of the Borough's major settlements might suggest. "*

In relation to matters raised in point IR.327, the Ballam Road Inquiry went further adding *"Although the train service from the nearest station offers two destinations each hour, the rail service is hourly in any of the two directions from the station. While shoppers and recreational*

travellers may be able to change their preferred destinations, many regular journeys would be to a single station for school, college or work. Accordingly, the Council's scoring of this matter is considered to reflect the manner in which the train services would mostly likely be used.". QED understand that the same mistake (i.e. 2 trains per hour instead of 1) was made at the Queensway Inquiry.

NPPF Conclusions

The development raises many concerns and sequentially may compare less well with many sites now identified in the SHLAA.

Local Government Minister Bob Neill recently said, in relation to the changes to the planning system, "We are putting planning powers into the hands of local people to take charge of local housing challenges in a way that makes sense for them while protecting the local countryside and green spaces they value".

"The Government is introducing a stronger locally-led planning system, where local communities decide where development goes and receive benefits from that development through the New Homes Bonus and Community Infrastructure Levy. Communities will also have the power to prevent encroachment on the Green Belt and will benefit from a new special protection for green spaces under the Localism Bill."

"The draft National Planning Policy Framework also safeguards valued, national protection for our countryside including Green Belt"

The place to determine how Fylde's remaining housing requirements should be discharged and the consideration of jobs, growth, infrastructure and the natural environment is via its LDF process. That gives the opportunity to understand and compare harm, make holistic judgements and engage local people whilst providing the opportunity to protect the local countryside and green spaces they value.

Appendix D: List of Attachments

Mowbreck Lane Appeal Report
Cala Homes Appeal Report
Ballam Road Appeal Report
Cornwall Appeal Report
M55 Hub Document 2010
Fylde Council DCC Agenda and Minutes relating to Whitehills Phase 3
LCC Comments on the Queensway application, 2009
LCC 2007 Report – M55 Link Road Southern Section
Creating Civilised Streets – Policy and Design Guidance – Feb 2010, LCC
M55 Link Road – EIA Scoping Opinion
NE Guidance Note on the 3 tests
EA Ribble Catchment Flood Management Plan – Summary Report Dec 2009
Blackpool and Fylde Coast Protection Strategy – August 2011
Draft Fylde Strategic Flood Risk Assessment – November 2011
Fylde Council Principal Housing Officer Commenting on 11/0381 and 11/0357
Fylde Coast Strategic Housing Market Assessment - Summary