



Murphy Group (RO: 1953)

SHLPEIP MATTER 1

Introduction to the Hearings, Legal Compliance,
Procedural Requirements and the Duty to
Cooperate





Murphy Group (RO: 1953)

SHLPEIP MATTER 1

Introduction to the Hearings, Legal Compliance, Procedural Requirements and the Duty to Cooperate

TYPE OF DOCUMENT (VERSION) PUBLIC

PROJECT NO. 62261804

DATE: MAY 2021



Murphy Group (RO: 1953)

SHLPEIP MATTER 1

Introduction to the Hearings, Legal Compliance, Procedural Requirements and the Duty to Cooperate

WSP

8 First Street
Manchester
M15 4RP



WSP.com



QUALITY CONTROL

Issue/revision	First issue	Revision 1	Revision 2	Revision 3
Remarks				
Date	30/4/21	7/5/21		
Prepared by	Matthew Hard MRTPI	Matthew Hard MRTPI		
Signature				
Checked by	Doug Hann MRTPI	Doug Hann MRTPI		
Signature				
Authorised by	Doug Hann MRTPI	Doug Hann MRTPI		
Signature				
Project number	62261804	62261804		
Report number	Hearing Statement Matter 1 – Tuesday 25 May 2021	RO1953 Murphy Group Hearing Statement Matter 1		
File reference				

CONTENTS

1	INTRODUCTION	1
2	QUESTIONS	3
2.1	ISSUE 3: THE SA, ITS CONSIDERATION OF REASONABLE ALTERNATIVES AND PROPOSED MITIGATION MEASURES	3
	13. DOES THE SA MEET STATUTORY AND LEGAL REQUIREMENTS IN RELATION TO THE ASSESSMENT OF REASONABLE ALTERNATIVES?	3
	14. IN LIGHT OF THE ABOVE IS THERE ANY EVIDENCE TO INDICATE THAT THE SA PROCESS DID NOT COMPLY WITH THE RELEVANT REGULATIONS?	3
	16. HAS THE SA INFORMED THE SITE SELECTION PROCESS?	4
	17. IS IT CLEAR HOW THE RELATIVE MERITS AND CONSTRAINTS OF THE SITES HAVE BEEN ASSESSED?	6
	18. HOW HAS THIS ASSESSMENT INFORMED DECISIONS TO ALLOCATE, SAFEGUARD OR OMIT SITES?	8
	19. DOES THE PLAN INCLUDE ADEQUATE MITIGATION MEASURES TO ADDRESS THESE?	9
2.2	ISSUE 4: HABITATS REGULATIONS ASSESSMENT (HRA)	10
	21. WILL THE MITIGATION MEASURES PROPOSED WITHIN THE HRA ENSURE THAT THERE WILL BE NO SIGNIFICANT EFFECTS ON THE INTEGRITY OF SITES OF EUROPEAN IMPORTANCE?	10

FIGURES

Figure 1 - Extract from SD005 Table 6.2	4
---	---

APPENDICES - please see separate files

APPENDIX A



INTRODUCTION TO MURPHY GROUP

APPENDIX B

PLAN OF LANDHOLDING

APPENDIX C

LANDSCAPE AND GREEN BELT STUDY

APPENDIX D

TRANSPORT REVIEW NOTE

APPENDIX E

CONCEPT MASTERPLAN

APPENDIX F

MINING TECHNICAL NOTE

APPENDIX G

ECOLOGICAL APPRAISAL

1

INTRODUCTION

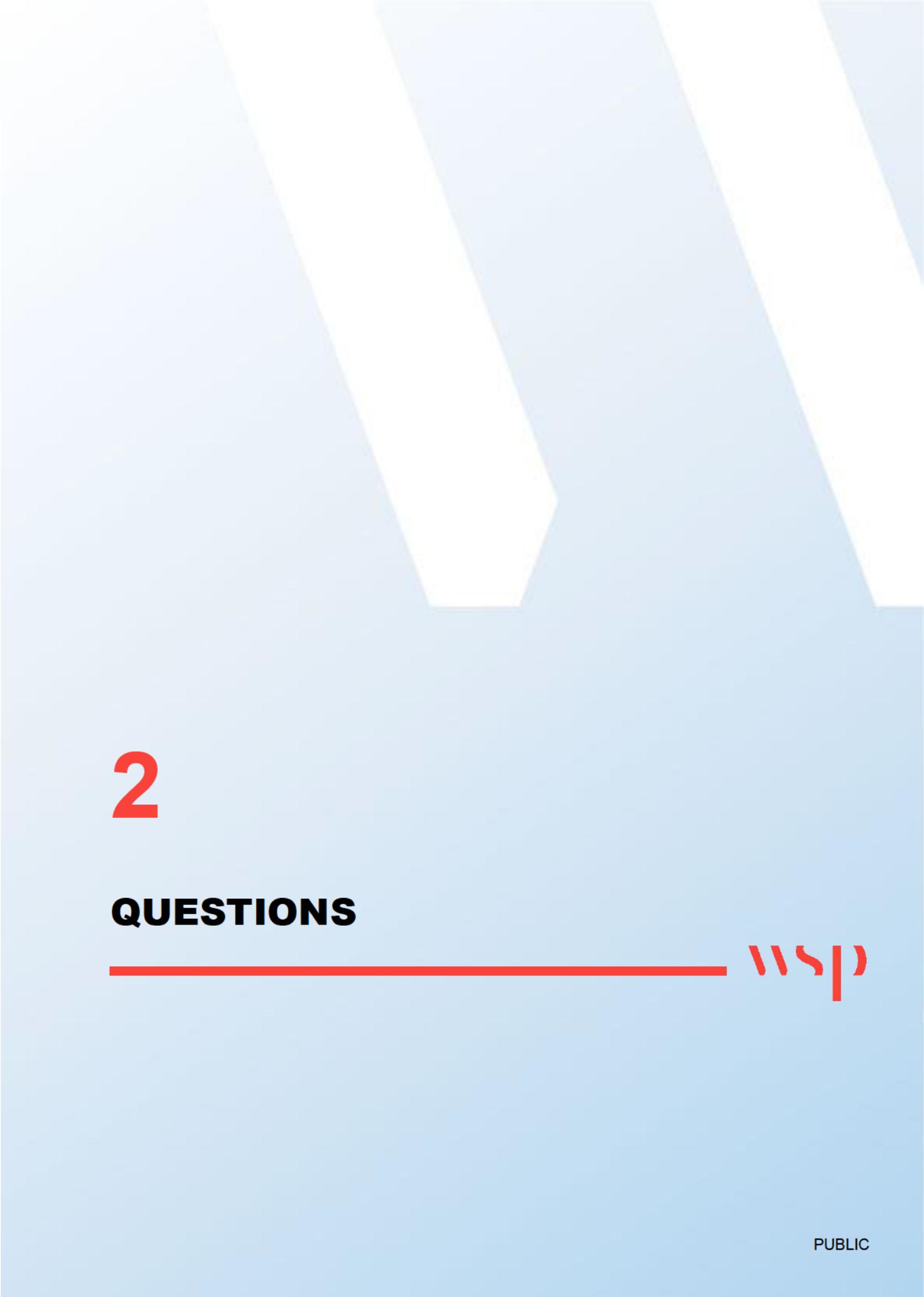


1 INTRODUCTION

- 1.1.1. WSP¹ has prepared this Hearing Statement on behalf of Respondent ID RO 1953: Murphy Group². An introduction to Murphy Group is provided for context in **Appendix A**. A plan showing its land holdings in St Helens and adjacent to St Helens is provided for context in **Appendix B**.
- 1.1.2. The Regulation 19 representations are contained from page 222 onwards in SD00821. The representations sought to re-designate 1HS (owned by Murphy Group) as an additional housing allocation.
- 1.1.3. This Hearing Statement responds to some of the Inspectors' questions relating to Matter 1.
- 1.1.4. The answers below conclude that:
- The plan is not justified as the SA has not satisfactorily informed the site selection process of HS1;
 - The plan is not consistent with National Planning Policy Framework ("NPPF") 138 as its consideration of land to release from the Green Belt has not given sufficient consideration to land well-served by public transport; and
 - The plan is not effective as it provides insufficient certainty on mitigating likely significant effects; and
 - There are significant inconsistencies within the evidence base when assessing different sites, including false assumptions within the HRA and inaccurate and misleading measurements and false statements within the SA.

¹ Indigo Planning made representations at the Regulation 19 consultation on behalf of Murphy Group. Indigo Planning has since been acquired by and become part of WSP.

² Murphy Group is also known as J Murphy & Sons.



2

QUESTIONS



2 QUESTIONS

2.1 ISSUE 3: THE SA, ITS CONSIDERATION OF REASONABLE ALTERNATIVES AND PROPOSED MITIGATION MEASURES

13. DOES THE SA MEET STATUTORY AND LEGAL REQUIREMENTS IN RELATION TO THE ASSESSMENT OF REASONABLE ALTERNATIVES?

14. IN LIGHT OF THE ABOVE IS THERE ANY EVIDENCE TO INDICATE THAT THE SA PROCESS DID NOT COMPLY WITH THE RELEVANT REGULATIONS?

- 2.1.1. Part 4 Regulation 16(4)(e) requires “the reasons for choosing the plan or programme in the light of the other reasonable alternatives dealt with” to be stated.
- 2.1.2. In its current guise, the SA is inadequate in this regard. The report inadequately identifies, describes and evaluates the likely significant effects on the environment of reasonable alternatives such as different or additional land being allocated.

16. HAS THE SA INFORMED THE SITE SELECTION PROCESS?

- 2.1.3. Yes, however not in an appropriate manner.
- 2.1.4. SD20 explains the process of the Green Belt review undertaken in 2018. Stage 2B of the Green Belt review considered 69 parcels ranking them as good, medium and limited development potential. It considers constraints and transport accessibility, ownership and viability. Stages 3A and 3B then attributed numerical scores to both the stage 1B and 2B assessments to rank the remaining Green Belt parcels. Chapter 6 of SD20 then resulted in recommendations. Paragraph 2.59 of SD20 makes passing reference to the SA and HRA as “also” testing the suitability of allocating or safeguarded sites. SD006 is the December 2018 HRA. Prior to the 2019 SA the previous SA was in 2016 Preferred Options SA Interim SA (LP1012.) at the Preferred Options stage.
- 2.1.5. The SA (SD005) was published in January 2019 well after SD20.
- 2.1.6. It is evident that SD20 was the primary tool for selecting sites.
- 2.1.7. All sites which made it to stage 2B of the GB Review were assessed as reasonable alternatives in that study. Each site was assessed against site appraisal criteria. GBP025a and GBP025b appear in Table 6.2 Housing Site Options on page 39.

Site ID	GB ref	Site Name	Broad Location	Status	SA1. Protect and enhance biodiversity	SA2. Protect and improve land quality	SA3. Improve air quality	SA4. Sustainably manage water resources	SA5. Mitigate against climate change	SA6. Minimise the risk of flooding	SA7a. Landscape sensitivity	SA7b. Distance to prominent ridge/line	SA8. Protect and enhance cultural heritage	SA9a. Access to open space and green space	SA9b. Public Rights of Way	SA12a. Access to GP	SA12b. Access to Leisure	SA13a. Access to Primary School	SA13b. Access to Secondary School	SA14. Access to employment opportunities	SA15. Support local economy	SA16. Access to housing	SA17. Reduce poverty and social exclusion	SA19. Reduce need to travel	SA20. Access to services
21	GBP_025_a	Land west of Garswood	Garswood	Site 1HS																					
22	GBP_025_b	Land west of Garswood	Garwood	Site 1HA																					

Figure 1 - Extract from SD005 Table 6.2

- 2.1.8. The different scorings for the two parcels include:
 - Improve air quality: 25_b scored grey and 25_a scored amber despite being equidistant to an AQMA;
 - Access to primary school: 21_a scored grey despite the proximity to a school depending on how it is measured; a walk from the edge of site 25_a at the northern end of PROW 935 to the front gate of the school (via Hawthorn Avenue and Lilac Avenue) is 396m, within the 400m threshold for positive effects under Appendix II of SD005; and
 - Access to housing: 25_b is deemed to be able to deliver affordable homes within five years (green); 25_a scored amber despite there being no amber option within the methodology on page 149 of SD00.
- 2.1.9. However, paragraphs 6.1.5, 6.1.6 and 6.1.11 of SD005 show that reasonable alternatives were assessed based on their Green Belt review status, not on their sustainability appraisal status.
- 2.1.10. In assessing GBP025a and GBP025b (page 47 of SD005), the two factors in the rationale for allocating one and safeguarding the other is one site extending marginally further west than the other, and one being judged not a “natural extension” to Garswood “at this time.” Nowhere is there



any evidence to determine what is a natural extension and why it is relevant. Nor is there any evidence that a marginally further west site boundary would have greater impact on the remaining Green Belt, harm the sustainability credentials of the plan, or give any further reason not to be allocated. This Statement is accompanied by an Assessment written by Hankinson Duckett Associates, provided in **Appendix C**.

2.1.11. When experiencing the locale, the approximate further 40m westward extent of GB025a's site boundary compared with GB025b would be imperceptible. Indeed, when travelling along Garswood Road (or when viewing the area from further afield), the 40m westward extent would be far less noticeable than the gaps in frontages between the various pockets of development to the east of Garswood Road.

2.1.12. Therefore, the plan's decision to safeguard as opposed to allocate GBP_025_a / 1HS is not currently justified.

17. IS IT CLEAR HOW THE RELATIVE MERITS AND CONSTRAINTS OF THE SITES HAVE BEEN ASSESSED?

- 2.1.13. No.
- 2.1.14. For example, despite acknowledging land ownership in SD20, there has been no regard in the evidence base as to the potential for sites to a) provide for biodiversity net gain or b) provide for compensatory improvements to remaining Green Belt as required by NPPF paragraph 138. The ability of the owner of 1HS to achieve 10% biodiversity net gain weighs in favour of allocating 1HS to meet any shortcoming in land allocated for housing. SD005 considered both GB25_a and GB25_b as being unlikely to have significant effects on biodiversity, based on their distance from protected sites; in the case of GB25_a being able to achieve biodiversity net gain and environmental improvements would actually have significant positive effects.
- 2.1.15. The ability of the landowner of 1HS to create new rights of way that connect with existing PROW networks will improve accessibility of remaining Green Belt land, as well as provide wellbeing, air quality and health benefits to the local population. This all weigh in favour of allocating 1HS to meet any shortcoming in land allocated for housing.
- 2.1.16. The ability of the landowner of 1HS to improve the environmental quality of the Down Brook wildlife corridor, weighs in favour of allocating 1HS to meet any shortcoming in land allocated for housing.
- 2.1.17. SD005.3 uses distance from an AQMA as one of its matters (SA3 “to improve air quality in St Helens”) – see electronic page 42 for GBP_025_a. However simplistic measurements do not give a fulsome analysis of the likelihood of significant effects. 1HS and 1HA are separated from each other by the width of one road; the likely generated vehicular trips through the nearest AQMA would not depend solely on proximity, especially as the AQMA is along the M6 which can only be accessed at certain junctions. The distance is also measured from the closest site boundary, which in the case of 1HS is the eastern corner of an existing playing field, and not the closest edge of developable area, which has resulted in different gradings against this matter of two extremely similar sites.
- 2.1.18. SD005.3 gives the proximity of 1HA to a primary school as 364m, compared with 453m for 1HS. Notwithstanding how precisely these are measured (eg the route of the measurement, and from which part of the site; a route from the northern boundary of the site to Rectory Road School via Hawthorn Avenue and Lilac Avenue measures 396m), it is not clear how 364m equates to being likely to promote positive effects and 453m means significant effects are not likely – and a consequential different grading that has influenced the decision on what land to allocate and what land to safeguard. **Appendix D** to this Statement (provided by Transport Planning Practice) shows that two primary schools are within reasonable walking distance of the site and positive effects such as allowing pupils to walk to school would be likely.
- 2.1.19. There are other inconsistencies in the evidence which highlight further that it is not clear how sites have been assessed, for example page 57 of SD0021 notes an aqueduct passes under GBP025a but ignores that it continues to pass under GBP025b.
- 2.1.20. Page 43 of SD005.3 states that GB_025_a is more than 1.6km from open space and the site includes a PROW. This ignores the fact that the parcel includes existing playing fields (and MUGA) that are protected by policy and are publicly owned. The SA deems this to be a potential negative effect that could be mitigated against, whereas development adjacent to existing open space, and close to PROW networks - such as the potential development of the remainder of this parcel - will



have positive sustainability effects; mitigation is only required to safeguard the PROW which will be done through masterplanning (and a further safety net is the high hurdle to any modification to PROWs).

2.1.21. Finally, the plan has little regard to NPPF paragraph 138. There is little or no evidence to show that land well-served by public transport has been given first (or second) consideration within the plan-making process.

2.1.22. Therefore, the plan plan's decision to safeguard as opposed to allocate GBP_025_a / 1HS is not currently justified and is not consistent with national policy.

18. HOW HAS THIS ASSESSMENT INFORMED DECISIONS TO ALLOCATE, SAFEGUARD OR OMIT SITES?

- 2.1.23. The SA takes the findings of the GB review and applies a red/amber/green test based on various criteria. However, it is not clear how the LPA have taken these findings into account along with other plan objectives and then decided what land to allocate, safeguard or omit. SD005 Table 6.3 which is called “Outline reasons for the allocation, safeguarding or discarding of sites (housing and employment) refers to the GB Review 2018 for the rationale, Table 6.2 refers to the SA Appendix A SD005.3.
- 2.1.24. The Technical Appendix A does not apply the methodology or assessment equally. For example, GBP019A is deemed likely to have positive effects (a green colour) against SA16 because it can deliver 260 units in 15 years (with no mention of affordable housing); GB025A is deemed to only be ‘amber’ for two reasons – the mine shafts potentially reducing capacity and the site only being able to deliver homes after 15 years. This ignores that the mine shafts can be avoided within a masterplan – see **Appendix E** to this Statement for the Masterplan and **Appendix F** for the technical note. It also ignores that there is no reason for the site not to be developed in the plan period.
- 2.1.25. We explain above further inconsistencies in how sites are assessed, with consequential **unjustified** decisions on which land to allocate and which to safeguard, for example with the red/amber/green gradings based purely on proximity to an AQMA rather than consideration of what effects are likely, and mismeasurements of distances to features like open space.

19. DOES THE PLAN INCLUDE ADEQUATE MITIGATION MEASURES TO ADDRESS THESE?

- 2.1.26. No.
- 2.1.27. For example, SD005.3 considers that GBP_019_A has potentially negative effects that could be mitigated against matter SA2 (land quality). The site is 93% Grade 1 ALV. There is no explanation how the loss of 12.25ha of Grade 1 ALV can be mitigated. Meanwhile, GBP_025_A is demonstrably land of lower quality (Grade 3) and has a similar conclusion to GBP_019_A.
- 2.1.28. Neither the GB Review nor the plan gives adequate consideration to the potential for compensatory improvements to the environmental quality and accessibility of remaining Green Belt land to offset for the loss of Green Belt land. The need for such compensatory improvements should have been taken into account in assessing what land to allocate for housing within the plan period. Situations where the landowner / site promoter controls further land beyond the site boundary that can be used for compensatory improvements should have influenced the decision-making as this should give clear opportunity for achieving offsets in accordance with the NPPF 138. Nor should such potential offsets be limited to Green Belt land within the administrative boundaries of St Helens. The failure to take this into account means the decision to safeguard HS1 was flawed and neither justified nor effective.
- 2.1.29. **The plan is therefore neither justified nor effective.**



2.2 ISSUE 4: HABITATS REGULATIONS ASSESSMENT (HRA)

21. WILL THE MITIGATION MEASURES PROPOSED WITHIN THE HRA ENSURE THAT THERE WILL BE NO SIGNIFICANT EFFECTS ON THE INTEGRITY OF SITES OF EUROPEAN IMPORTANCE?

- 2.2.1. Yes.
- 2.2.2. However, the HRA contains flaws in its evidence that have been repeated in the Green Belt Assessment and in the selection of sites for allocation.
- 2.2.3. Page 88 of SD006 says that there will be likely significant effects arising from 1HS because it is not possible to determine if the site is suitable for pink-footed geese and other SPA birds. Yet adjacent site 1HA, which has very similar characteristics, is deemed to have no likely significant effects in this regard.
- 2.2.4. **Appendix G** provides evidence from Hankinson Duckett Associates to show there is no likely significant effect in this regard – it is unlikely to be a habitat for pin-footed geese.

Appendix A

INTRODUCTION TO MURPHY GROUP



Appendix B

PLAN OF LANDHOLDING



Appendix C

LANDSCAPE AND GREEN BELT STUDY



Appendix D

TRANSPORT REVIEW NOTE



Appendix E

CONCEPT MASTERPLAN



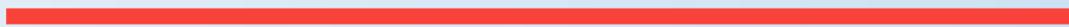
Appendix F

MINING TECHNICAL NOTE



Appendix G

ECOLOGICAL APPRAISAL





8 First Street
Manchester
M15 4RP

wsp.com

PUBLIC