



# Report to the Secretary of State for Transport

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**HIGHWAYS ACT 1980**

**ACQUISITION OF LAND ACT 1981**

**THE WARWICKSHIRE COUNTY COUNCIL**

**(A4071 RUGBY WESTERN RELIEF ROAD) (SIDE ROADS) ORDER 2002**

**AND**

**THE WARWICKSHIRE COUNTY COUNCIL**

**(A4071 RUGBY WESTERN RELIEF ROAD) COMPULSORY PURCHASE ORDER 2002**

Dates of Reopened Inquiries: 15 to 18 March, 18 to 20 April and 10 May 2005

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## CONTENTS

	Page No
1. PREAMBLE	2
2. PROCEDURAL SUBMISSIONS	3
3. DESCRIPTION OF THE ROUTE AND ITS SURROUNDINGS	4
4. THE CASE FOR THE WARWICKSHIRE COUNTY COUNCIL	5
Background	5
Planning Policy	6
<i>Review of Rugby Local Plan</i>	6
<i>West Midlands Regional Spatial Strategy (RSS11)</i>	6
<i>Milton Keynes and South Midlands Sub-Regional Spatial Strategy (MKSM SRSS)</i>	7
Scheme Funding	7
Scheme Timetable	7
Traffic	8
Economic Assessment	8
Partial or Phased Scheme Construction	9
<i>Planning Permission</i>	9
<i>Traffic Disbenefits of Northern Section Alone</i>	9
<i>The October 2000 Scheme</i>	11
Funding Constraints Affecting Phased or Alternative Schemes	11
<i>Funding of the Northern Section Alone</i>	12
<i>Funding of the Northern Section and Cawston Link</i>	13
<i>Summary of Funding Constraints</i>	13
Need for the Potford's Dam Link	13
<i>Traffic Considerations</i>	14
<i>Accidents</i>	14
<i>Air Quality</i>	15
<i>Funding</i>	15
<i>Cawston Grange Drive as an Alternative to the PDL</i>	15
Potford's Dam Link Design	17
<i>Capacity</i>	17
<i>Safety</i>	18
<i>Mr Alexander's Alternative Alignment</i>	19
<i>Cost</i>	19
<i>Safety</i>	19
<i>Scheme Delay</i>	20
Potential Effects upon Badgers	20
Need to Retain Disused Railway	22
Use of Dismantled Railway as a Walking/Cycling Track	23
Consequences of Utilising Dismantled Railway for the WRR	24
<i>Engineering Constraints</i>	24
<i>Cost and Value for Money</i>	24
<i>Delay</i>	25
<i>Impact on Landscape</i>	26
<i>Vegetation Loss</i>	26
<i>Visual Impact</i>	27
<i>Visual Impact on Lodge Farm</i>	28
<i>Ecology</i>	28
<i>Mr Bragg's variation of the Railway Alternative</i>	29
<i>CPRE's Proposed Railway Alternative (Utilising Cawston grange Drive)</i>	30
Bilton Lane	30
Footpath R126 Underpass	31
Footway/Cycleway Arrangement	31
Balancing Pond	32
Mitigation of Environmental Impact on Lodge Farm	32
Mitigation Land for Badgers and Newts	33

	<b>Other Matters Raised by Objectors</b>	34
	<i>Objection by Network Rail</i>	34
	<i>Objection by Railway paths Ltd</i>	34
	<i>Implications of Published Scheme for Green Belt interests</i>	34
	<i>Objection by Mrs Pallikaropoulos</i>	34
	<i>Noise Impact on Lawford Fields Farm</i>	35
	<i>Noise Impact on Henry Hyde School</i>	35
	<i>Drainage</i>	35
<b>5.</b>	<b>THE CASES FOR THE SUPPORTERS</b>	35
	5.1 The Rugby Chamber of Commerce	35
	5.2 Mr R Nash	35
	Written Representations of Support	36
	5.3 The Federation of Small Businesses and the Freight Haulage Association	36
	5.5 Railway Paths Ltd and Sustrans	36
	5.6 The Cawston Consortium	36
	5.6 Mr Andy King, MP	36
	5.7 Other Representations	37
<b>6.</b>	<b>THE CASES FOR THE STATUTORY OBJECTORS</b>	37
	6.1 Mr S Alexander, of Potford's Dam Farm	37
	<i>Need for Potford's Dam Link</i>	38
	<i>General Alignment of the Potford's Dam Link</i>	38
	<i>Potford's Dam Link Road Design</i>	38
	<i>Design Standards</i>	38
	<i>Mr Alexander's Alternative Alignment</i>	40
	<i>Need to retain railway</i>	41
	<i>Increased Cost and Delay</i>	41
	6.2 Joint Submission by Mr J L Martin & Mrs D C Martin and Mr M J Martin and by Mr A & Mrs D Mitchell	42
	<i>Need for the Potford's Dam Link v Cawston Grange Drive         Badgers</i>	42
	<i>Possible Reopening of Railway</i>	43
	<i>Increased Cost and Delay</i>	43
	<i>S106 Developer Contributions</i>	44
	<i>Transparency</i>	45
	<i>Bilton Lane</i>	45
	<i>Retention of Underpass for Footpath R126</i>	45
	<i>Cycleway/Footway</i>	45
	<i>Landscaping and Balancing Pond at Chainage 1900 to 2080</i>	45
	<i>Mitigation Land for Newts and Badgers</i>	45
	6.3 Network Rail	46
<b>7.</b>	<b>THE CASES FOR THE NON-STATUTORY OBJECTORS</b>	46
	7.1 CPRE, Warwickshire Branch	46
	<i>Need for Potford's Dam Link or Cawston Grange Drive</i>	46
	<i>Planning Permission</i>	46
	<i>Bilton Bypass</i>	48
	<i>Potential Effect on Badgers</i>	48
	<i>Need for Retention of Railway Track Bed for Reopening</i>	48
	<i>Use of Dismantled Railway as a Walking/Cycling Track</i>	49
	<i>Increased Cost and Delay</i>	49
	7.2 Objection by Mr D Bragg, of 'Gillings', Bilton Lane	49
	<i>Need for Potford's Dam Link</i>	49
	<i>Potford's Dam Link Design</i>	50
	<i>Route Alignment</i>	50
	<i>Impact on the Landscape</i>	50
	<i>Badgers</i>	50
	<i>Need to Retain Disused Railway</i>	51
	<i>Mr Bragg's Variant of the Railway Alternative</i>	51
	<i>Cost and Delay</i>	52
	<i>Bilton Lane Closure</i>	52

<b>Footpath R126 Underpass</b>	52
<b>Balancing Pond at Chainage 1900-2080</b>	53
<b>Mitigation Land for Newts and Badgers</b>	53
<b>7.3 Objection by Mr A M Brown, of Lodge Farm, Bilton Lane</b>	53
<b>Use of Dismantled Railway as a Cycling/Walking Track</b>	53
<b>Footway/Cycleway Arrangement</b>	54
<b>Environmental Impact on Lodge Farm</b>	54
<b>Alternative Alignment/Underpass for Footpath R126</b>	55
<b>Impact on Great Crested Newts</b>	55
<b>Human Rights</b>	56
<b>7.4 Mrs L Pallikaropoulos</b>	56
<b>Written Representations in Objection to the Published Scheme</b>	56
<b>Long Lawford Parish Council</b>	56
<b>Henry Hinde School</b>	57
<b>Other Representations</b>	57
<b>8 THE SUBMISSION OF OTHER INTERESTED PERSONS</b>	57
<b>8.1 Councillor Mrs P Wyatt, of Long Lawford</b>	57
<b>9 CONCLUSIONS</b>	59
<b>Statutory Objections</b>	59
<b>Network Rail</b>	59
<b>Railway Paths Ltd</b>	59
<b>Other Statutory Objectors</b>	59
<b>Planning Policy</b>	60
<b>Funding and Timetable for the Published Scheme</b>	60
<b>Traffic Assessment and Need for the WRR</b>	61
<b>Economic Assessment</b>	61
<b>Financial Consequences of Delay to the Start of the Scheme</b>	62
<b>Potford's Dam Link</b>	65
<b>Question 1a – Is there a pressing need for the PDL or would use of Cawston Grange Drive be an appropriate alternative?</b>	65
<i>Planning Permission</i>	65
<i>Traffic</i>	65
<i>Environmental, Safety and Social Effects</i>	66
<i>Value for Money</i>	67
<i>Funding</i>	68
<i>Bilton Bypass</i>	68
<i>Conclusions regarding the choice between Cawston Grange Drive and the PDL</i>	68
<b>Question 1b – Would the Potford's Dam Link design and created access to Potford's Dam Farm be of an acceptable standard?</b>	69
<b>Route Alignment</b>	71
<b>Question 1c(i) – What would the potential effects of route alignment be upon Badgers?</b>	71
<i>Numbers of setts affected</i>	72
<i>Licences</i>	73
<b>Question 1c(ii) – In considering the alignment, what weight should be placed on the suggested need to retain the dismantled railway?</b>	73
<i>Policy Background</i>	74
<i>Potential Rail Use</i>	74
<b>Question 1c(iii) – In considering the alignment, what weight should be placed on the possible use of the dismantled railway as a walking/cycling track?</b>	75
<b>Question 1c(iv) – What increased cost and delay would be involved with the alternative alignment along the railway?</b>	76
<i>Cost</i>	76
<i>Delay</i>	76
<b>Other Implications of Alignment along the Disused Railway</b>	78
<i>Impact on the Landscape and Green Belt</i>	78
<i>Impact on Ecology</i>	79
<i>Engineering Constraints</i>	80
<b>Other Matters Raised in 2003 Inspector's Report</b>	81
<b>Question 2a – Should Bilton Lane be closed at its junction with the north-west side of the WRR?</b>	81

<b>Question 2b – Should Footpath R126 be retained as an underpass where crossed by the WRR?</b>	81
<b>Question 2c – Should the proposed footway/cycleway immediately to the north-west of Bilton Lane switch from one side of the WRR to the other?</b>	82
<b>Question 2d – Is the land proposed for Landscaping and the Balancing Pond at Chainage 1900-2080 excessive?</b>	83
<b>Question 2e – Would the proposed mitigation of the environmental impact of the WRR on Lodge Farm be sufficient?</b>	83
<b>Question 2f – Would the proposed acquisition of land between chainage 1050 and 1300 for mitigating the effects of the WRR on badgers 1051 and newts be justified?</b>	84
<i>Great Crested Newts</i>	84
<i>Badgers</i>	85
<b>Question 3 - Other Matters relevant to the County Council's proposals or to alternative route proposals</b>	86
<i>Noise Impact on Lawford Fields Farm</i>	86
<i>Noise Impact on Henry Hinde School</i>	86
<i>Impact on water supply to pond at Lodge Farm Pond</i>	86
<i>The Case for a full bypass</i>	86
<i>Flood Protection</i>	86
<i>Air Quality</i>	86
<b>Overall Conclusions</b>	87
<b><i>Potford's Dam Link</i></b>	87
<i>Urgency and Choice of Route</i>	87
<i>Link Design</i>	87
<b><i>Route Alignment</i></b>	88
Effect on badgers	88
Need to Retain Dismantled Railway.	88
Use of Dismantled Railway for Walking/Cycling	88
Cost and Delay Involved in Use of Railway	88
Other Implications of Railway Alignment	89
Overall Conclusions on Alignment	89
<b><i>Other Questions Posed by the Secretary of State</i></b>	89
Bilton Lane	89
Footpath 126 Underpass	89
Footway/Cycleway near Bilton Lane	89
Land for Balancing Pond	89
Mitigation for Lodge Farm	89
Mitigation Land	90
Other Matters	90
<b>The Orders</b>	90
<b>10 RECOMMENDATIONS</b>	91
<b>Appendices:</b>	
A. Appearances	93
B. Terms of Reference	96
C. List of Documents	98
D. d. List of Proofs of Evidence	107

## CASE DETAILS

These Orders are known as:

- a. **THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD) (SIDE ROADS) ORDER 2002** (hereinafter "the SRO"). It was made under sections 14 and 125 of the Highways Act 1980.
  - b. **THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD) COMPULSORY PURCHASE ORDER 2002** (hereinafter "the CPO"). It was made under sections 239, 240, 246 and 250 of the Highways Act 1980 and Schedule 2 to the Acquisition of Land Act 1981.
- Both Orders are dated 8 October 2002.
  - The Warwickshire County Council has submitted the Orders for confirmation to the Secretary of State for Transport.
  - The purpose of the Orders is to enable the Rugby Western Relief Road (the WRR) to be constructed so that the A4071 can bypass the centre of Rugby.
  - If confirmed, the SRO would authorise the Warwickshire County Council to improve and stop up lengths of highway, construct new highways, and to stop-up and/or provide new means of access to premises
  - If confirmed, the CPO would, in pursuance of the SRO, authorise the Warwickshire County Council to purchase compulsorily land and rights over land for the purposes of:
    - a. constructing a highway and improving highways for the WRR between the A4071 adjacent to Potford's Dam Farm and the junction of Newbold Road with the A426 Leicester Road;
    - b. improving or constructing highways in the vicinity of the WRR in pursuance of the SRO;
    - c. providing land for new means of access to premises in pursuance of the SRO;
    - d. using land in connection with the above works; and
    - e. mitigating the adverse effects that the existence or use of the highways proposed to be constructed or improved would have on their surroundings.

**Summary of Recommendations: I recommend that, subject to modification, the Orders be confirmed.**

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## 1 PREAMBLE

- 1.1 The earlier sessions of these public local inquiries into the WRR scheme were held by Mr Tom Millington between 29 April and 2 May 2003. This report should be read in conjunction with his report, which can be found at Document 101.
- 1.2 Mr Millington concluded that, although the need for a WRR for Rugby is not an issue, he was not convinced that the southernmost section, known as the Potford's Dam Link (PDL), had been adequately justified by the County Council or that that section could not realistically be provided along the dismantled railway line. He recommended that the Orders be confirmed only in respect of that part of the WRR extending between Leicester Road (A426) at the Avon Mill roundabout and the south side of the proposed junction between the WRR and Lawford Road (A428).
- 1.3 The Department for Transport (DfT), in its "interim letter" [Document 201a], informed the County Council that the Secretary of State was minded to accept the Inspector's recommendation that the Orders be confirmed only in part but asked whether the County Council would be disposed to proceed with the WRR without that section extending from the improved A428 Lawford Road to Potford's Dam Farm. In addition to agreeing with the Inspector that the evidence submitted did not support a strategic highway case for the proposed PDL south of Cawston, the Secretary of State also agreed that the alternative route along the line of the dismantled railway and incorporating use of the Cawston primary distributor road (Cawston Grange Drive) was worthy of further investigation.
- 1.4 The County Council has advised the Secretary of State that it would not seek to proceed separately with the northern section only. It has submitted further reasons, and what it considers justification, for the Orders route in its entirety, rather than using an alternative route along the dismantled railway line. In appointing me to re-open the inquiries, the Secretary of State has asked that I obtain further information and consider further submissions on these and a number of other matters. My Terms of Reference, as published in the Inquiries Notice, are set out at Appendix B to this report.
- 1.5 The five statutory objections (by the Martin family, Mr & Mrs Mitchell, Mr S Alexander, Network Rail and Railway Paths Ltd) and four non-statutory objections before Mr Millington were still outstanding at the recommencement of the inquiries. Before reopening the inquiries, I had also received a number of written representations, 11 respondents being broadly in support of Mr Millington's doubts about the scheme and 22 objecting to his conclusions. Three statutory and six non-statutory objectors appeared, or were represented, at the reopened inquiries.
- 1.6 The main grounds of objection are set out at paragraph 1.3 of Mr Millington's report.
- 1.7 It was necessary to adjourn the inquiries twice: once because of the non-availability of advocates for the County Council (the Council had not yet completed the submission of its evidence) and the second time

because of the need for the County Council to examine further the implications of the objector's alternative proposal for an alignment along the line of the disused railway. The County Council confirmed at the reopened inquiries that it had complied with all the required statutory formalities.

- 1.8 In reopening the inquiries, I pointed out that these were not new inquiries but a continuation of the ones held in April and May 2003. I had read Mr Millington's report and the supporting documentation very carefully. Except insofar as it was necessary briefly to set the scene for consideration of the issues before me, it was not therefore necessary to rehearse again the evidence submitted to him. For the most part, it would be quite sufficient merely to refer to evidence and documents submitted to him and to take them as read. I was concerned primarily with any new evidence which bore on the questions posed by the Secretary of State.
- 1.9 In addition to an unaccompanied visit the day before the inquiries reopened, I carried out an inspection of the sites of both the published scheme and the alternative railway route on 15 April, accompanied by representatives of the County Council and the objectors.
- 1.10 Throughout the inquiries, RMC Aggregates was referred to by the name of its local predecessor, "Rugby Cement", the title I mainly use in this report, although some documents include the abbreviation "RMC" in their titles.
- 1.11 This report should be read in conjunction with Mr Millington's report. It contains the gist of the cases presented to the reopened inquiries and my conclusions and recommendations. In the interests of brevity, I have not repeated the evidence submitted to him (except where necessary to set new evidence in context) but merely refer to paragraphs in his report where appropriate, using his initials as a prefix (eg, TM 7.63).
- 1.12 Lists of inquiry appearances and documents submitted to the reopened inquiries are attached. Documents referred to with numbers below 100 are those submitted to Mr Millington and listed in his report.

## **2 PROCEDURAL SUBMISSIONS**

- 2.1 The Secretary of State should be aware that, at the start of the reopened inquiries, Mr Mark Sullivan, of CPRE, complained that the proofs of evidence submitted by the County Council went beyond the specific matters listed in the statutory notice of reopening [Document 201b], citing Rule 26(5)(a) of the Highways Inquiries Procedures Rules 1994 which limit reopened inquiries to the listed matters. In particular, he drew attention to the Council's consideration of the effect of S106 agreements on scheme funding and the case for completing the WRR scheme in three phases. My ruling was that the matters raised by the County Council were all relevant, either to the specific matters on which I had been asked to obtain further information or lay within my discretion under Clause (3) of the notice to consider other matters relevant to its proposals for the WRR

or to alternative routes which had been suggested. The exchange of correspondence between Mr Sullivan and the Planning Inspectorate is at Documents 209a and 209b [see also 7.1.2, 7.1.19 and 9.26 below].

- 2.2 The Secretary of State should also be aware that, due to Mr Sullivan failing to arrive for the final day of the inquiries until shortly before the County Council finished its closing submission, I felt unable to hear his own closing statement. However, in order that CPRE should not be disadvantaged, I invited Mr Sullivan to submit his statement to the Secretary of State as a post-inquiries submission so that the Minister could take it into account in reaching his decision.
- 2.3 A number of objectors complained about the late receipt of documents from the County Council and about the Council's lack of transparency in releasing information to them (see 6.1.2, 6.2.18-6.2.19 below). I have much sympathy with their concerns and share Mr Millington's unease [TM 7.146, 7.163] about transparency on the part of the County Council. However, my offers of adjournments to give the objectors more time to consider evidence were not taken up and I conclude that, in the event, their interests were not prejudiced.

### **3 DESCRIPTION OF THE ROUTE AND ITS SURROUNDINGS**

- 3.1 The proposed WRR would be some 6.3 km long. A brief description of the route and its surroundings can be found at TM 3.1-3.13.
- 3.2 Like Mr Millington, I refer to that section of the published scheme from its northern end to its junction with Lawford Road as the 'Northern Section', the section between Lawford Road and the proposed Cawston Roundabout as the 'Cawston Link' and the section between the Cawston Roundabout and the southern end of the scheme as the 'Potford's Dam Link' (PDL). The Cawston Link and PDL together are referred to as the 'Countryside Section' (the Northern Section being essentially urban in nature).
- 3.3 In the context of evidence submitted to the reopened inquiries, the only observations I would add to Mr Millington's site description are that
  - during my site inspections, there was little evidence of either Footpath R126 (or R127, which it crosses just to the north of the proposed WRR) being used, and
  - the published route would cut across the crown of the field from which, because of its slope, water supplying the pond within the Lodge Farm property is likely to come.

## 4 THE CASE FOR THE WARWICKSHIRE COUNTY COUNCIL

The material points are:

### Background

- 4.1 A description of the scheme and the planning background can be found at TM 4.1-4.25.
- 4.2 The scheme is identified in both the Warwickshire Structure Plan and the Local Transport Plan. It is an integral part of the Rugby Local Plan and is essential to support the land use of four developments (Cawston, Coton, Swift Valley and Malpass Farm) contained in that plan. Two of these developments (Malpass Farm and Cawston) would gain access directly from the WRR.
- 4.3 The WRR would improve traffic movement in the north-south direction and provide links between housing and employment sites, avoiding the town centre and thus reducing the impact of traffic on radial and town centre routes. The Local Plan states that, for these reasons, the road should be built in a single scheme [Document 12, para 7.22].
- 4.4 Following the Secretary of State's interim decision, the Rugby Area Committee and the Cabinet considered two reports [Document 202f and Document 203a(iv)]. These informed members:
  - That the northern section had positive economic benefits and some traffic benefits but also significant disbenefits.
  - That the County Council's ability to fund the Northern Section built in isolation was in doubt (it has since been established that it would be unlikely to be possible [see 4.36 below]).
- 4.5 Members were particularly concerned about:
  - the disbenefits for a number of roads,
  - the impact on Cawston Grange Drive,
  - the uncertain prospects for later construction of the Potford's Dam Link (PDL),
  - the ecological impacts of an alternative alignment on or close to the railway,
  - the strong community support, especially within Cawston Grange, for construction of the full scheme, and
  - the need to preserve the disused railway for potential future use.
- 4.6 Having considered that the balance of all the available evidence demonstrated convincingly that the best course of action would be not to build the Northern Section in isolation but to build the entire WRR along the route proposed by the Orders, the Cabinet decided to urge the Secretary of State to confirm the Orders as put before him.

## Planning Policy

- 4.7 The County Council's evidence submitted to the 2003 inquiries concerning the policies contained in the approved Rugby Borough and Warwickshire Structure Plans can be found at TM 7.7 – 4.16. However, since then:
- the First Deposit version of the Rugby Borough Local Plan review has been published,
  - the Regional Planning Guidance (RPG11 - now RSS11) has been issued (June 2004), and
  - the Milton Keynes and South Midlands Sub-Regional Spatial Strategy has been issued.

### ***Review of Rugby Local Plan***

- 4.8 The First Deposit Plan [Document 123], published in May 2004, contains a policy (T9) covering the WRR that safeguards a route for the WRR, maintaining the corridor as in the Adopted Local Plan, but does not include the Cawston Grange Drive link to the Cawston Roundabout. It therefore continues to be the policy of the Borough Council to safeguard the route of the WRR as in the Local Plan. The public consultation attracted few representations concerning the WRR (5 objections and 3 representations in support), indicating that the proposals are no longer controversial.
- 4.9 It is likely that the Re-deposit Draft will also contain a protective policy so far as disused railway lines are concerned. So far, this has been agreed by the Borough Council's Development Panel but awaits confirmation by the Cabinet.

### ***West Midlands Regional Spatial Strategy (RSS11)***

- 4.10 RSS11 indicates that Rugby is likely to come under considerable pressure for further development and expansion. The town is considered to have the potential and infrastructure to attract new investment and to act as a focus to support wider regeneration to help meet the economic, social and cultural needs of the surrounding rural areas. This role is complemented by Rugby's inclusion (Policy PA 11) in the network of strategic town and city centres - RSS 11 expects that the town centre will be the focus for major retail, cultural, tourist, leisure and office development.
- 4.11 Policy CF2 of RSS11 considers Rugby to be capable of balanced and sustainable growth in the longer-term and the town is identified as one of five Sub-Regional foci (the others being Hereford, Worcester, Shrewsbury and Telford). Policy CF2 anticipates that Rugby will act as a sub-regional service centre, be able to balance new housing and employment development, remain relatively uncongested, has the capacity to expand without harm to local communities and has the potential to link areas of need with areas of opportunity.

***Milton Keynes and South Midlands Sub-Regional Spatial Strategy (MKSM SRSS)***

- 4.12 Ministers have proposed a change to paragraph 18 of the SRSS (concerning cross sub-regional boundary investigations), to provide "... flexibility for substantial development sites to be considered and come forward on the periphery of the growth area". This and the specific references to the BT Masts site (east of Rugby) during the public examination and in the Panel Report, shows that pressure for further development in Rugby is also likely to be generated from outside the West Midlands Region.

**Scheme Funding**

- 4.13 At the time of the 2003 inquiries, the cost of the published scheme was estimated to be £18.3 million [TM 4.100]. A breakdown of the latest estimate can be found on the first sheet of Document 102, from which it can be seen that the total cost is now estimated to be £26.38 million at May 2004 prices. The increase is accounted for mainly by the introduction of Aggregate Tax, a more accurate estimate of utilities costs, construction cost inflation and increased design and supervision fees.
- 4.14 The scheme has two primary funding sources, providing a total of about £21.81 million at May 2004 prices:
- LTP major scheme funding, the scheme having been provisionally accepted for £8.06 million;
  - Four S106 agreements, providing a total of about £13.75
- 4.15 It is anticipated that the £4.57 million shortfall in funding would be made up by a combination of increased major scheme funding, integrated transport block funding and/or further developer contributions. The County Council expects that at least £3 million of the shortfall would come from additional LTP major scheme funding. The most likely source of further developer contributions would be from the Local Plan development area at Malpass Farm. Renegotiation of the existing S106 Agreements is most unlikely to be possible. Nevertheless, the County Council is confident that the balance could be made up by S106 funding and/or LTP integrated transport block funding.
- 4.16 Thus, the County Council is still confident that the published scheme can be funded in full, providing the Orders are confirmed as published so that S106 funding is not lost.

**Scheme Timetable**

- 4.17 As the bar chart at Document 105 demonstrates, assuming the Secretary of State makes a decision in favour of the published scheme by the middle of August 2005 and the shortfall in funding is secured from Central Government, work on site could start in the spring of 2006.

Following an 80-week construction period, the WRR could be open to traffic in September 2007.

## Traffic

- 4.18 Since the 2003 inquiries, the emerging Local Plan envisages development of a large area of brown-field land that has become available on a former industrial site just north of the railway line. More detailed information has recently become available on this and other developments in Rugby. An updated model (December 2004), which takes into account both these and new traffic counts, has therefore been developed. This also corrects two transcription errors in Document 21 presented to the 2003 inquiries (which overstated flows on Lawford Lane and Newbold Rd without the PDL). Based on the new model, a new traffic flow diagram (Document 110) has been produced for the reconvened inquiries. Using the revised traffic data and based on low growth (approximately 1% per year), the economic assessment of the various scheme options has also been also updated using the government's assessment tool, TUBA.
- 4.19 As can be seen by comparing Documents 21 and 110, the new model shows a total increase of about 3,000 trips AADT (just under 4%) for 2006 compared with the previous model, and 2,000 trips AADT (just over 2%) for 2021. The principle observations on the updated model results are:
- Compared with the previous model results, the WRR carries more traffic on all sections and in all scenarios, in both 2006 and 2021. The increases are proportionally higher on the Northern Section but are also significant on the Potford's Dam Link (PDL) with an increase of over 1000 AADT in 2006.
  - Traffic flows are increased by about 2000 AADT on the A426 Leicester Rd just north of Avon Mill.
  - Locally generated traffic flows on Cawston Grange Drive are higher and the total volume of traffic on that road has increased slightly.
  - Without the WRR, traffic flows would increase on Lawford Heath Lane.
  - When the PDL is included in the scheme, the WRR is still more successful in attracting traffic from the existing highway network.
  - Without inclusion of the PDL, traffic flows on Lawford Heath Lane are not reduced greatly and traffic flows on the A428 between Rugby and Coventry remain unchanged. Both of these routes have high accident rates.

## Economic Assessment

- 4.20 The results of the earlier 30-year COBA economic assessment of the published scheme were reported at TM 4.101.

4.21 The "Net Present Value of Benefits" (PVB) and the "Net Present Value" (NPV) of the three options examined (rounded to the nearest £ million - see Document 130 for more detail)) are as follows:

- Northern Section only: PVB - £145 million; NPV - £133 million
- Northern Section followed by the Countryside Section to Cawston (built as two phases): PVB - £295 million; NPV - £274 million.
- Published scheme: PVB - £319 million; NPV - £298 million.

These figures show that the published scheme would represent even better value for money than the recently-approved Barford Bypass.

4.22 An analysis using the DfT's COBA model suggests that, even on the A428 and Lawford Lane alone, the total number of accidents that would be saved over only a 30-year period would be 47.2 for the Northern and Cawston Link Sections. This would increase to 194.1 with the PDL included, thus saving an additional 146.9 accidents. Discounted to a net present value in 1998, this equates to a saving of £3.538M for the Northern Section and Cawston Link option and £11.905M if the PDL is built. [Documents 115 and 202I].

4.23 The results show the enormous economic benefits that this scheme would deliver for Rugby, suggesting that the scheme should be delivered as soon as possible. The results demonstrate both the superior economic performance of the published scheme and the poor performance of the Northern Section alone in delivering traffic benefits in Rugby.

### **Partial or Phased Scheme Construction**

4.24 The possibility of constructing only the Northern Section, whether as a stand alone scheme or as the first phase of a larger scheme, was not raised at the earlier inquiries. The suggestion by Mr Millington that the WRR could be built in stages was therefore a surprise to the County Council. Had it been raised, the County Council would have been able to demonstrate that it would be neither desirable nor feasible.

### ***Planning Permission***

4.25 Planning permission was granted on only the basis of the full scheme. A partial scheme would not be covered by the existing planning permission.

### ***Traffic Disbenefits of Northern Section Alone***

4.26 Mr Millington did not ask to see the modelled traffic effects on the Northern Section alone. As has been confirmed since Document 203 a(iv) was presented to County Council members, the Northern Section by itself would provide some traffic relief for roads such as Parkfield Road and Newbold Road. However, as Document 110 demonstrates, it would also increase traffic on a number of unsuitable routes:

- Lawford Lane. Traffic flows would increase by 39%, to just under 5,000 AADT. This road has three schools on or near it. It is

predominantly residential with poor junction arrangements at the A4071 end. There have been 24 injury accidents on Lawford Lane since 1990 (see core document 114) and it has had to be traffic-calmed. Increased traffic flows on this road would therefore be detrimental to the quality of life and safety of residents and school children.

- Bilton Lane. Traffic flows would increase by 36%, to 6,754 AADT. This road is narrow and of poor alignment. Indeed, Mr Millington commented in his report (TM 7.76 to 7.79) that closure of this road to through-traffic should be considered for safety reasons. There have been 18 injury accidents on Bilton Lane since 1990 (see core document 114). The route is used by school children from Long Lawford, who walk and cycle to school in Bilton. An increase in traffic flow of this magnitude would thus increase the accident risk to school children using it and to traffic generally. Its junction with the A428 is very poor and would require improvement (at significant cost) were the Northern Section alone to be built alone.
  - Addison Road. Traffic flows would be increased by 5%, to 11,354 AADT in the residential area and 14,496 AADT at the Lawford Road end, the increase being limited by the junction capacities at each end. This road is also residential and has St Oswalds school located at its eastern end. There have been 76 injury accidents on Addison Road since 1990 (see Document 114). Increased traffic flows on this road would therefore be detrimental to the quality of life and safety of residents and school children.
  - Lawford Heath Lane. Traffic flow would be increased by 8% to 4,622 AADT. This would be over 300% higher than with the full WRR. Lawford Heath Lane has a poor accident record with 10 accidents in 2004 alone. Construction of the Northern Section alone would exacerbate the accident problem. [Document 114]
  - A428 Lawford Road. Traffic flow would be increased by 5% to 11,387 AADT. This would be almost 50% higher than with the full WRR. The A428 passes through several villages between Rugby and the A46 and is of poor alignment. The route has a high accident record. The higher traffic flow on this route would be detrimental to the quality of life and safety of residents in these villages and might lead to an even higher accident rate on the road. [Document 114]
- 4.27 As published, the WRR would provide an essential second access for the Cawston housing development, the necessity for which was confirmed by Mr Millington in his paragraph 7.130. Were only the Northern Section of the WRR to be built, all traffic from the development would have to continue to use the A4071. There would therefore be no traffic relief through Bilton village, which is already suffering increases in traffic due to the expanding Cawston development.
- 4.28 Thus, building the Northern Section alone would be most undesirable from the traffic viewpoint alone.

## The October 2000 Scheme

- 4.29 In Section 8.2 of his report, Mr Millington recommends that the WRR south of Lawford Road (the Countryside Section) be built to the October 2000 planning permission, details of which can be seen at Documents 4B and 4C. In practice, this would not be possible:
- There is no provision for balancing ponds, no land being available within the 2000 scheme.
  - The 2000 scheme includes no land for badger mitigation.
  - The planning red line stops short of Cawston Grange Drive (the Cawston development had not started at the time the permission was granted). To bridge the gap with a new planning application, the making of Orders followed by a public inquiry could take 2 years and would result in the loss of some developer funding [Document 105].
- 4.30 Contrary to some objectors' belief and as is explained in Document 202q, at the time the Rugby Borough Council resolved to grant planning permission for the Cawston housing development in 1998, the intention was for the WRR to go all the way through to Potford's Dam Farm via the PDL. There has been no proposal to take the WRR along Cawston Grange Drive since then. The precaution of requiring the spine road to be functionally capable of operating as part of the WRR, so that there need be no further planning permission for that part of the WRR, was merely a reflection of lack of funding for the PDL and to avoid the need for further planning permission were this required. [Document 202q, section 6.9.4]

## Funding Constraints Affecting Partial or Phased Schemes

- 4.31 A detailed breakdown of the predicted cost of the various options examined can be found at Document 102. As can be seen, constructing the scheme in phases or re-aligning it along the railway would increase costs to between £30 and 30.3 million at May 2004 prices; ie, between £8 million and £11 million above that already secured. The County Council would be unable to fund this increase from its own resources.
- 4.32 Even if an additional £3 million were to become available from LTP major scheme funding [see 4.15 above] and, say, £1 million from the Malpass Farm development, some £4-7 million would remain to be found. Although the potential capital receipt for the sale of land at Paynes Lane has, exceptionally, been earmarked for transport improvement, it would yield substantially less than £100,000 and would not, contrary to the suggestion by the objectors, represent a significant addition to the resources available for the WRR. [Document 202h]
- 4.33 Given that only about £4.4 million of integrated transport block funding is available for the whole of Warwickshire and that it would not be feasible to allocate more than about 10% (£0.8 million) to the scheme, a balance of £3.2-6.2 million would still be outstanding. This would have to be funded from prudential borrowing, debt charges being at the expense of

local taxpayers, and would be contrary to County Council policy that borrowing should not be used for transport purposes.

### ***Funding of the Northern Section Alone***

- 4.34 The estimated cost of the Northern Section alone would be £17.89 million at May 2004 prices. However, the DfT's December 2004 LTP settlement letter makes it clear that its contribution of £8.06 million would be subject to the scheme remaining unchanged in any significant way following the statutory processes. Thus, funding for either a phased scheme or one following an alternative route might not be available. In discussions, the DfT has confirmed that the Northern Section by itself would be viewed as a different scheme. Thus, funding could not be guaranteed for this option.
- 4.35 Furthermore, Mr Millington was mistaken in assuming [TM 7.135] that S106 development funding for the Northern Section alone could be secured – a suggestion which was not raised at the earlier inquiries. The four existing S106 agreements (Document 31) relate to four developments (values, at May 2004 prices, and dates of agreements given in brackets):
- RMC for the rebuilt Rugby Cement works in Rugby (£0.66 million, dated 23 Feb 96).
  - Coton Park mixed-use development, located adjacent to the A426 near the M6 Junction 1 (£7 million, dated 17 Mar 00).
  - Cawston housing development (£3.94 million, dated 17 Nov 98) – a summary of progress with the Cawston Development can be found at Document 202n.
  - Swift Valley employment development (£2.14 million, dated 25 May 97).
- 4.36 These S106 agreements, which are summarised in Document 202vv, are valid only for 10 years from the date of signing. At the end of that time, the developers can require the return of their funding. Document 31 sets out the chronology of the agreements; details of the start dates and deadlines can be found at Document 105. Not only would developer funding be at risk if the scheme were delayed whilst new orders were promoted but the agreements provide funding only on the basis of the full WRR scheme, which alone mitigates the traffic impact of the various developments. Even if only the Cawston funding were to be excluded, the whole of the major scheme funding would be needed for the Northern Section. Legal advice is that only part of the funding from the other developments could be used for construction of the Northern Section and that it is unlikely that any of the Cawston funding could be used. The Cawston Consortium has confirmed [Document 332] that it would resist such use of its S106 funds.

### ***Funding of the Northern Section and Cawston Link***

- 4.37 Building the Northern Section followed by the Countryside Section (A428 to Cawston), as suggested by Mr Millington in his paragraph 7.135, would cost £25.45 million [Document 202y] – almost as much as the full scheme (£26.38million) – and is likely to encounter much the same funding difficulties, especially as the DfT might not regard this as good value compared with the published scheme.
- 4.38 If a combined Northern Section and Cawston Link obtained acceptance as a Major Scheme from Central Government and could be promoted through the statutory processes for a start of construction before the Cawston S106 agreement reached the end of its 10-year life in 2008, the Cawston Consortium funding could probably be used for such a scheme. However, it would require a very swift conclusion to be reached on statutory processes to avoid loss of the Cawston S106 contribution. Experience suggests that in practice, due to the time taken for statutory processes, there would be a high risk that this funding would be lost. The time taken to promote such a scheme would be such that the Rugby Cement and Swift Valley S106 contributions would certainly be lost.
- 4.39 Even were the Orders to be confirmed for the Cawston Link on the published alignment, it is very doubtful whether planning permission could be obtained for the connection between the Cawston Roundabout and Cawston Grange Drive. Substantial opposition could be expected from the Cawston Grange residents and elected members of the County Council have to date not supported such a scheme. Furthermore, the Environmental Statement is for the whole scheme as published; a new Environmental Statement would be required for the Cawston Grange Drive option.
- 4.40 Given the lack of assurance that the necessary planning permission, confirmation of Orders and Government funding could be obtained in time, the doubts about S106 funding from the Cawston Consortium would also apply to a 2-stage scheme, notwithstanding the recommendations to the County Council in Document 206a(v), paragraph 5.2.

### ***Summary of Funding Constraints***

- 4.41 Thus, from the funding viewpoint alone, partial or phased construction is unlikely to be feasible. In any case, it is the position of the County Council that it would not deliver the clear benefits that construction of the published scheme, including the PDL, would bring.

### ***Need for the Potford's Dam Link***

- 4.42 The PDL is an integral component of the published scheme, which has the benefit of full planning permission and funding. The County Council went through all proper statutory processes in seeking and obtaining planning permission. The application was not called in by the First Secretary of State, nor was it challenged by way of judicial review. These are material considerations, the significance of which appears to have been ignored by Mr Millington.

### *Traffic Considerations*

- 4.43 Mr Millington [TM 7.50-7.59] was persuaded of the case for the PDL in the longer term, but was not satisfied that it was "*presently a necessary part of the WRR*" [TM 7.61]. However, further modelling suggests that the urgency of the need for the link is rather greater than it might have appeared in 2003. Even with a shift in the centre of gravity of development to the north, the PDL would be effective in attracting traffic to the WRR from the existing highway network. The potential for Rugby to become a sub-regional focus for development serves further to strengthen the case for the PDL to be built now.
- 4.44 Mr Millington also states [TM 7.59] that he is "*not entirely convinced that HGV traffic would be attracted to the PDL in pronounced numbers instead of the A428.*" The traffic counts on the A428 do not differentiate between the various types of vehicle using the road. However, an example of the potential for redistribution of HGV trips if the PDL were built can be seen in Document 116, which shows the routing of lorry movements between the Southam quarry and the cement works in Rugby. Planning permission exists which permits 348 two-way lorry movements per day. Were the PDL to be provided, it would be possible to route the lorries via the A45 and A4071 instead of the B4455 Fosse Way and A428 [Document 116]. On the return journey, lorries would no longer have to pass through the town centre. Although a change to the Routing Agreement would require the concurrence of both parties (Council and RMC), it would be likely to be attractive to the company.

### *Accidents*

- 4.45 Provision of the PDL would have significant benefits in reducing accidents:
- It would enable traffic using the WRR to avoid the sharp bend and low Potford's Dam railway bridge, which forces high vehicles into the middle of the single A4071 carriageway. This is the site of a significant accident cluster, 16 occurring since 1993 [Documents 34 and 109].
  - The PDL would also remove traffic from Cawston Grange Drive [see paragraphs 4.53 and 4.54 below] and the A4071 through Cawston and Bilton (see Document 110). Since 1990 there have been 300 injury accidents on the A4071 between the Potford's Dam railway bridge and the gyratory.
  - Similarly, traffic on Lawford Lane would be reduced whereas, were the PDL to be omitted, it would increase. Lawford Lane is a residential road which is substandard in parts (56 injury accidents since 1990 - 10 in 2004 alone) and with a school located on it.
  - A substantial volume of traffic from the A428 west of Rugby and from Lawford Heath Road would also be removed. The A428 is of poor alignment, it passes through several villages and since 1990 there have been 291 injury accidents between Parkfield Road, Rugby and the A46.
  - Lawford Heath Lane also has a high accident rate, with 56 injury accidents since 1990 (see Document 114). Ten of these accidents

occurred in 2004, possibly reflecting the increased traffic volumes now using the route.

- 4.46 Because of the amount of work required, a full comparison of the accident savings that the scheme would yield, both with and without the PDL, has not been carried out. However, even considering only the additional 147 accidents that would be saved on the A428 and Lawford Heath Lane by comparison with those saved using only the Northern and Cawston Links for the WRR [see paragraph 4.22 above], this would yield financial savings of £8.367 million over 30 years.

#### *Air Quality*

- 4.47 As a result of a report delivered in June 2004, an Air Quality Management Area (AQMA) , covering the urban area of Rugby, has recently had to be declared by Rugby Borough Council. The principle area of poor air quality is the town centre gyratory and its approaches. An assessment of future air quality, both with and without the scheme, has therefore been made, the results of which can be found at Document 202qq.
- 4.48 Because the PDL would further reduce traffic in the town centre, it would contribute to an improvement in air quality in that area. Although this improvement, by itself, would be modest, provision of the full WRR with the PDL would increase the opportunity to discourage traffic from the central area by means of traffic management measures and thus further improve air quality.

#### *Funding*

- 4.49 For the reasons explained in paragraphs 4.34 and 4.37 above, there can be no assurance that DfT would fund a scheme omitting the PDL and developers would be unlikely to do so. Thus, its omission could put the whole scheme at risk.
- 4.50 The draft Local Plan does not envisage any further developments in the WRR corridor of sufficient size to fund the PDL as a later, stand-alone scheme and DfT might not be willing to give such a scheme its support. Higher priority for funding highway schemes related to brown-field sites is likely to be given by the County Council for improvements in the immediate vicinity but also, if required, at the M6 Junction1/A426.

#### ***Cawston Grange Drive as an Alternative to the PDL***

- 4.51 Although, at one time, the WRR was planned to make use of Cawston Grange Drive, which was therefore constructed to Primary Distributor Road standards, this was driven by financial constraints. The planning permission in 2000 for this was granted only reluctantly (the background paper can be found at Document 202q). The intention has always been to extend the WRR to Potford's Dam once sufficient funds became available. Only the original owners of the very earliest properties would have assumed that the WRR would make use of Cawston Grange Drive. The Drive is not included in the adopted Local Plan as part of the WRR route and searches for later purchasers would not have revealed such a possibility.

- 4.52 As a result of increased density and more land becoming available, the size of the Cawston development is now expected to be up to 40% larger than envisaged originally (1,400, rather than 1,000 houses) and there will be significantly more housing on the western side of Cawston Grange Drive. The two primary disadvantages of using Cawston Grange Drive as the southern end of the relief road would be:
- volumes using that road would be substantially higher than they would be with the PDL in place, and
  - the effectiveness of the whole WRR route would be reduced.
- 4.53 Cawston Grange Drive is an urban road. Although a comparison of the predicted flows with those in Table 2 of TA 79/99 [Document 202LL] shows that, in theory, this road would have sufficient link capacity in both 2006 and 2021, in practice the capacity of the road would be dictated by its roundabouts. A roundabout is considered to be performing satisfactorily if the Flow to Capacity Ratio (RFC) is not greater than 0.85. An assessment using the ARCADY6 programme shows that, although the other roundabouts would perform satisfactorily, one arm of the roundabout at the junction of Cawston Grange Drive with the A4071 would have an RFC of 0.97 by 2021, indicating that it would be starting to be congested in the pm peak period. As can also be seen at Document 202m, journey distance and times would be significantly greater using Cawston Grange Drive rather than the PDL.
- 4.54 Without the PDL, traffic flows on all but the middle section of Cawston Grange Drive are now predicted [Document 110] to be over 80% higher in 2006 and over 60% higher in 2021. In 2021, flows would generally be over 10,000 AADT. This would result in significant severance. Noise would increase and air quality would reduce. Even Mr Millington [TM7.59] agreed that Cawston Grange Drive should not cater for though-traffic.
- 4.55 About 6% of the traffic on the A4071 in Cawston village is HGV traffic. Using Cawston Grange Drive as part of the WRR could lead to substantial HGV traffic passing through the estate. The latest traffic predictions now suggest that the expected percentage of HGVs in the traffic mix would be about 1% with the PDL in place but about 6% without it, amounting to at least 400 lorries per day in 2006 and possibly much more, depending on how much HGV traffic is attracted to the WRR route from other routes such as the A428. With the PDL in place very few HGVs would pass through the estate.
- 4.56 At the time of the 2003 inquiries, the expected change in noise level as a result of WRR traffic being routed along Cawston Grange Drive was 2-3 dB(A), the proviso being made that this depended upon all other traffic parameters being unchanged. The latest traffic prediction would result in a further increase of about 2dB(A), the vulnerable properties therefore being exposed to a total increase of 4-5 dB(A) – ie, a 'slight to moderate' adverse impact. Insofar as, without the PDL, traffic volumes both within the Cawston Grange development and in the Cawston area generally, would be far higher, air quality would inevitably be lower.

- 4.57 In addition to the many written representations submitted in advance of the reopened inquires, the County Council has itself received some 300 letters from Cawston residents expressing concern about Mr Millington's suggestion that Cawston Grange Drive should be used as part of the WRR. Residents of the estate who have bought properties on the understanding that the published scheme would be built and whose "searches" would not have identified anything to the contrary, would be understandably aggrieved.
- 4.58 Use of Cawston Grange Drive as an alternative to the PDL would also limit the acceptability of future traffic management aimed at reducing the impact of traffic in the immediate local area by transferring more traffic to the relief road. In particular, it would be more difficult politically to divert HGV traffic to the WRR if the lorries had to travel through the estate. Examples of possible traffic measures are:
- Closure of Lawford Lane to through traffic, say, in the vicinity of Bilton High School, to improve the environment of this residential road and improve the safety of school children walking or cycling to school.
  - Traffic calming or other traffic management in Main Street Bilton, where congestion occurs, to deter traffic and create an improved pedestrian environment in the shopping centre. If the PDL were in place it might also be possible to impose an environmental weight limit on Main Street to remove most HGV traffic from the shopping area where there is significant pedestrian activity.

### **Potford's Dam Link Design**

- 4.59 The County Council's response to Mr Alexander's alternative proposal for the alignment of the WRR near Potford's Dam Farm can be found at TM 5.66 – 5.80. Mr Millington's conclusions regarding highway design at Potford's Dam can be found at TM 7.62 – 7.73.

### **Capacity**

- 4.60 The 7.3-metre wide PDL would be a 'rural road' with an opening year design capacity of 13,000 AADT. As can be seen at Document 202m, the predicted flow in 2006 along most of the PDL would be 12,923, so that it would be at approximately the recommended design capacity on opening in 2007. Although the flow to the south of the A4071 junction past Potford's Dam Farm would be 19,121, this would still be below the Congestion Reference Flow (CRF) of 20789 [Document 202cc] and is considered acceptable.
- 4.61 By 2021, the predicted flows north of the junction would be 15,178 AADT. To the south, past Potford's Dam Farm, they would be 21,522. Thus, this section of the road would have started to become slightly congested at the peak hour, the principle effect being to limit the amount of further traffic attracted to this route in the peak hour without further improvement to the road (an option which could be left to the future, when any problems of congestion could be evaluated).

## **Safety**

- 4.62 The County Council welcomes the conclusions of the previous Inspector [TM 7.68] that the southern extremity of the published scheme would not be inherently unsafe. However, he did express concern about the rear access into Potford's Dam Farm.
- 4.63 Although 11 accidents (2 serious) occurred near Potford's Dam Farm prior to 1995, there were none between 1995 and 2002. On the other hand, there have been 4 additional accidents in the immediate area since the earlier inquiries [see Document 109], including a serious one in November 2004, outside Potford's Dam Farm. There were also two further accidents near the railway bridge – something which would be less likely to occur if the PDL were to be constructed.
- 4.64 There has been no change in the geometry or visibility at this point. The only change has been the deterioration in the road surface. Such critical road surfaces are normally renewed every 6-7 years. Although the surface outside the Penthouse and near the railway bridge was renewed in 2001, the remainder was last renewed in 1996 [Document 39]. This reinforces the need for the full WRR to be built without delay, which would do much to reduce the frequency of accidents at this location.
- 4.65 Soon after the 2003 inquiries, the County Council introduced a 50 mph speed limit, starting from a point before the S-bend to the south-west of Potford's Dam Farm. This is consistent with the speed measurements undertaken immediately before the 2003 inquiries, which showed an 85 percentile speed of 78 kph (49 mph). The previous Inspector indicated in his report that this would be acceptable [TM 7.69]. The County Council would maintain this speed limit up to a suitable point to the north-east of the Potford's Dam junction proposed as part of the published scheme so that the required minimum desirable visibility would be only 160 metres, rather than the 215 metres required for the previous 100 kph (60 mph) speed limit. In addition, advanced bend warning signs on the southbound approach to Potford's Dam Farm, coloured skid-resistant surfacing and mandatory markings to prevent overtaking, would be provided.
- 4.66 The existing radius outside the farm is 80 metres. Under the published scheme it would be 200 metres – a significant improvement on the existing situation. The new speed limit would mean that this radius would now be only 3 steps below the Desirable Minimum of 510 metres – a permitted relaxation under TD 9/93 Document 202a, paragraph 3.4. Similarly, the forward visibility of 120 metres would now be only one step below the Desirable Minimum of 160 metres (two steps are permitted under TD 9/93, paragraph 2.8). As pointed out in Document 202a (paragraphs 0.12 and 1.27), the standards in TD 9/93 are not sacrosanct and, in some situations, even departures can be justified provided they are approved by the Overseeing Department. The published scheme has been subject to an independent safety audit (the County Council being the 'Overseeing Authority') [Document 38]. Few road schemes do not involve relaxations, including some to minimise land-take in Green Belts.

- 4.67 A plan showing the visibility from the new rear access to the farm can be found at Documents 18 and 202b. Visibility of southbound traffic would be unlimited. That of northbound traffic would be 140 metres and thus, with the new speed limit, only one step below the Desirable Minimum of 160 metres. The existing visibility is about half of this.
- 4.68 Although Mr Millington commented on the effect on visibility of any fence or similar feature provided to reduce the risk of headlight glare [TM 7.70], the low usage of the access would be such that, in the County Council's view, such a barrier would not be required. Nevertheless, even if such a barrier were to be provided, visibility would still be better than under the existing situation.
- 4.69 From the front access, which is currently sub-standard, 170 metres visibility would become available, which would comply with the standard in TD 42/95 [Document 19, Table 7/1].
- 4.70 No accidents involving vehicles using either access have been reported. Nevertheless, in order to gauge the relative safety of the new rear access, traffic surveys were carried out on Saturday 29 January and Wednesday 2 February 2005. Only 23 and 25 (2-way) movements using the rear access were counted on the two days. These numbers represent a relatively low volume of traffic and, as indicated in TD 9/93, should not be considered a danger merely because the visibility is a little short of the standard.
- 4.71 The County Council therefore concludes that, with the new speed limit, the published scheme would be safer than assumed by Mr Millington in 2003 and that the marginal shortfall in visibility should be regarded as acceptable.

### ***Mr Alexander's Alternative Alignment***

- 4.72 The County Council concedes that the alternative realignment proposed by Mr Alexander would have the advantage that a speed limit would not need to be imposed and that it could be built within the CPO land already required for the published scheme.

### *Cost*

- 4.73 Based on the calculated cost of the published scheme, the pro rata cost of the 350-metre extension, as suggested by Mr Alexander, would be £565,000, rather than the £200,000 assumed at the time of the earlier inquiries [TM 5.79]. [Document 202k]

### *Safety*

- 4.74 The County Council's criteria for intervention to prevent accidents is that there should have been at least 6 injury accidents in the past 3 years and a minimum financial return rate on the investment of 100% per annum. At Potford's Dam Farm, there have been only three injury accidents over the last three years [Document 202k].
- 4.75 Contrary to Mr Millington's view [TM7.72], a COBA assessment confirms that the economic value of averting one accident would be £145,554.

Thus, the amount saved would not outweigh the cost of the alternative design [Documents 132 and 202k]. In view of the low usage of the farm access, coupled with the shortfall in visibility being so marginal, the expenditure involved would not be justified; it could be better spent on accident prevention elsewhere.

### *Scheme Delay*

- 4.76 Adoption of the alternative re-alignment as part of the full scheme would result in further seasonal environmental surveys (including those for Great Crested Newts) having to be carried out in the spring of 2006. Even assuming planning permission in July 2006, Orders being published in April 2007, and an inquiry being held in April 2007, confirmation by the Secretary of State would be unlikely before October 2007. Assuming none of the published scheme could start on site until the Secretary of State has confirmed the Orders, some of the developer funds would be lost. [see Document 105 and paragraphs 4.35 and 4.36 above]
- 4.77 However, in order to avoid unnecessary delay to the remainder of the WRR scheme whilst Mr Alexander's alternative was being progressed, the County Council has investigated the possibility of terminating the WRR on the published alignment at Chainage 700, with an interim roundabout between the Penthouse and Potford's Dam Farm connecting to the existing A4071. This could be constructed within the Order lands but would require the approval of County Council members. Although this would result in the existing 80-metre radius bend outside Potford's Dam Farm remaining unaltered, Mr Alexander's alternative scheme, leading from the roundabout, could be adopted at a later stage. The works involved in replacing the interim roundabout with a ghost island and constructing the new link to the A4071 south of the farm would cost about £1 million. The extension would be unlikely to attract LTP major scheme funding; it is not known whether the County Council would make such funds available. [DOC 202ss]
- 4.78 Although Mr Alexander suggests that money could be saved by leaving the roundabout in place, the County Council considers that this would be undesirable because it would make a route to the Cawston Grange development via the existing A4071 more attractive than that via the new Cawston Roundabout. Furthermore, the proposed interim roundabout would be smaller than those elsewhere in the scheme and would not be appropriate as a long terms solution. Mr Alexander's alternative suggestion for saving expense by providing a ghost island midway between Potford's Dam Farm and the Penthouse, with the Penthouse access forming part of the junction, at the outset would not be possible within the Order land and would be potentially dangerous. [Document 202bbb]

### **Potential Effects upon Badgers**

- 4.79 The County Council's evidence as submitted to the 2003 inquiries can be found at TM 4.49-4.59.

- 4.80 There are 28 setts on the railway cutting slopes and embankments, three of which are main breeding setts [Document 10]. The published scheme would not result in the closure of any badger setts but has been designed to keep the impacts on badgers within acceptable limits. Although the Protection of Badgers Act 1992 does not refer specifically to the provision of mitigation for development impacts on badgers, the construction of such a scheme would require a licence from English Nature in order to demonstrate that the welfare of the animals would not be compromised. It is accepted practice nationwide that new (artificial) setts are provided wherever important setts are being destroyed and that replacement foraging areas should be provided in mitigation when significant proportions (over 20%) of their current important foraging areas are being lost. [Document 202pp]
- 4.81 As can be seen in the confidential report at Document 10, there is a very large and important population of badgers within the cutting slopes and embankments of the disused railway. Although the precise number of animals is not known, and could never be known precisely, this is thought to be the highest density of badger setts in Warwickshire [Document 134]. Badgers are not common or widespread in this locality, so that this is a special case. The badgers are resident here in such large numbers because much of the surrounding countryside does not provide suitable badger habitat.
- 4.82 If the relief road were to be located on the line of the disused railway line, the impacts on badgers would not be acceptable. The number of setts that would have to be destroyed would depend on the detailed design of the scheme but, given the required functional width of the WRR, it would be a large and significant number and include main breeding setts. Also, there would be significant ongoing traffic disturbance to any setts that could be retained, and a major loss of badger foraging habitats.
- 4.83 Unlike Mr Bragg's one-day survey, those undertaken for the County Council took place over three years (2001-2004), were carried out by professional consultants and were based on established methodology. Although he is correct in regarding badgers as dynamic animals, the unsuitability of much of the surrounding land is such that movements are likely to occur only within the disused railway corridor and existing clan territories.
- 4.84 English Nature's involvement in badger licensing is handled by its Peterborough office [Document 133]. Without an English Nature licence, this development could not go ahead. Such a licence could not be obtained without an acceptable mitigation plan, such as that outlined in the Environmental Statement [Documents 9 and 10]. It is not possible to apply for a licence until all planning matters (including Compulsory Purchase Orders) have been resolved and English Nature will not provide detailed commentary on individual schemes prior to receipt of a full application. Thus, it is not possible to obtain an *a priori* prediction from English Nature as to whether or not such a licence application would be approved. A further survey would be carried out prior to applying for a licence.

- 4.85 Until recently, English Nature had never issued a licence to destroy a main badger sett in order to accommodate a development project. They have now done so, but only on a handful of occasions, and not for multiple setts on a project of this scale. To the County Council's knowledge, the only licence issued for multiple main sett closures was allied to the Channel Tunnel Rail Link: ie, for a scheme of international significance. However, the badgers were at a significantly lower density than is the case along the disused railway.
- 4.86 English Nature *will* issue licenses for the closure of badger setts. However, the onus is on the developer to produce a mitigation plan that clearly demonstrates that the welfare of the badgers concerned would not be compromised. This is often difficult to achieve. Given the scale of impact that would be associated with using the disused railway line for the WRR, producing an acceptable and licensable mitigation scheme would be very difficult to achieve. The licence required would necessitate badger sett closures on an almost unprecedented scale. On the other hand, no problem is likely to be encountered with an application for the published scheme.
- 4.87 For this, and other ecological reasons, the County Council believes strongly that the WRR should not be sited on the disused railway – a view supported by the Warwickshire Wildlife Trust [Document 136].

### **Need to Retain Disused Railway**

- 4.88 The Government expects local authorities to take a long-term strategic view in planning for their areas. This supports the views of the County and Borough Councils that it would be beneficial to retain the potential, despite current doubts about its likelihood, to re-open the railway line as a contribution to sustainable transport in the longer term.
- 4.89 Paragraphs 45-47 of PPG13 give guidance to local authorities on the protection of potential rail routes. Paragraph 45 requires local authorities to *"identify and protect sites and routes, both existing and potential, which could be critical in developing infrastructure for the movement of freight ..."*. Paragraph 47 requires local authorities to seek to enable transport of materials and waste to landfill by rail. The County Council does not share Mr Millington's view [TM 7.153] that *"... little, if any, weight should be given to this non-statutory policy"* and feels that he was unduly dismissive of the case for retaining the disused railway.
- 4.90 Although the Strategic Rail Authority has commented [Document 45] that it has *"no intention of re-instating the dismantled Rugby to Leamington Spa line"*, it was not consulted on possible local use of the line. The County Council accepts that there is no prospect in the short or medium term that the railway will be brought back into use. However, this route connects the quarries at Southam to both the Rugby cement works and the West Coast Mail Line. The quarries, which have at least 40 years of potential extraction life left, are critical to the County Council's decision to protect the dismantled railway route.

- 4.91 The economic situation underlying Rugby Cement's decision not to ask that the railway line be reopened might change. For example, a lorry road user charging scheme is due to be implemented by the Government in 2007/8. This might in due course alter the economics of transporting minerals between Southam and Rugby by road.
- 4.92 Although the option is not foreseen at present and the County Council acknowledges would be against current Government policy, the disused quarries also have the potential in the long term to be used for landfill, as acknowledged by Rugby Cement only a few years ago. Whilst national policy aims to minimise landfill, it is very likely that large conurbations will continue to need to send significant volumes of waste to landfill. This would best be achieved by rail. The Southam quarries are well-located between Birmingham and London and could therefore be needed in the future.
- 4.93 Were the railway to be reopened, two bridges (the costs of which have been omitted from the published scheme) would need to be replaced: the first where the A428 Lawford Road crosses the railway (removed but not replaced under the published scheme) and the second to carry the link from the WRR to Cawston Grange Drive.

#### **Use of the Dismantled Railway as a Walking/Cycling Track**

- 4.94 The present and planned route for National Cycle Route 41 between Rugby and Leamington can be found at Document 131. The proposed improvements include a route along the disused railway track. The transfer of ownership of the dismantled railway to Railway Paths Ltd was to enable Sustrans to use it for Cycle Route 41. Planning permission for the change of use of the railway line was granted on 13 February 2003 [Document 202v]. The County Council is about to make an agreement with Railway Routes Ltd that it would help to fund the track as part of the National Cycle Route and a covenant, protecting the railway for cyclists (an extract of which can be found at Document 202zz), has been deposited with the Secretary of State.
- 4.95 At the Rugby end, the route would provide an excellent facility directly accessible to a large population, especially in the Cawston area. With the WRR on the published line, the railway would still be able to provide a very pleasant and safe leisure facility which would be rural in character and certainly more attractive than along the WRR as published.
- 4.96 The National Cycle Network proposal for the disused railway corridor therefore reinforces the policy of the County Council of preserving the corridor for future use whilst providing an important leisure facility – an opportunity which would be lost were the railway alignment to be adopted for the WRR.

## **Consequences of Utilising Dismantled Railway for the WRR**

- 4.97 The County Council's response at the 2003 inquires to the objectors' proposed alternative of running the WRR along the line of the disused railway can be found at TM 4.138-4.4.141.

### ***Engineering Constraints***

- 4.98 Because of engineering constraints, it would not be possible to adhere to the scheme granted planning permission in October 2000. Drawings of an indicative scheme following the general line of the disused railway and similar in places to the earlier scheme, can be found at Documents 103 and 104.
- 4.99 As is illustrated at Document 202c (Option 3 equates to the drawing at Document 104), because of the need to accommodate a 7.3-metre wide carriageway and associated verges, it would not be possible to construct the highway within the confines of the railway site, whether in cutting, on embankment or at grade. Furthermore, because of engineering constraints at the Cawston Roundabout and the junction with Bilton Lane, it would not be possible to follow precisely the line of the railway.
- 4.100 It would, in theory, be possible for the cycle route to share the track-bed with a single-track railway. Indeed, because of the need to route the WRR between industrial sites to the north of Sow Brook, even the published scheme has to do so at this point [Document 202j]. However, if the whole of the WRR south of Sow Brook were to be constructed on, or contiguous with, the railway embankment, the ecology of the embankment would be damaged and the route would be much less attractive to walkers and cyclists.
- 4.101 Because of engineering constraints, (it would still be only 100 metres from the Bear public house) the Bilton Lane junction would be only some 50 metres nearer the existing line of the railway than would the published scheme. Notwithstanding the plan on which the scheme granted planning permission in 2000 was based [Document 4], it would not be possible to put the WRR in cutting because the track is some 8-9 metres below the levels of Bilton Lane and the road gradient between the pub and the WRR would be too steep – hence the fact that, as shown on Document 104, the level of the road would be only about one metre lower than would the published scheme.
- 4.102 For safety reasons (distance from the junction), it would not be possible to provide an access to the severed field on the south-eastern side of the WRR and north-east of Bilton Lane as planned under the published scheme. Were Bilton Lane to be closed on the north-western side of the WRR and no underpass provided, the landowner on that side would be unable to access his field.

### ***Cost and Value for Money***

- 4.103 As can be seen from Document 102, the cost of constructing the full WRR using the railway line would be some £29.95 million - £3.57 million more than the published scheme. The funding constraints applying to partial or

phased construction set out in paragraphs 4.31 to 4.41 above would apply equally to the railway route alternative.

4.104 The additional cost of £3.57 million over that of the published scheme is accounted for by:

- The need to relocate the existing Severn Trent Water main along the western side of the railway from Potford's Dam Farm to chainage 3+350 (£0.81 million)
- The need for additional fill to bring the road closer to existing ground level so that the spur can be constructed to connect with Bilton Lane without involving prohibitive gradients (£0.7 million).
- The provision of a new bridge over the A4071, the existing bridge being too narrow to accommodate the WRR (£0.46 million).
- Other works, especially the mitigation work to relocate badgers (£0.15 million).
- New planning application/Order procedures and detailed design (£0.75 million plus the costs of another inquiry, should this be required).
- 15% contingencies (£0.43 million).
- Further miscellaneous items (£0.27 million).

4.105 However, it might be possible to make savings by adjusting the line of the WRR indicated in Document 103 so that, as suggested by Mr Bragg, the road left the line of the railway north of the bridge over the A4071, at about chainage 1+200, as illustrated on the plan attached to Documents 202u and 202xx. Assuming the bridge was demolished and the opening widened to allow the T-junction to be constructed, a saving of £0.46 million should be possible, bringing the cost of the full Railway alternative down to £29.49 million.

4.106 A TUBA analysis was not carried out for the Railway alternative as was done for the published scheme [Document 130]. Had it been done, the Present Value of Benefits (PVB) would have been shown to be identical with that of the published scheme but, because the railway alternative would be more expensive, its Net Present Value (NPV) would be lower [Document 202ee].

### ***Delay***

4.107 Were the disused railway to be used for the WRR, the Secretary of State could revoke his covenants with Sustrans. Sustrans would release its land, provided a cycleway was provided as illustrated at Option 3 in Document 202c. However, as is evident from Document 202e, Railway Paths Ltd, who are disturbed that Mr Millington did not consult them before suggesting adoption of the railway alternative, would certainly object to any CPO, thus necessitating a further public inquiry before the order could be confirmed.

- 4.108 The considerations set out at para 4.29 above would apply equally to any alternative alignment based on the October 2000 planning permission since such a scheme would utilise land that is outside the Orders for the published alignment. Document 105 shows the dates at which the various available developer funds expire under the terms of the S106 agreements – ie, they may be lost if not used by that date. As can be seen, the opening of the WRR would be delayed from September 2007 to July 2010. However, assuming Government funding is approved, the scheme receives planning permission, and any inquiry results in a satisfactory outcome and confirmation of Orders by the Secretary of State, the County Council would be able to acquire the necessary land and work could commence on badger mitigation in July 2008. As this would constitute a start on site, it would allow the Cawston development funds (£3.94 million) to be drawn down. The Coton Park funds (£7.0 million) could also be used once the main construction commenced. However, any statutory procedural delay could put these funds at risk, the only relatively safe fund being that from Coton Park, the S106 agreement for which does not expire until 2010. The RMC (£0.66 million) and Swift Valley (2.14 million) would certainly be lost.
- 4.109 Thus, whereas the funding shortfall for the published scheme would be only £4.58 million (£26.38 - £13.74 - £8.06 million), that for the full railway scheme would, as a result of the delay, be £8.15 million (£29.95 - £13.74 - £8.06 million). There must be a real risk that the Government would not fund such a deficit. However, Document 105 represents the most optimistic scenario. Delays of 10 to 15 years in road schemes are not uncommon. It is therefore the County Council's view that, in practice, adoption of the railway scheme would almost certainly result in the loss of all developer funding.
- 4.110 Contrary to the objectors' assertions, there are unlikely to be opportunities to extract further S106 contributions to make up the deficit. The schemes they cite are either entirely speculative or not of sufficient size to make any significant contribution. They are also dependent on the commencement of development – a matter entirely in the hands of developers.
- 4.111 In the context of CPRE's proposal, the plan at Document 202o demonstrates the difficulty in attempting to extend Cawston Grange Drive northwards to connect with the October 2000 WRR planning permission. A detailed planning application is currently being considered by the Rugby Borough Council for development on a site which includes the land marked 'U' on the plan attached to Document 202o. Furthermore, in addition to objections from the Cawston residents, Orders to promote any use of the railway would be bound to attract objections – as indicated by the objections made to the planning application for the October 2000 scheme [Document 4A] – necessitating further public inquiries.

### ***Impact on Landscape***

#### *Vegetation Lost*

- 4.112 The County Council's description of the landscape and visual impact of the published scheme, together with the mitigation proposed, can be

found at TM 4.80-4.90. In suggesting that the railway route might be adopted, Mr Millington took no account of what the impact would be on the countryside by comparison with that of the published route.

- 4.113 The topography around the central section of the WRR is shown on the plan at Document 202g. Because of engineering constraints, the impact of the Bilton Lane and Cawston Roundabout junctions would be much the same for either the published scheme or the railway alternative. Notwithstanding Mr Millington's description of the countryside as being "pleasant", an objective assessment [see Guidelines for assessment at Document 25] shows that it is in decline, with hedgerows being replaced with post and wire fencing (although the map within Document 27 does not show the Order route within the area of decline, the area is about to be enhanced). The published scheme would provide the opportunity to address this problem through the type of positive management advocated in the *Warwickshire Landscape Guidelines* [Document 26].
- 4.114 Under the published scheme, the total length of hedgerow lost would be about 575 metres. However, both schemes would result in about 6 km of additional hedgerow being planted. [Document 202z]
- 4.115 With the rail option, there would be extensive loss of existing vegetation along the northern-western side of the disused railway line. Indeed, it would all be lost, amounting to some 65% of the ecosite (which runs from Rugby to the A45). Although, only a single carriageway is being proposed, the requirements would be for a 7.3-metre wide road with a 3.5-metre wide verge on either side. This would mean that the existing cuttings and embankments on the north-western side would have to be removed to accommodate the road and the landform re-profiled accordingly. During construction, the total loss of existing semi-natural vegetation would be in the order of 7.5 hectares, by comparison with less than 1 ha with the published scheme. Mitigation under the published scheme would result in a net gain of at least 3.35 ha of semi-natural vegetation, whereas the rail option would yield a net gain of only about 1 ha. [Documents 135 and 202z]

#### *Visual Impact*

- 4.116 The retention of the disused railway and its associated vegetation, whether as a cycle track or as a railway, would visually soften the impact of the WRR on the countryside to the west and on properties to the south-east in Cawston and Bilton. The proposal would not affect the openness of the countryside since it would not cross an area of open country; it would merely be on the edge of such an area. Although it would involve an embankment being created, this would largely mirror the railway embankment. Landscaping proposals would in time largely mask the views from the west and, together with the vegetated rail embankment, would still provide a vegetated backdrop. The overall effect on the countryside would therefore be minimal.
- 4.117 These advantages would be lost were the WRR to follow the line of the railway. Indeed, there would be significant additional impacts on the landscape. The effect of placing the WRR on the former track bed, and consequent loss of vegetation to accommodate the highway would result

in views of the road being opened up from the surrounding countryside to the north-west. The alternative would inevitably have a visual impact upon surrounding properties and the local highway and public footpath network.

- 4.118 The County Council acknowledges that, as the vegetation on the south-eastern side of the railway alternative would be retained, views of the road from the existing and proposed housing on the Cawston estate would be largely contained. However, the construction of the Cawston Roundabout, to link the WRR with the adjoining development, would open up views of this section of the road.

#### *Visual Impact on Lodge Farm*

- 4.119 The top of the railway cutting lies about 50 metres from the nearest point of the Lodge Farm holiday cottage and touring caravan site. Although it would thus be some 45 metres further away from Lodge Farm than would the published route, adoption of the railway route would necessitate the removal of the existing vegetation on the north-western side of the cutting. Mitigation would be similar to that proposed under the published scheme. However, because of the need for the northern end of the alternative scheme to tie in with the published scheme at Sow Brook, it would be necessary for an embankment to be constructed, the toe of which would be about 40 metres from the Lodge Farm boundary. The impact of the railway alternative on Lodge Farm would therefore still be quite significant.

#### **Ecology**

- 4.120 The disused Leamington to Rugby railway line is designated as a wildlife site of county importance, known as an 'Ecosite' in Warwickshire. The extent of the ecosite is described in Document 202w. It is also a potential Site of Importance for Nature Conservation (pSINC) and is likely to qualify as a 'SINC' [Document 134]. It therefore qualifies as a 'material consideration' under PPG9 and is afforded policy protection from development under Policy ER1 of the Warwickshire Structure Plan [Document 28] "unless there are other material considerations which are sufficient to override the conservation importance". It is also afforded protection under Policy R/E14 in the Rugby Borough Local Plan (June 1997 [Document 12] and under Policy E5 Part C in the First Deposit Draft of the Local Plan Review [Document 138].
- 4.121 As the plan at Document 135 illustrates, the disused railway contains a mosaic of habitat types. This is likely to house a relatively diverse assemblage of mammals, birds, reptiles and invertebrates. In addition to the 25 badger setts, it also supports a population of the Bloody Nosed Beetle (only recently discovered), a local Biodiversity Action Plan (BAP) species for which this is the only known site in Warwickshire [Document 139]. The Countryside and Rights of Way Act 2000 provides a statutory mechanism for the policy protection of BAP habitats and species; the Warwickshire Structure Plan does so via Policy ER5. The disused railway also acts as an important wildlife corridor, connecting urban Rugby with the wider countryside [Document 134].

- 4.122 The published scheme would have some impact on the ecosite, particularly between Sow Brook and Lawford Road, where it would mount the line of the disused railway. However, this part of the ecosite is of the least ecological interest. The ecological impact of the published scheme would therefore be limited. By comparison, there would be a major and important increase in the scale of ecological impact were the WRR to be sited completely along the disused railway, as is illustrated by the concern expressed by the Warwickshire Wildlife Trusts [Document 136]. The ecosite totals about 17.77ha, of which about 15.7ha comprises semi-natural vegetation. Construction of the road along the railway would result in about 60% of the width of the ecosite over 65% of its length (ie, about 7.5ha of semi-natural vegetation) being lost. Given its conservation value (classified as a Grade C Receptor in the Environmental Statement [Document 9]), the ecological impact on the ecosite would be 'Large/Moderate Adverse'.
- 4.123 Such a level of impact would require significant habitat creation in mitigation before planning permission could be granted, for which land would be required, together with that statutorily required for great crested newt habitat, the construction of artificial badger setts and badger foraging habitat. The County Council acknowledges that there would be less loss of foraging for great crested newts than there would be with the published scheme.
- 4.124 Appropriate mitigation areas are illustrated on the plan at Document 104. The ground preparation, seeding and planting would have to be carried out and given sufficient time to mature prior to the destruction of existing habitats. Where the mitigation land would need to be cleared of great crested newts, a DEFRA licence would be required and the land cleared of newts before these measures were implemented. This would probably require years of preparatory works in advance of construction and the opportunity for improved access to the ecosite would be lost irrevocably.
- 4.125 A licence would require the new badger setts to be at least 30 metres from the road. Whilst mitigation could be feasible, the replacement sett would need to be constructed between 12 and 18 months in advance of the main works to allow sufficient time to relocate the badgers. A licence would be required from English Nature before the badgers could be disturbed, the application for which would require the permission of the landowner. [Documents 202pp and 202yy]

#### ***Mr Bragg's Version of Railway Alternative (Including the PDL)***

- 4.126 The plans at Documents 103 and 104 were drawn up by the County Council to represent a viable scheme, similar to that implicit in the October 2000 planning permission but modified to take account of various engineering constraints. However, in response to objectors' complaints that they did not sufficiently reflect their proposals, the plans attached to Document 202xx have now been produced.
- 4.127 Mr Bragg's version would have all the disadvantages of the main railway alternative set out above and none of its advantages. It would involve an incursion into the Green Belt between chainages 500-900. Furthermore, it would still cause material harm to the badgers and their setts within

the cutting. Contrary to Mr Bragg's assertion, if the railway cutting were to be filled in, the same number of setts would be destroyed as would be the case with the main railway alternative. [Documents 202xx and 202yy paragraph 2.8]

- 4.128 As with the main railway alternative, it is unlikely that English Nature would grant a licence for the Bragg option. [Document 202xx]

***CPRE's Proposed Railway Alternative (Utilising Cawston Grange Drive)***

- 4.129 Contrary to assertions by CPRE, it would not be possible to build the WRR using a combination of the planning permission for the October 2000 scheme and the outline permission for the Cawston Grange development. Although the land is contiguous, there is no planning permission which links the two schemes and no permission could be granted without an Environmental Impact Assessment.
- 4.130 Even if such permission could be achieved by application for reserved matters, the County Council would not contemplate granting such permission without full consultation with the local residents. This would encounter very substantial objection. In any case, the October 2000 scheme alignment is wholly different from that covered by the CPO for the published scheme and consideration of new Orders would lead only to further delay.

**Bilton Lane**

- 4.131 In TM 7.76 – 7.79, Mr Millington discussed the case for closing the planned access to Bilton Lane to the north-west from the WRR, as would have been done under the October 2000 scheme.
- 4.132 This would have the advantage that less land would be required on the north-western side of the WRR. The County Council also acknowledges that benefits would arise for pedestrians and cyclists, especially for school children. The reason closure is not now proposed is that, whilst there was some public support for the closure proposed in the October 2000 scheme, it also attracted significant opposition from the public as well as opposition from the local and other County Councillors. Following a debate at the time, both the Rugby Area Committee and the Cabinet decided to keep Bilton Lane Open.
- 4.133 Although the matter was raised by the Secretary of State in his 5 January 2005 letter, insufficient time was available to conduct a well-organised public consultation exercise before submitting proofs to the reopened inquiries. An informal view of County Council elected members was therefore taken in January 2005. Members remained of the view that the road should be left open. [DOCUMENT 202gg]
- 4.134 As correctly stated by Mr Millington [TM 7.79], this issue can be dealt with separately from the main Orders. The County Council therefore proposes to conduct a public consultation exercise over the coming months so that a refreshed public view and formal County Council view can be obtained in time for the issue of the Secretary of State's final decision on the Orders.

- 4.135 The decision on whether or not to retain access to Bilton Lane north-west would also bear on that relating to the provision of the underpass for Footpath R126. An illustration of the consequences for the CPO can be found at Document 202ww, although layouts other than Figure 1 in that document would require further design work before a precise modification could be proposed. As can be seen, the amount of CPO land required would be reduced were Bilton Lane to be closed, although a turning circle would be required that is not reflected in the plans.

### **Footpath R126 Underpass**

- 4.136 In TM 7.80-7.82, Mr Millington discusses the proposed underpass serving Footpath R126 and recommends that it be deleted from the scheme.
- 4.137 The provision of the underpass was included in order to provide a safe crossing for pedestrians. The County Council still wishes to retain the underpass.
- 4.138 Sustrans are proposing a cycle route on the dismantled railway with a connection to Bilton. The proposed cycleway on the western side of the WRR would connect with the network on the east side via the underpass.
- 4.139 The Rugby Borough Council has aspirations to provide a cycleway to Henry Hinde School, for which the underpass would be a safer alternative to the signalised junction at Bilton Lane (the County Council now accepts that the underpass would not be used by children from Henry Hinde School). Document 108 shows the proposed cycleway network in this area.
- 4.140 There is an existing bridleway (R166) connecting to Bilton Lane. Following discussions with the British Horse Society [Document 106], it was concluded that it would be safer for equestrians to use the underpass, rather than a Pegasus crossing at the signalised junction. If the underpass were to be deleted, it would be necessary for the Secretary of State to include additional CPO land (10-15m<sup>2</sup> on each side of the road) adjacent to the Bilton Lane junction so that holding areas could be provided for a Pegasus crossing.
- 4.141 The underpass has been designed to accommodate not only equestrians but also agricultural vehicles. Because of its distance from the WRR, the access off Bilton Lane to the severed field immediately to the east of the junction would be a little less safe than would access via the underpass, but the County Council acknowledges that the landowner, Mr Martin, no longer considers that he needs the underpass for access purposes.

### **Footway/Cycleway Arrangement**

- 4.142 At TM 7.85, Mr Millington raised the possible need to re-consider provision of the footway/cycleway on both sides of the WRR for 300 metres north-eastwards from the Bilton Lane junction to the proposed underpass for Footpath R126.

- 4.143 The footway/cycleway would be moved to the east side but would also be retained on the western side, as reflected in Document 61.

### **Balancing Pond**

- 4.144 The extent of the land required for the balancing pond at chainage 1900-2080 (Plot 201) is discussed by Mr Millington at TM 7.86 and 7.87. Although a reduction in the size of the CPO land was agreed at the 2003 inquiries, the precise amount to be acquired was not known.
- 4.145 Calculation of the minimum required for drainage purposes now shows that Plot 201 can be reduced from the 77,152m<sup>2</sup> assumed in 2003 to 71,987m<sup>2</sup> and the Orders can be amended as indicated at Document 202s. However, the vertical alignment of the scheme might need to be changed in order to win more material for use in earth embankments and the landowner has himself asked whether the balancing pond might be moved further to the south to approximately chainage 1600. This would require a planning application for the changes to the published scheme but would be entirely by agreement with the landowner following confirmation of the Orders. No new Orders or change to the existing Orders would be required. [Document 202tt]

### **Mitigation of Environmental Impact on Lodge Farm**

- 4.146 Lodge Farm overlooks the disused railway, the toe of the embankment being only about 5 metres away from the nearest point of the property. Mr Millington [TM 7.119] was concerned about whether the adverse environmental impacts of the published scheme on the holiday cottage and touring caravan site would be significantly mitigated by the noise barrier and landscaping proposed by the County Council.
- 4.147 The noise fencing would not be at the toe of the embankment, as previously assumed by the objector, but at carriageway level. The edited photograph submitted as Document 204d is therefore misleading. At the time of the earlier inquiries, the planned 2-metre high acoustic fencing would have reduced the increase in noise at Lodge Farm from 13 dB(A) to 3 dB(A), resulting in about 55 dB(A). To increase the degree of mitigation, it is now proposed to increase the height of the fence to 3 metres above carriageway level and, in order to prevent multiple reflections between road fences, to make these fences absorptive. Not only would the fencing further reduce the increased noise level to below an imperceptible 3dB(A), resulting in a noise level of less than 50 dB(A), but it would also screen all but the highest sided vehicles from the property. [Document 202 bb]
- 4.148 The hedgerow alongside the footpath on the south side of Lodge Farm is quite thick, even in winter. However, it is now proposed to soften the visual impact of the noise fences through planting on both sides of each fence for which, contrary to Mr Bragg's fears, there is room. Off-site planting would also be offered to the owners and the hedgerows surrounding the site could be managed to enable them to grow and form

a screen. Nonetheless, it is acknowledged that planting measures would take time to have any real screening effect. [Document 202mm]

- 4.149 Although the proposed lighting to the north of the Bilton Lane junction would extend to chainage 3+250 [Document 202uu], light spillage onto the Lodge Farm property would be minimal and would be little different from that with the objector's own alternative scheme [see paragraphs 7.3.12-7.3.15 below]
- 4.150 The WRR could be lowered into cutting only if it were decided to dispense with the underpass for Footpath R126 but, because of engineering constraints at the Bilton Lane Junction, the road could not be lowered more than about 1-1.5 metres.

### **Mitigation Land for Badgers and Newts**

- 4.151 The County Council was surprised by Mr Millington's conclusion [TM 7.99, 7.100] that the mitigation proposals, entailing the acquisition of extra land, are not justified. As explained to the 2003 inquiries, the protection of great crested newts is a statutory requirement under the Wildlife and Countryside Act 1981, the Conservation (Habitats &c.) Regulations 1994 and the Countryside and Rights of Way Act 2000. English Nature, in its capacity as statutory technical advisor to DEFRA (the licensing Authority) has issued guidelines on the matter – *English Nature's Great Crested Newt Mitigation Guidelines (2001)*. Licences are required from DEFRA for derogation from the legal prohibition of taking or disturbing great crested newts, so as to enable appropriate safeguarding and mitigation schemes to be implemented on development projects. The mitigation measures proposed are in line with these guidelines and with current accepted practice nationwide on other development schemes. [Document 202pp]
- 4.152 The justification for the proposed mitigation for the published scheme was explained at TM 4.44-4.48. Only 1.85 ha of high-grade habitat is proposed as a replacement for the lower-grade 1.99 ha covered by the required 250-metre buffer round the pond, although, because the field is also required for balancing ponds and other sustainable drainage features, a total of 2.7 ha would be available in practice. Prior to the 2003 inquiries, English Nature had approved the proposed mitigation in writing [Document 5]. Since then, English Nature has written [Document 133] to say that were this mitigation not to proceed, an alternative mitigation scheme would need to be drawn up to support the application to DEFRA for a licence. Without such a licence, the WRR scheme could not be completed.
- 4.153 The County Council's case for providing mitigation for loss of badger foraging areas is as set out in TM 4.58 and 4.59 [but see also 4.86 above].

## **Other Matters Raised by Objectors**

### ***Objection by Network Rail***

- 4.154 The County Council's response at the 2003 inquiries to Network Rail's objection is summarised at TM 5.93-5.97
- 4.155 Subsequent to the receipt of Document 301, the County Council entered into an agreement with Network Rail Infrastructure Limited, the Rugby Borough Council and The Rugby Group, dated 4 June 2004, which provides the necessary protection for Network Rail. The County Council therefore regards the objection as having been withdrawn. [Document 202nn]

### ***Objection by Railway Paths Ltd***

- 4.156 The County Council's response to the points made by Railway Paths Ltd and Sustrans at the 2003 inquiries is at TM 5.87
- 4.157 No formal agreement has yet been made with Railway Paths Ltd. However, when Document 202e is read in conjunction with Document 100, it is clear that the companies do not want the Orders as detailed in the Secretary of State's interim decision letter [Document 201a] to be confirmed and that their reference to its support for the County Council's "original scheme" refers to the published scheme. Accordingly, it regards the objections as having been withdrawn. [Document 202nn]

### ***Implications of Published Scheme for Green Belt interests***

- 4.158 The fact that the published scheme would run within the Green Belt was acknowledged by the County Council at TM 4.13 and 4.18. However, the published scheme would occupy only a slim sliver of land on the very edge of the Green Belt. Many roads are built within Green Belts. Planning permission for the published scheme has been granted because, in the County Council's view, little harm would be caused to the Green Belt.
- 4.159 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green belts is their openness [PPG2, paragraph 1.4]. The published scheme is not an 'urban' feature per se and it would not affect urban sprawl, which is already prevented by the railway line defining the edge of the Green Belt. Although planning permission would be refused for any other building within the Green Belt, the WRR would constitute a "very special circumstance", as allowed for in Local Plan Policy R/E10 governing development within the Green Belt. The County Council remains of the view that no significant harm would be done to Green belt interests.

### ***Objection by Mrs Pallikaropoulos***

- 4.160 The proposal for a bypass, linking the A45 to the M6, would be a major incursion into the Green Belt, would not carry sufficient traffic to justify its construction and could not be built with the funding for the WRR. It would provide little traffic relief for the existing network in Rugby. [Document 202oo]

### ***Noise Impact on Lawford Fields Farm***

4.161 As a result of concerns expressed by the objectors, the County Council has re-examined the noise impact on Lawford Fields Farm. Without mitigation, the noise level would increase from the existing 45dB(A) to 58dB on opening and 60 dB by 2021. It has concluded that the noise fence should therefore be extended northwards to chainage 3+500. [Document 202t]

### ***Noise Impact on Henry Hyde School***

4.162 The proposed 3-metre high noise fencing would result in no more than 40-45 dB(A) being experienced on the façade of the top floor of the school – well below the 55 dB(A) standard.

### ***Drainage***

4.163 The scheme would include 100-year storm protection. Modelling shows that the 1:100 year flood levels would be slightly reduced with the relief road in place [Document 9, Part 10, paragraph 4.2]

4.164 The profile of the land surrounding Lodge Farm is such that the published scheme would have no impact on the supply of water to the pond within that property.

## **5 THE CASES FOR THE SUPPORTERS**

The material points are:

### **5.1 The Rugby Chamber of Commerce**

5.1.1 Rugby has become an attractive location for national companies, especially distribution companies with large warehouses. The movement of staff and suppliers between new industrial sites and housing has brought an increase in traffic through the town. Traffic congestion in the town centre is a cause of serious disruption to business efficiency, especially at peak times and during even minor road works. The situation is exacerbated by the narrow railway bridges, both in the town and on the A4071 at Potford's Dam. The height of the latter allows only one vehicle to pass through at a time and its demolition would be required were Cawston Grange Drive to be used for the WRR. [Document 207]

### **5.2 Mr R Nash**

5.2.1 Mr Nash is a resident within the Cawston Grange development. No mention of the possibility of using Cawston Grange Drive was revealed in the Search made before he acquired his house (just off the Drive).

5.2.2 Mr Millington was unduly concerned with traffic at the expense of policies. Use of Cawston Grange Drive would be contrary to Local Plan Policy T1 and to Warwickshire's LTP.

5.2.3 Use of Cawston Grange Drive as part of the WRR would be intolerable to the residents, who now live on both sides of the Drive. It would be

irrational to plan for such a route through a densely-populated area. Cawston Grange Primary School is on the western side of the Drive but children also have to cross the road in the other direction to get to Bilton High School. The predicted traffic levels would effectively result in segregation. Significant noise and pollution would be suffered by those living on the Drive. Any relief for Rugby town centre would therefore be at the expense of the Cawston residents. Congestion at the A4071 Coventry Road junction would increase. Cawston Grange would no longer be a rural village. The residents would make greater use of their cars.

## **Written Representations of Support**

### **5.3 The Federation of Small Businesses and the Freight Haulage Association**

5.3.1 The need for a WRR in diverting heavy vehicles away from the town centre is urgent. The consequences for safety of routing heavy vehicles through Cawston Grange Drive would be a matter of great concern. The full length of the published scheme should be provided. [Document 349]

### **5.4 Railway Paths Ltd and Sustrans**

5.4.1 Railway Paths Ltd was a statutory objector to the Orders. However, in response to the Inquiries Notice [Document 201b], both companies have written to DfT, in identical terms [Documents 337 and 338], indicating that, having read the County Council's proofs of evidence, they support its submission to the Secretary of State.

### **5.5 The Cawston Consortium**

5.5.1 Mr Millington made invalid assumptions regarding the planning obligations to fund the WRR and did not take account of the changed circumstances regarding the development.

5.5.2 The Cawston Grange S106 contribution was based on the fair proportion that Cawston bears to the cost of the WRR as a whole. There was never any suggestion that the contribution was for the Northern Section alone. The structure of the development has changed since that envisaged at the time of the outline planning permission. Even then, the use of Cawston Grange Drive was to be only a temporary arrangement until the PDL could be funded. The development will now exceed 1400 houses, with three areas lying to the west of the Drive. The additional density will result in additional population needing to cross the drive on their way to the Primary School (now open) and the Local Centre (yet to be built).

5.5.3 It would therefore no longer be appropriate for Cawston Grange Drive to function as part of the WRR. [Document 332]

### **5.6 Mr Andy King, MP**

5.6.1 Early provision of the WRR is essential, both in the interests of the future development of Rugby and to relieve traffic congestion in the

town. The railway should be protected for getting freight off the roads and onto rail. The use of Cawston Grange Drive should be avoided. The published scheme would also eliminate the need to use the dangerous bridge and bend on the A4071 at Potford's Dam.

## 5.7 Other Representations

- 5.7.1 Apart from one representation [Document 305], suggesting that the Countryside Section of the WWR be elevated above the disused railway, the other matters raised in the written representations of support are all covered by the points made by the County Council and other supporters, either at the earlier inquiries or in earlier paragraphs of this report. Many stressed the urgency of the need for a WRR but a significant proportion objected to the use of Cawston Grange Drive.

## 6 THE CASES FOR THE STATUTORY OBJECTORS

The material points are:

### 6.1 Mr S Alexander, of Potford's Dam Farm

- 6.1.1 Potford's Dam Farm is adjacent to the published route at Chainage 350. The evidence presented to Mr Millington by Mr Alexander can be found at TM 5.42-5.65. The following additional points were made to the reopened inquiries.
- 6.1.2 The Objector was not made aware of the County Council's response [Document 100] to the Secretary of State at the time of its submission. Had he been aware of it, counter submissions would have been made, pointing to the disparity between the advice given by County Council officials (recommending, inter alia, that the Northern Section be constructed as a first stage [Document 203a(iii), paragraph 6.1]) and the line eventually taken by the Council. Given this and the other concerns expressed in that advice, Mr Millington's conclusions at TM 7.67, 7.68 and 7.71 might have led the Secretary to State conclude that reopened inquiries were not necessary. Any loss of funding as a result of delay to the scheme would be the County Council's own fault. The objector's interest should not be prejudiced by these failures.
- 6.1.3 The objector is not proposing that the Northern Section be constructed in isolation. Nevertheless, he is bound to observe that, although the County Council's response to the Secretary of State's provisional decision refers to surrounding villages being adversely affected, paragraph 3.2 of Document 203a(iii) admits that the results of the traffic study show a benefit when comparing the opening year of a Northern Section built in isolation with the 'do-nothing' situation. In spite of 60% of the structures and nearly all the service diversions of the scheme being incurred in the Northern Section, the benefits of that section alone would still exceed its costs.

### ***Need for Potford's Dam Link***

- 6.1.4 Even if it is decided that a PDL would be needed in the long term, there is no pressing need for it now. Cawston Grange Drive has been designed as a distributor road.
- 6.1.5 Whether or not insuperable impediments might be encountered in adopting the Northern Section alone, the use of Cawston Grange Drive and the Cawston Link would enhance the benefits of the Northern Section by reducing flows on the A428 (Brentford Village/Binley Woods), Bilton Lane, Lawford Heath Lane and the A4071 Bilton Road. There would be no overall improvement by adopting the PDL instead of using Cawston Grange Drive.
- 6.1.6 As is confirmed by Documents 110 and 202m, the 2006 'Do Nothing' flows on Cawston Grange Drive would be approximately 5,464 AADT. The immediate effect of using this road for WRR traffic would be an increase of only about 1,000 (6579-5464) AADT. The 2021 'Do Nothing' flows on this road would be about 8,000. Even without the PDL, this level would still not be reached until about 2012. Meanwhile, Cawston Grange Drive would be an appropriate alternative to the PDL - as the Council was advised by officials [paragraphs 3.2 and 5.2(iii) of Document 203a(iii)].

### ***General Alignment of the Potford's Dam Link***

- 6.1.7 As for the alignment of the PDL, Mr Alexander sees considerable merit in the railway alternative alignments proposed by other objectors, which would be likely to address his concerns, whether using a new bridge over the A4071 or the cheaper and preferred option of joining the line of the railway further to the north [paragraph 7.2.13 below]. In that the railway is afforded no protection, either in the adopted Local Plan or in the emerging Plan (to which the County Council is aware of no objections being raised), no weight should be attached to the suggestion that such a policy is likely to appear in any Second Deposit Plan.

### ***Potford's Dam Link Road Design***

- 6.1.8 No further information has been submitted to the reopened inquiries to lead one to conclude that Mr Millington was wrong in his conclusions regarding road alignment in this area.

### ***Design Standards***

- 6.1.9 Under the published scheme, the new road would connect back into the existing A4071 immediately outside Potford's Dam Farm. The County Council's predictions suggest that the traffic at this point would exceed the WRR's design capacity. Indeed, in that the applicable Congestion Reference Flow (CRF) would be 19,500 [Document 202cc], it would be almost at the congestion level from the outset. Bearing in mind that the calculation of CRFs is based on standard parameters whereas the A4071 at Potford's Dam would still be sub-standard and at a "transition point" where drivers would be connecting back from a "new" link, and also that flows would be significantly greater than even the theoretical CRF, the

road is likely to be significantly more than “slightly” congested as the County Council suggests. [Document 203g]

- 6.1.10 As Mr Millington concluded, the County Council’s proposals for the WRR in the vicinity of Potford’s Dam Farm would be manifestly below the design standard recommended in TD 9/93 [TM 7.67], the accident potential would be greater than normally to be expected in such a situation [TM 7.68] and visibility would be sub-standard [TM 7.70]. Even with the new speed limit of 50 mph, imposed since the 2003 inquiries, the published scheme would still have a horizontal radius of only 200 metres in the vicinity of the Farm, compared with the new desirable minimum radius of 510 metres (ie, almost 3 steps below the standard and less than the desirable minimum radius for a 30 mph road). Furthermore, the available forward visibility would be only about 120 metres – still 1 step below the desirable minimum. The fact that an 85 percentile speed of 49 mph has been measured even with the existing poor alignment suggests that, with the straighter approach down the WRR from the north, speeds at Potford’s Dam would be somewhat higher.
- 6.1.11 Mr Millington’s particular concern was with the proposed new private means of access to the Farm. As can be seen from the County Council’s own Drawing H/A426-31/SK15A [attached to Appendix 3 to Document 203a(v)], visibility to the north from the retained front (southern) access to Potford’s Dam Farm would be only about 90 metres, which would be appropriate for only a 60 kph (37 mph) design speed and therefore a major departure from the standard.
- 6.1.12 Although the reduced speed limit would result in the required minimum desirable visibility being only 160 metres, rather than the 215 metres previously required, the visibility to the south from the proposed new means of private access to the north of the Farm (the ‘rear’ access) would still be less than this - 140 metres. Furthermore, as was concluded by Mr Millington [TM7.70], a fence or similar feature ought to be provided along the proposed new access road to prevent unexpected glare and risk of driver disorientation, notwithstanding that this might be an infrequent occurrence. Visibility would therefore be reduced to less than 100 metres in practice, which would represent a ‘departure’, rather than a ‘relaxation’ from standards.
- 6.1.13 Clearly, the design of the WRR in this area would not be of an acceptable standard. Although Mr Millington recommended [TM7.71] that “... *the Authority should reconsider the design for this southern extremity ...*”, it is noteworthy that nowhere in the County Council’s subsequent submission to the Secretary of State is there any reference to the design shortcomings. As suggested in paragraph 6.20 of TA37/99 [Document 203d], the road surface near Potford’s Dam Farm should last for about 15 years. The imposition of a speed limit and special anti-skid surfacing together with the road having to be resurfaced every 7 years if accidents are to be avoided, as suggested by the County Council, is hardly an appropriate solution. This serves to demonstrate that the design is unsatisfactory and that the considerations in paragraph 4.12 of HD 28/04 [Document 203e] apply.

- 6.1.14 Whilst Mr Millington would not have had the survey data on access usage, he recognised [TM 5.54] that traffic flows might be very low. On the other hand, the County Council seems to be ignoring the fact that the opening year flows on this sub-standard part of the network would be about double the existing level and at least 50% more than the design capacity (flows would, in effect, already be at congestion level) and would include a significant increase in HGVs.
- 6.1.15 As can be seen from Appendix 7 to Document 78, land ownership was not covered in the Departures Report. Insufficient land has been included in the CPO. However, there are no insuperable or even exceptional reasons why a full standard design could not be achieved in this location.
- 6.1.16 The objector does not deny that, under the published scheme, visibility for the two accesses to Potford's Dam Farm would be better than under the existing situation. On the other hand, both traffic flows and speeds on the A4071 would be higher. The County Council should therefore be required to reconsider the alignment to provide a route which does not necessitate the acquisition of Mr Alexander's property [Plot 101] and does not require significant 'departures' from standard. This could be achieved by adopting his proposed alternative alignment as set out on the plan at Document 78, Plan PFA 3.

#### *Mr Alexander's Alternative Alignment*

- 6.1.17 The County Council has exaggerated the cost of the objector's alternative alignment. As adoption of the alternative alignment would not extend scheme construction time, its costs should not include the £92,294 identified in Document 202jj for additional preliminaries. Furthermore, the requirements of statutory undertakers need not involve additional costs and the costs of diverting BT apparatus from the existing A4071 do not appear to have been included in the cost of the published scheme. The County Council's estimate of the additional cost of £515,205 for the alternative is therefore excessive. The true additional cost would be in the order of £330,000 million. [Document 203h] There might be opportunities to extract further S106 contributions for the WRR scheme from renegotiation of existing S106 agreements and from further developments at Malpas Farm, Cawston Grange and the sale of land at Paynes Lane. In any case, even using the County Council's figures, the cost of the alternative would be only 1-2% of the total scheme costs. This would be less than the cost of the two or three accidents that would be saved over the 60-year economic (TUBA) life of the scheme. The cost of the alternative alignment should not therefore be regarded as material to its consideration.
- 6.1.18 As regards the County Council's interim scheme, pending construction of Mr Alexander's alternative, he would have no objection to the arrangement set out in Document 202ss. Indeed, this would seem to be quite suitable as a permanent arrangement as it would be a safer form of junction with the A4071 than a priority junction and would eliminate the need later to remove the roundabout and replace it with a ghost island. Thus, apart from some very minor abortive costs, the £1 million

additional cost quoted by the County Council need not be incurred. [Documents 203 k and 202 L]

- 6.1.19 In the interest of highway safety, the Orders as they relate to the WRR adjacent to Potsfords' Dam Farm should not, therefore, be confirmed but should be modified to accord generally with Mr Alexander's alternative alignment, as proposed by Mr Millington [TM 7.71]. This could be achieved without any significant prejudice to the majority of the scheme.

### ***Need to retain railway***

- 6.1.20 Since Mr Millington produced his report, the County Council's Director of Planning, Transport and Economic Strategy has recommended [Document 203a(iii) paragraph 3.19] that the Council's aspiration of retaining the dismantled railway for possible future use be abandoned. It is also noteworthy that, although the County Council informed the Government Office North East (GONE) [Document 100] that it was committed to preserving the rail corridor for future rail use (citing the direction in PPG13 to preserve disused routes), there is no policy support for its protection in the adopted Local Plan and no opportunity has been taken in the First Deposit draft of the emerging review to cater for a possible reopening of the railway by including a safeguarding policy. No weight should therefore be attached to the need to retain the dismantled railway for any prospective reopening.
- 6.1.21 As the County Council has conceded, it is aware of no objections to the emerging plan. The suggestion that such a policy is likely to appear in any second deposit should be given no weight – especially as objections could be made to inclusion of such a policy.

### ***Increased Cost and Delay***

- 6.1.22 Document 203a(iii) para 4.3.4 makes it clear that early construction of the Northern Section would, in June 2004, have allowed the drawing down of S106 developer funding before expiry. The risk of loss of this funding is a consequence of the Secretary of State's decision to reopen the inquiries. However, these matters should be given little weight in terms of whether any scheme is the "right" scheme meeting the appropriate design standards, etc.
- 6.1.23 Although the correct cost (£33.22 million) of the 2-stage (Northern and Countryside Sections utilising Cawston Grange Drive) option was quoted in the County Council's letter to GONE [Document 100], the correct cost of the full scheme was not. £25.2 million was quoted instead of the correct £30.99 million [Document 203a(iii)]. Document 100 effectively compares the cost of the single-stage construction of the published route with the cost of a 2-stage construction on a different route. This is not comparing 'like with like'. The true increased cost of any delay would effectively be due only to the preliminaries – ie, about £2 million or less than 7% of the total scheme costs.
- 6.1.24 Had the County Council accepted the Secretary of State's provisional decision, this would have enabled drawdown of developer funding before expiry. The Northern Section would, in all probability already be under

construction and any further work to reconsider the Countryside Section be complete and delays therefore minimised. In any case, the delay and costs involved are not sufficiently material for them to be given any weight.

## 6.2 **Joint Submission by Mr J L Martin & Mrs D C Martin and Mr M J Martin and by Mr A & Mrs D Mitchell**

- 6.2.1 The extent of the land along the line of the published scheme owned by the Martin and Mitchell families can be seen on the plan at Document 206a(iv). The evidence presented to Mr Millington by the two sets of objectors can be found at TM 5.1-5.41. The following additional points were made by them to the reopened inquiries.

### ***Need for the Potford's Dam Link v Cawston Grange Drive***

- 6.2.2 At TM 7.61, Mr Millington concluded that there was not a compelling reason to justify compulsory purchase of land for the PDL.
- 6.2.3 The traffic figures indicate a build-up of traffic over only a long period. If, eventually, the build-up is sufficient, there should be no problem in getting sufficient justification for the PDL. In the meantime, although the objectors do not challenge the evidence that the PDL would bring with it some benefits, the County Council has still not proved a pressing case for the link - certainly nothing which would justify the taking away permanently 18.6ha of good quality agricultural land when an alternative, Cawston Grange Drive (which, at the insistence of the local planning authority, was designed as a Primary Distributor Road specifically with the WRR in mind) would be available.
- 6.2.4 Although 300 letters objecting to the use of Cawston Grange Drive may have been received by the County Council, it should be borne in mind that the Cawston Grange Residents' Association is particularly strong and that, as can be seen at Document 206a(viii), only about 75 properties, none with frontages on the Drive, would be directly affected.

### ***Badgers***

- 6.2.5 The County Council has produced no further evidence to counter Mr Millington's conclusions, at TM7.30 and 7.108, that, as stated in the Environmental Statement [Document 10, paragraph 3.4], badgers are a common and widespread species and are primarily protected on animal welfare, rather than conservation, grounds. Insofar as its decision to avoid the use of the dismantled railway was influenced much more by badger protection considerations than by possible use for future freight traffic, the County Council has paid insufficient regard to agricultural interests and its approach had been unbalanced.
- 6.2.6 As confirmed by the Director of Planning, Transport and Economic Strategy in Document 206a(v), options for meaningful mitigation would be available which would significantly reduce the impact on badgers of adopting the railway route. Furthermore, the County Council's evidence on badgers needs to be reviewed (eg, new surveys undertaken) as it is out of date.

### ***Possible Reopening of Railway***

- 6.2.7 Document 206a(v) is also categorical in its confirmation that there is no case for the retention of the railway. As the Director pointed out in paragraph 3.16, independent consultants (Laing Rail Projects Ltd), and the Strategic Rail Authority had concluded that there would be no strategic value in reinstating the line as part of the National Rail network. Nor would the railway be commercially viable without significant external funding, rail costs being between 33 and 77 % higher than transport by road. This view was reinforced by Mr Millington at TM 7.151-7.153. It is strange that, in spite of the Director's recommendation that the County Council abandon this option, members should persist with an aspiration which would cost £1.54 million.
- 6.2.8 The area of ecosite along the railway line which would be lost as a result of the proposed alternative would be relatively small compared with the full length of the ecosite (there are 14 miles of disused railway south of Potford's Dam). The vegetation along the south-eastern side of the railway could be retained in full. Other disused railway lines exist in the Rugby which already provide public access and similar ecosites.

### ***Increased Cost and Delay***

- 6.2.9 The situation which would result in increased costs and delay as a result of adopting an option other than the published scheme is entirely the result of the County Council's own actions. The 2003 inquiries revealed that it had failed to investigate the alternative railway route when it could have done so in 2002. This has been perpetuated at the reopened inquiries by Documents 103 and 104 being submitted, which do not represent the objector's alternative proposal of basing the scheme on the 2000 planning permission. Mr Millington reported that he could see a feasible way forward with a staged construction of the Northern Section and Cawston Link, which the Secretary of State was minded to follow, and the County Council's Director advised the members that this was "do-able". Consideration of issues of increased costs and delay should therefore be judged in the light of this.
- 6.2.10 There is no convincing evidence either that the S106 agreements could not be renegotiated or that renegotiation has been refused. Similarly, as is confirmed by Documents 112 and 113, there is no evidence that funding has or will be lost. The published scheme is still a "provisionally accepted scheme" and the DfT has said that it would consider requests for funding for 2005/6 as and when the scheme comes back for approval. A precedent for this is the Barford Bypass scheme, for which £3.05 million over and above the previously agreed contribution was allocated.
- 6.2.11 The 27 May 2004 report, submitted to the Rugby Area Committee and reported to the Cabinet, makes it clear, in response to the Secretary of State's letter, that:
- *"initial consideration suggests there is no further evidence that can be brought to bear to justify the strategic need for the Potford's Dam link" [paragraph 4.2.3(iii)], and that*

- "... the Council could seek confirmation of the Orders for the northern section and begin construction of that as a first stage as soon as possible once planning permission and DfT funding has been secured" [paragraph 6.1]

6.2.12 At paragraph 6.1, the report suggests that "*now that RMC have decided not to promote reopening of the railway and it looks increasingly likely that mitigation measures for the badgers can be agreed with English Nature*", the County Council could "*promote a realigned scheme for the southern section utilising the railway corridor from Lawford Road to the Cawston housing development as a second interim stage*" and "*support the construction of the Potford's Dam link along the railway corridor as a third stage where it can be justified and funded*".

6.2.13 Thus, the report confirms Mr Millington's view, which the Secretary of State was minded to accept. The Rugby Area Committee's recommendation must therefore have been either politically motivated or to have reflected the personal views of the members against a technical recommendation.

#### *S106 Developer Contributions*

6.2.14 As far as existing S106 developer contributions are concerned, the fact that the RMC contribution is relatively small and the company needs to maintain a good relationship with the County and Borough Councils suggests that it should be relatively easy to get the timescale of the agreement extended. Furthermore, contributions have not yet been agreed for the Malpass Farm development, which could be released for the Northern Section of the WRR.

6.2.15 Similarly, given the attraction of Rugby for development by ProLogis and that company's aspirations for additional land owned by Swift, it is likely to be very approachable to extend their Swift Valley funding.

6.2.16 The emerging Local Plan for Rugby and, in particular, the Urban Capacity Study is showing a number of opportunities for further funding to be available from:

- Malpass Farm – awaiting completion of the northern section of the WRR.
- St Modwen Estate, Leicester Road – the same rationale could be used as was used for the Coton and Cawston contributions.
- Cattle Market site – a 10-acre site already in the Rugby Borough Council's hands (it would be illogical to sit on £5-6 million whilst the WRR failed).
- Additional Development at Cawston Grange – land can now be release for around 150 units.
- Potential development of about 50 acres (20.2 Ha) in the triangle between Cawston Grange, Coventry Road and the disused railway. This could contribute towards the cost of the PDL provided at a later stage.

- Additional Employment Land – opportunities for S106 funding from the promoters of Additional Employment Land at Coton Phase 2 and from the landowners of the Swift Valley development.

6.2.17 Thus, the County Council is being unnecessarily cautious in stressing financial risks.

### ***Transparency***

6.2.18 In TM 7.144-7.146, Mr Millington invited the Secretary of State to draw his own conclusions about the County Council's apparent lack of transparency regarding the need to retain the disused railway for possible future use.

6.2.19 A parallel situation has arisen in the context of the reopened inquiries. The Director's report to the Rugby Area Committee on 27 May 2004 [Document 206a(v)] is not mentioned in the County Council's proofs of evidence, nor in any Core Document and has been prized out of the County Council only with great difficulty. Similarly, objectors had been denied access to the confidential report on the funding issues at Appendix C to Document 206a(v). These documents reinforce the objectors' belief that negotiations with the S106 agreement developers, both in the past and in the future, would have more than a reasonable chance of success.

### ***Bilton Lane***

6.2.20 As suggested by the County Council, this matter should be left open pending the outcome of further public consultation.

### ***Retention of Underpass for Footpath R126***

6.2.21 No new evidence has been put before the reopened inquiries. Parents and teachers alike would consider the narrow pathway down underneath the underpass to be very unfriendly and potentially dangerous. The fact that this might add complications for the Bilton Lane signalised junction should not be given additional weight.

### ***Cycleway/Footway***

6.2.22 This point has been agreed and conceded by the County Council.

### ***Landscaping and Balancing Pond at Chainage 1900 to 2080***

6.2.23 The objectors are now content with the County Council's redesign work and the proposals in Document 202s and its attached plan.

6.2.24 The objectors would prefer, however, that the proposed balancing pond be moved to the southern end of the Martin ownership, although it is accepted that this would have to be by separate private agreement if the published scheme is confirmed.

### ***Mitigation Land for Newts and Badgers***

6.2.25 No new evidence has been submitted to contradict the views of Mr Millington in TM 7.96 – 7.100. No newt ponds would be lost and there is an endless area available for ongoing foraging within the open

countryside beyond. In any case, notwithstanding the letters from English Nature and the Warwickshire Wildlife Trust endorsing the proposals in the published scheme, mitigation for great crested newts does not require land to be permanently acquired.

- 6.2.26 Similarly, with tunnels provided, badgers would be able to forage over the extended countryside available to them. There is no statutory requirement to provide extra or compensating foraging area for badgers. For the reasons set out by Mr Millington [TM 7.115], acquisition of extra land for foraging by badgers would not be justified.

### 6.3 Network Rail

- 6.3.1 The background to, and summary of, Network Rail's original objection are set out in TM 5.88-5.92.
- 6.3.2 Network Rail formally withdraws its objection to the Orders [Document 301, provided that, following confirmation of the Orders, the County Council does not seek to acquire Network Rail's land interests via a General Vesting Declaration.

## 7 THE CASES FOR THE NON-STATUTORY OBJECTORS

The material points are:

### 7.1 CPRE, Warwickshire Branch

- 7.1.1 The evidence presented to Mr Millington by CPRE can be found at TM 6.1-6.21. CPRE made the following additional points to the reopened inquiries.
- 7.1.2 The Secretary of State should confirm the Orders relating to the Northern Section of the published scheme. Given his views as set out in paragraph 17 of Document 201a, it is not for the reopened inquiries to examine the design aspects of other proposals but for the County Council to conduct full public consultations on options for the southern part of the WRR, followed by making a planning application and the necessary Orders. A range of possible options is set out at Document 209c.

### *Need for Potford's Dam Link or Cawston Grange Drive*

- 7.1.3 On the assumption that the WRR would need to be extended south of the Northern Section, CPRE believes it should follow the line granted outline planning permission in October 2000 (ie, following the railway line) and then run along Cawston Grange Drive to connect with the A4071 Coventry Road, rather than along a Potford's Dam Link.

### *Planning Permission*

- 7.1.4 Cawston Grange Drive was built under Borough Council powers whereas the WRR is being proposed under County Council powers. This causes confusion. The driver is the original planning permission, on which the

- WRR should be based. Contrary to the County Council's assertions, there is no reason why this could not be achieved. Although the permission runs out in October 2005, it could always be renewed, matters such as balancing ponds and any agricultural land required for mitigation purposes being dealt with under the Conditions attached to the planning permission without the need for advertisement.
- 7.1.5 By following the route indicated at Document 209h, the main badger setts, which are high on the railway cutting banks, would not be affected.
- 7.1.6 As is evident from comparing the areas outlined in red on the plans at Documents 4 and 209e, the County Council is incorrect in suggesting in its July 2004 letter to the Government Office North East [Document 100, Section A5)] that there is a gap between the October 2000 planning permission and that for the Cawston Development which would require a new planning application, Orders and a public inquiry as a result of which developer funding would be lost. The green arrow indicating the then proposed line of the WRR on the former overlying the red area on the latter so that the WRR could blend smoothly into the line of Cawston Grange Drive – a particular feature of the planning application, as indicated in the third clause of Section 6.1 of the 1998 report on the planning application for the Cawston Development [Document 202q]. Thus, as indicated in the final two sub-clauses of Section 6.9.4 of that document, no further planning permission would be needed. Nor would another environmental statement or consultation be required (none was required for the Cawston development).
- 7.1.7 The fact that the Master Plan for the Cawston Development was later amended [Document 202o] to stretch across the earlier WRR alignment granted planning permission in October 2000 would be no bar to reverting to the earlier alignment. The Rugby Borough Council and the developers could agree to revert back to the original Master Plan, on which Cawston Grange Drive is clearly shown as the "Western Relief Road". Again, this would not require further planning permission or consultation.
- 7.1.8 Similarly, the County Council was wrong in its July 2004 letter to the Government Office North East [Document 100, Section A5)] in saying that, for legal reasons, the Northern Section alone could not be built - a precedent being *Powergen v Leicester City and Safeway* in the Court of Appeal, 1999. Planning permission would be covered by that given for the Northern Section on 13 October 2000 [Document 4b]. Although a bridge would need to be altered, planning permission in principle therefore already exists.
- 7.1.9 Cawston Grange Drive was designed to be part of the WRR under the October 2000 scheme. The agreement with the developers specified its standards (width, strength, junction layout and separation from dwellings) for this function. No houses have direct access onto this road and landscaped buffers are in place along both sides of it. It would therefore be perfectly suitable as part of the WRR.

- 7.1.10 The PDL was not included in the 2000 scheme, indicating that there was then no pressing need it, and no such need has yet been demonstrated. Indeed, even the County Council's Director of Planning and Transport, in his report to councillors in June 2004 [Document 206a(v)] proposed that, "*in view of the low volumes of traffic in the first few years of the scheme opening*", a realigned scheme for the Southern Section utilising the railway corridor from Lawford Road to the Cawston Housing Development as a second stage" should be adopted.
- 7.1.11 As the Secretary of State is minded to do, the Orders for the WRR north of Lawford Road could be confirmed and the County Council could consult on options, including the PDL and use of Cawston Grange Drive, and arrive at an agreed solution before making a new planning application and new Side Roads and Compulsory Purchase Orders.
- 7.1.12 As regards potential objectors, TM 5.85 shows that Sustrans agreed to the adoption of the railway route between Lawford Road and the Cawston Development, including the diversion of the cycleway to the south-east of the railway line near Henry Hinde School [Document 202h], at the time. Sustrans would therefore be happy to accept the cycleway going on the line of the railway, although they have not been consistent in their responses.

#### *Bilton Bypass*

- 7.1.13 Provision of a bypass for Bilton would represent better value for money than would the PDL. The land involved in such a scheme is already owned by the County Council. Although officials had proposed that the land be sold and funds used for the WRR, this has now been put in abeyance pending the Secretary of State's final decision on the WRR. [Document 209d] As can be seen at Document 110, even without a PDL, flows on Cawston Grange Drive would be only about 6,579 in the WRR opening year. By comparison, traffic on the A4071 Bilton High Street would be higher (14,410, 16,576 or 18,283, depending on which WRR option is adopted) than on the PDL (12923).

#### **Potential Effect on Badgers**

- 7.1.14 The actual number of badgers occupying the former railway embankment has not been assessed by the County Council or (it appears) by English Nature.
- 7.1.15 Mr Bragg's evidence on badgers is more convincing than that of the County Council. Whatever the population might have been when the major study was carried out in 1996, the Cawston Grange development has brought human population close to, and removed much of, their habitat. Numbers must be much reduced now. By the time construction along the railway line would start, numbers would be even lower. The effect on badgers is unlikely to be so serious that licences to move the remaining setts could not be obtained.

#### **Need for Retention of Railway Track Bed for Reopening**

- 7.1.16 In view of the County Council's Director of Planning and Transport's recommendation that "*No provision need be made for future rail based*

*transport on the disused railway*" and that the Council's aspiration of retaining the track-bed for possible re-opening should be abandoned, the Secretary of State can conclude that the issue need not be taken into account further as a factor influencing the route of the WRR.

### ***Use of Dismantled Railway as a Walking/Cycleway Track***

7.1.17 Provided that a cycle track is incorporated into the layout of the WRR along the railway line, as is often done in other schemes, no issue would arise. As Document 206a(v) [paragraph 3.21] makes clear, if railway reopening is not an option, and provided a suitable high quality cycle track is incorporated into the WRR scheme, Railway Paths Ltd would have properly discharged its responsibilities and would make its land available for the WRR.

### ***Increased Cost and Delay***

7.1.18 As the County Council has declined to meet to agree the form of a WRR alignment using the railway track-bed, it is difficult to make further comment.

7.1.19 As Document 206a(v), paragraph 4.3.1 makes clear, work on the Northern Section of the scheme could have been started in the Spring of 2005. Any delay is therefore of the County Council's own making and should not be a factor to be weighed in the Secretary of State's decision. Nor is the issue of whether S106 money would now be available, and for what, relevant. This is a process matter and not part of the Orders. It is not, therefore, a matter for the Secretary of State to consider.

7.1.20 In the meantime, the draft New Guidance to Local Authorities seeking DfT funding for major schemes [Document 209g] makes it clear that, notwithstanding the 2005-06 Local transport Capital Expenditure Settlement [Document 112], additional information would be required before the WRR scheme received funding, implying that delay to scheme approval is inevitable.

7.1.21 Deferring expenditure would reduce costs simply because expenditure would be deferred. Under discounting rules, this would simply be money spent later rather than sooner. This by itself would reduce costs.

### **7.2 Objection by Mr D Bragg, of 'Gillings', Bilton Lane**

7.2.1 Gillings is located 200 metres to the north-west of the published route at chainage 2+800. The evidence presented to the 2003 inquiries by Mr Bragg can be found at TM 6.37-6.46. He made the following additional points to the reopened inquiries.

### ***Need for Potford's Dam Link***

7.2.2 Hitherto, the WRR was always planned to run within the Cawston Grange development. Although the Primary Distributor Road now runs through the estate as Cawston Grange Drive, rather than skirting the estate along its western side as originally planned, no houses front the road.

### ***Potford's Dam Link Design***

7.2.3 The points made by Mr Alexander are endorsed. Public Safety must be put first. Since the A4071 takes a sharp bend at the Potford's Dam railway bridge, Mr Bragg concedes that the published scheme would improve road safety at this point. However, although traffic counts may suggest that traffic movements into and out of Potford's Dan Farm may be low, this must be set against the 17,000 per day along the WRR, which would be double the existing flow.

### ***Route Alignment***

7.2.4 As can be seen in the Non-Technical Summary of the Environmental Statement supporting the scheme granted planning permission in October 2000 [extracts highlighted in Document 204b(ii)], the aim of that scheme was to minimise the environmental impact by making maximum use of the dismantled railway.

### ***Impact on the Landscape***

7.2.5 It would be quite wrong to run the WRR through the Green Belt. Although the Rugby Borough Council left the protected corridor within the Green Belt in the Local Plan (Mr Bragg was an objector to this), this was against the Inspector's advice that this should be reconsidered.

### ***Badgers***

7.2.6 Mr Millington's conclusions on the matter of badgers are endorsed – in particular, his conclusion that the County Council's approach in safeguarding badgers is unreasonable. As the confidential section of the Environmental Impact Assessment [Document 10] concedes at paragraph 3.4, although badgers are afforded protection under the Badgers Act 1992, they are accorded only Grade D (parochial importance). Based on the results of recent trials in Ireland, there have also been recent calls for numbers to be reduced by culling to reduce the spread of bovine tuberculosis. The protection of badgers cannot therefore justify such a significant intrusion into the Green Belt at the expense of good quality agricultural land being lost for ever.

7.2.7 However, there is no statutory requirement to provide extra or compensating foraging areas for badgers (even the published scheme would result in the loss of 6.35 ha of existing high quality foraging). A licence for the railway alternative, which could not reasonably be withheld, could be provided by DEFRA. There is relatively little foraging along the railway itself. In any case, as has been pointed out by the Vice-Chairman of the Warwickshire Badger Group [Document 204d, Table 2], it would be better for the welfare of the badgers to ease the population westward from the railway and to leave the significant foraging area to the west intact, rather than confining them to the line of the railway with houses on one side and the road on the other.

7.2.8 The 2003 Badger survey and Bait Marking study [Document 32] is out of date and, insofar as bait marking tends to be self-fulfilling, it is unreliable as a means of identifying active setts. Badgers tend to disperse naturally from encroaching development. Over the past year or

so, as the Cawston Grange development has progressed, Mr Bragg, a retired university lecturer in Biogeography and Environmental Science, has observed a significant reduction in the number of setts occupied by badgers. The results of the recent (March 2005) survey, carried out by Mr Bragg and the Vice-Chairman of the Warwickshire Badger Group, can be seen at Table 1 within Document 204d.

- 7.2.9 Although the County Council suggests that adoption of the railway alternative would be inappropriate because of the loss of 7.5 ha of semi-natural vegetation, this would be less important than the loss of 18 hectares of Green Belt land to safeguard badgers and other species.

#### *Need to Retain Disused Railway*

- 7.2.10 There is no provision in the Local Plan to protect the railway line specifically for potential reopening. No further evidence has been submitted to indicate any intention by Rugby Cement or the Strategic Rail Authority to reopen the railway. Any draft policy to introduce this into the review would be wholly misguided.
- 7.2.11 The County Council's suggestion that the Southam quarries might be used for landfill would be wholly contrary to Government policy to reduce landfill. In any case, the County Council has no control over what any landowners will or will not do with their land.

#### *Mr Bragg's Variant of the Railway Alternative*

- 7.2.12 A summary of Mr Bragg's proposal can be found in the statement at Document 204d. He is content with the interpretation of his proposal as set out by the County Council at Document 202xx.
- 7.2.13 The southern end would follow the published scheme alignment up to chainage 450 but would thereafter converge with the line of the railway, which it would reach by about chainage 900. Except for short distances to avoid badger setts, the line would remain largely within the railway cutting/embankment. However, at chainage 2+610, access to Cawston Grange would be via a roundabout set partly in the embankment and partly outside the railway formation (this would be in shallow cutting, some 50 metres to the south-east of the position of the Cawston Roundabout in the published scheme). From chainage 2+610 the road would rise above track-bed grade, to a height of 2.5 metres below the level of Bilton Lane, where Bilton Lane (east) would join the route at a gradient similar to that on the A428 west of the Cemex entrance. Bilton Lane (west) would be closed to all except emergency and farm traffic. It would regain the published scheme alignment at about chainage 3+500.
- 7.2.14 The in-filling would provide greater width for the road as well as protection for badger setts in the cutting banks on both sides of Bilton Lane. The cutting alignment would create a noise bund, protecting the new developments off Bilton Lane and for Lawford Lodge.
- 7.2.15 This route would result in the minimum of land-take from the Green Belt, would protect all the main badger setts and make unnecessary the demolition of the bridleway bridge at Chainage 1+400. It would also provide noise bunds at the most critical points: Lawford Lodge, Admirals

Estate, Cawston Grange estate and the new building work off Bilton Lane.

### ***Cost and Delay***

7.2.16 The County Council is the author of its own misfortune. Had it proceeded with the planning permission granted in October 2000, the WRR along the disused railway would already have been in use, to the satisfaction of the vast majority of statutory and non-statutory objectors. The County Council's estimate of an additional £3.5 million above that of the published scheme is difficult to believe but would be a small price to pay by comparison with its environmental cost.

7.2.17 The suggestion that a further delay would result is also unconvincing. Should the Secretary of state refuse to confirm the Orders in favour of further examination of the railway scheme, he would be unlikely to wish to hold a further inquiry.

### ***Bilton Lane Closure***

7.2.18 Mr Bragg, whose property would be affected, was not consulted on the previous proposal that Bilton Road should be closed.

7.2.19 The results of a survey, carried out by Mr Bragg on Sunday 23 and Monday 24 January 2005, can be found at Document 204c(iii). There is a marked increase in vehicular traffic at peak times during the week. Bilton Lane is used as a relief road by heavy vehicles and cars, which often travel at great speed. This causes immense concern for pedestrians and cyclists. Its closure to vehicles would be fully supported by Long Lawford Parish Council so that safe use could be made of this stretch by pedestrians, cyclists and equestrians. Bilton Lane should therefore be closed west of the WRR, whether or not the published route or the railway alternative is adopted.

7.2.20 The County Council is mistaken in believing that there would be strong opposition to such a closure; previous opposition was due to a misconception that a right of way for pedestrians would not be available between Long Lawford and Bilton. The County Council's suggestion that it would wish to hold a full consultation on the matter is therefore welcomed, although this should have taken place before the inquiries were reopened.

### ***Footpath R126 Underpass***

7.2.21 The County Council has not put forward any analysis of the numbers of children from Henry Hyde School likely to make use of the proposed underpass. They would be more likely to use the Bilton Lane crossing, which would be more direct. As suggested by Mr Martin at the earlier inquiries and supported by the Inspector's conclusions [TM 5.27, 7.80 and 7.82], the underpass would not be used by pedestrians, whether children or adults. On the other hand, it would be open to abuse by vandals and youths and could become a hot spot for crime and would hardly be safer for children to use. Although the Rugby Borough Council may have an aspiration to provide a cycleway to Henry Hyde School [paragraph 4.139 above], no formal proposal has yet been made.

Furthermore, the Headteacher has now written [Document 345] saying that parents and children would be unlikely to use the underpass and that its provision might exacerbate the vandalism and theft from which the school suffers.

- 7.2.22 As for horses, few equestrians use Bilton Lane, which is dangerous for horses.

### ***Balancing Pond at Chainage 1900-2080***

- 7.2.23 A balancing pond would be necessary only for the published scheme. Although some degree of drainage would be needed for the railway alternative, existing drainage would, in the main, be adequate.

- 7.2.24 The CPO should not be confirmed until the precise extent of the land-take required for drainage is clearly set out by the County Council.

### ***Mitigation Land for Newts and Badgers***

- 7.2.25 In addition to the points made at paragraphs 6.2.5 and 6.2.6 above regarding mitigation for badgers, and the conclusions of the previous Inspector regarding newts [TM 7.95], it should be pointed out that both newts and badgers are common species in the area. Given the time that it would take to construct the WRR, both species would be able to adapt their foraging areas. None of the available ponds would be in-filled. However, the construction of the published scheme would lower the water table. On the other hand, were the railway alternative to be adopted, it would safeguard the maintenance of grassland foraging areas within the Green Belt to its west.

## **7.3 Objection by Mr A M Brown, of Lodge Farm, Bilton Lane**

- 7.3.1 Lodge Farm is located within a few meters of the published scheme at chainage 3+100. The evidence presented to Mr Millington by Mr and Mrs Brown can be found at TM 6.37-6.46. The following additional points were made by Mr Brown to the reopened inquiries.

- 7.3.2 Mr Brown endorses all the points made by Mr Bragg. He would prefer a proper by-pass to be built, rather than just a relief road. The published scheme would be an unacceptable scar on the Green Belt. The WRR should be built on the former railway line or not built at all.

### ***Use of Dismantled Railway as a Cycling/Walking Track***

- 7.3.3 It would be a substantial waste of the disused railway for it to be utilised for a walking/cycling track, as proposed under the published scheme. There would be sufficient room for the WRR to be constructed on the railway line and for an adjoining 2.5-metre footway/cycleway to be constructed in one of the verges and a 1.5-metre footway on the opposite side, as was envisaged in the original 2000 scheme. This would involve minimal land-take.

- 7.3.4 Mr Brown, who is a member of Sustrans, believes that there is no requirement for a path/cycleway to be located on the railway line when

the existing highway and bridleway routes could be enhanced and the network extended, as illustrated on the map at Document 204e(i). In that this would provide for an even gradient along the majority of its route and would connect people from the Cawston Estate to the centre of Rugby, it would be perfect for cyclists.

### ***Footway/Cycleway Arrangement***

7.3.5 The County Council has still not provided a satisfactory response to Mr Millington's concern [TM7.85] about the need for the proposed footway/cycleway to switch from the south-eastern side of the WRR to the north-western side immediately to the north-east of Bilton Lane. To duplicate the cycleway on either side of the WRR between the underpass and Bilton Lane [Document 61 and paragraph 4.171 above] and to provide an underpass for Footpath R126 would serve no purpose and would be unnecessarily expensive.

7.3.6 Were the railway alternative to be adopted, the footpath/cycleway could follow the route proposed under the 2000 scheme.

### ***Environmental Impact on Lodge Farm***

7.3.7 Mr Brown's evidence to the 2003 inquiries regarding the impact of the published scheme can be found at TM 6.37 and 6.40-6.42. The County Council has generally failed to consult with those who would be most affected by the scheme and prior to the reopened inquiries did not discuss with Mr Brown what exactly would be proposed for mitigation of the impact on Lodge Farm. He remains of the view that the proposed measures would not adequately protect his property and would severely impact on his camping and cottage business. The suggestion that a 10-metre high bund could be provided would be quite impracticable as its 30-metre width at the base would take up 50% of his property. Contrary to the assertion in the penultimate paragraph of Document 202t, the action needed to protect Lodge Farm has not been agreed to by him.

7.3.8 Up to 120 people could be using his site on any one day. The WRR, under the published scheme, would run within about 3 metres of the nearest caravan pitch and only some 45 metres from Mr Brown's house. At its closest point, the road would be on a 2-metre high embankment and campers would have to look at a bund and/or barrier fence and would no longer have open views over the countryside. The business would no longer be attractive.

7.3.9 There is no provision within the scheme to plant screening and no room to provide it. The acoustic fence is not a natural landscaping feature and would require screening for aesthetic purposes. The only space available for additional mitigation works would be on Mr Brown's land. However, none is being purchased compulsorily and he would no longer be able to enjoy his land or to maximise its commercial usage if additional planting were required on his land. Although Drawings 359 and 345 within Document 11 show indicative planting, it would take some time to take effect.

- 7.3.10 Lodge Farm is located in a tranquil area. The recorded sound level during a noise survey prior to the 2003 inquiries was entirely light breeze and bird song. Document 11 shows that, without noise fencing, the noise level over 50% of the site would be between 67.5 -70 dB(A) in 2006, escalating further by 2021. Although the noise barrier would limit the increase in noise to about 3dB(A), this would no longer be a tranquil area and visitors would have difficulty in sleeping. Notwithstanding the Glossary in PPG 24 [Document 202bb], Mr Brown does not accept that the increase of 3dB(A) would not be perceptible. He is also concerned that, because of its position, the noise impact on his neighbour in Lawford Fields Farm would be excessive.
- 7.3.11 Those of Mr Brown's family using the first and second floors of his house would also suffer from glare, which would come well over the proposed fencing and vegetation. The planting of indigenous trees would not provide all year round protection and could take approximately 15 years to mature fully.

#### ***Alternative Alignment/Underpass for Footpath R126***

- 7.3.12 As Mr Millington concluded, the above problems are the consequence of the County Council's decision to avoid using the dismantled railway and putting the WRR on embankment.
- 7.3.13 The railway scheme drawings at Documents 103 and 104 do not accord with the 2000 scheme and are not, therefore, representative of the objectors' alternative route, which is better represented by the plan accompanying the October 2000 planning permission [Document 4].
- 7.3.14 A number of the disadvantages of the WRR running along the published alignment could be overcome by eliminating the unnecessary underpass for Footpath R126 and lowering the WRR into cutting as it passed Lodge Farm. This would lessen the noise and visual impact of the scheme, as well as assisting with the mitigation of noise for Henry Hinde School, and would go some way towards an amicable solution were the published scheme to be approved.
- 7.3.15 The details of this modification of the published scheme are summarised at Document 204h. Nevertheless, adoption of the alternative route along the railway would afford Lodge Farm even more protection from the WRR in terms of both noise and visual amenity and would make the WRR even more acceptable.

#### ***Impact on Great Crested Newts***

- 7.3.16 Mr Brown is also concerned that the published scheme would impact on the supply of water to the pond within his curtilage [see photograph at Document 204e(iii)] that is prone to drying up. The pond is needed as a fire reservoir. Although the Environmental Statement includes no mention of it containing great crested newts, the County Council's surveyor showed him that it did so. No analysis as to whether it is a breeding ground or whether the newts would be damaged by the adjacent construction works has yet been carried out. Mr Brown

believes that the published scheme would reduce the amount of water going into the pond which, in turn, would impact on the newts.

### ***Human Rights***

7.3.17 The extracts from the Human Rights Act 1998 particularly relevant to Mr Brown and his family can be found at Document 204e(iv). The caravan site is Mr Brown's livelihood. The proposed mitigation measures would be insufficient to safeguard his life and business. The lives of himself and Mrs Brown would be irrevocably changed for the worst by the published scheme. This could be ameliorated were the disused railway to be used for the WRR. Under the published scheme, badgers are being afforded more protection than human beings, which cannot be right.

### **7.4 Mrs L Pallikaropoulos**

7.4.1 There would be no point in providing the Northern Section alone as most of the road already exists.

7.4.2 Largely due to the Rugby Cement plant, there is considerable air pollution in certain areas of Rugby. The decision to allow the cement plant to become a co-incinerator is the subject of a High Court challenge [Document 208b]. A mere relief road would worsen the situation – it would be too little and too late. Instead, a proper bypass should be built, further to the west of Rugby. [Document 210]

## **Written Representations in Objection to the Published Scheme**

### **7.5 Long Lawford Parish Council**

7.5.1 The Parish Council, which represents some 2,900 residents, supports Mr Millington's recommendations. Long Lawford, being one of the main areas to be adversely affected by the continuing delays to the WRR, would prefer the WRR to be completed as soon as possible in a single stage. However, it is more important that the Countryside Section be built on the disused railway, as proposed in the October 2000 scheme, to avoid encroaching on Green Belt land – an approach with which everyone consulted in a recent survey agreed. This would be less intrusive and more environmentally friendly, reduce acquisition and earth-moving costs, facilitate the removal of the dangerous bridge over the A4071 near Potford's Dam, and eliminate the facility provided by the disused railway for various illegal activities by drug users and petty criminals.

7.5.2 It has been clearly shown that there is no possibility of a railway again operating along the corridor. Although Cawston Grange Drive would need to be used until the PDL became available, it was designed as a primary distributor road, with no houses having direct access onto it. However, the PDL should be provided as soon as practicable for safety reasons.

- 7.5.3 The County Council is incorrect in asserting that the Cawston Estate has only one access. A second access, to Lawford Lane, has been in use since early in 2004.
- 7.5.4 Badgers should not be given priority over local farms. Many of the badgers have moved away following the development of the Cawston Grange estate. Others can be expected to follow.
- 7.5.5 Bilton Lane includes dangerous bends. Either these should be straightened or, subject to consultation, the lane should be closed for through motorised traffic, making it available for cyclists, pedestrians and access vehicles only.
- 7.5.6 Footpath R126 is seldom used. An underpass is unnecessary.
- 7.5.7 Routes for cyclists and pedestrians would be better kept away from the WRR, making use of side roads such as Bilton Lane and keeping cyclists away from heavy traffic. The extra 6-metre width could then be dispensed with, saving unnecessary expense.
- 7.5.8 In the interest of improving traffic flow and reducing pollution from heavy vehicles starting at traffic lights, roundabouts should be provided in lieu of the planned signalised junctions at Lawford Road, Bilton Lane and Potford's Dam.
- 7.6 ***Henry Hinde School***
- 7.6.1 The school has, in the past suffered from vandalism and theft. The provision of an underpass close to the school might exacerbate this problem. Parents and children would not use the underpass to access the school. On the other hand, the provision of sound barriers would be essential.
- 7.7 ***Other Representations***
- 7.8 Apart from one submission, suggesting that the Countryside Section be elevated above the disused railway track in the manner of the M6 motorway through Birmingham [Document 305], the other matters raised in the written representations are all covered by the points made either at the 2003 inquires or in the oral evidence reported above.

## **8 THE SUBMISSION OF OTHER INTERESTED PERSONS**

The material points are:

- 8.1 **Councillor Mrs P Wyatt, of Long Lawford**
- 8.1.1 Appearing in a private capacity, Mrs Wyatt was particularly concerned about drainage, drawing attention to the floods experienced in July 1968 [Documents 208a and photographs at Documents 208b]. She asks that 100-year storm protection be provided for the WRR.
- 8.1.2 Mrs Wyatt would be opposed to the Northern section being built alone. Any scheme should be built in its entirety.

- 8.2 In deciding whether the disused railway should be left for future use, noise calculations should take into account not only road noise levels but also noise and vibration from any reopened railway.

## 9 CONCLUSIONS

- 9.1 Having regard to all the foregoing considerations, I have reached the following conclusions, reference being given in square brackets to earlier paragraphs of this report, where appropriate. These were not new inquiries but reopened ones. These conclusions should therefore be read in conjunction with those of Mr Millington. I refer to paragraphs in his report using the prefix 'TM'.
- 9.2 After concluding on two statutory objections, I first deal with the evidence submitted to me, concerning changes since the 2003 inquiries affecting planning policy, funding, scheme timetable and traffic assessment, and the conclusions I draw from this. After continuing with the implications of partial or phased construction, as proposed by Mr Millington, I then take each of the questions posed by the Secretary of State in the public notice of the reopened inquiries, as reflected in Appendix B to this report, in turn.
- 9.3 In coming to these conclusions, I have taken into account the Environmental Statement and all other environmental information submitted to the inquiries, including comments and representations by statutory consultees and members of the public. I endorse Mr Millington's comments on the Statement at TM 7.24 and 7.25.

### Statutory Objections

#### *Network Rail*

- 9.4 Mr Millington's conclusions on Network Rail's objection are at TM 7.138–7.143. In view of the agreement that would provide the necessary protection for Network Rail having now been signed, I conclude that the terms of its conditional withdrawal of its objection have now been met. [4.155, 6.3.2]

#### *Railway Paths Ltd*

- 9.5 Mr Millington's conclusions on Railway Paths Ltd's objection are at TM 7.136 and 7.137. However, in response to the Inquires Notice, the company has written to DfT indicating that, having read the County Council's proofs of evidence, it supports the Council's submission to the Secretary of State. I conclude that Railway Paths Ltd's objection has been withdrawn and that it now supports the published scheme. [4.157, 5.5,1]

#### *Other Statutory Objections*

- 9.6 My conclusions on the points made by the remaining statutory objectors are all covered by my conclusions in response to the questions posed by the Secretary of State, as set out below.

## Planning Policy

- 9.7 Mr Millington's conclusions on the planning aspects of the scheme can be found at TM 7.2-7.4 and 7.10-7.20.
- 9.8 Since the 2003 inquiry, the First Deposit Draft of the Rugby Local Plan Review has been published. The Regional Planning Guidance (RSS11) has been issued, as has the Sub-Regional Spatial Strategy for Milton Keynes and the South Midlands (the MKSM SRSS). [4.7]
- 9.9 Although the First Deposit Draft of the Local Plan continues to safeguard the same route for the Rugby Western Relief Road (WRR) as does the Adopted Plan, it does not contain a protective policy for disused railway lines. The Re-deposit Draft is likely to do so. [4.8, 4.9,]
- 9.10 RSS11 indicates that Rugby, as one of the five sub-regional foci (the others being Hereford, Worcester, Shrewsbury and Telford), is likely to come under considerable pressure for further development. [4.10, 4.11] The MKSM SRSS thus suggests that such pressure is also likely to be generated from outside the West Midlands Region. [4.12]
- 9.11 I conclude that the probability of pressure for further development in Rugby should be regarded as a material factor in assessing the need for such a relief road.

## Funding and Timetable for the Published Scheme

- 9.12 At the time of the 2003 inquiries the cost of the published scheme was estimated to be £18.3 million [TM 4.100]. The latest estimate is £26.3 million at May 2004 prices. The increase is accounted for mainly by the introduction of Aggregate Tax, a more accurate estimate of utilities costs, construction cost inflation and increased design and supervision fees. [4.13]
- 9.13 The scheme has two primary funding sources, providing a total of about £21.8 million at May 2004 prices: LTP major scheme funding (provisionally accepted for £8.06 million) and four S106 agreements (providing a total of about £13.75). [4.14]
- 9.14 It is anticipated that the £4.57 million shortfall in funding would be made up by a combination of increased major scheme funding, integrated transport block funding and/or further developer contributions, at least £3 million of this coming from additional LTP major scheme funding. The County Council is confident that the balance could be made up by S106 funding and/or LTP integrated transport block funding. Providing the Orders are confirmed as published so that S106 funding is not lost, the County Council is still confident that the published scheme can be funded in full. [4.15, 4.16]
- 9.15 Assuming the Secretary of State makes a decision in favour of the published scheme by the middle of August 2005 and the shortfall in funding is secured from Central Government, work on site could start in

the spring of 2006. Following an 80-week construction period, the WRR could be open to traffic in September 2007. [4.17]

- 9.16 I conclude that there should be no financial impediment to timely completion of the published scheme.

### **Traffic Assessment and Need for the WRR**

- 9.17 Since the 2003 inquiries, an updated model (December 2004), which takes into account both newly planned developments and new traffic counts, has therefore been built. The new model shows a total increase of about 3,000 trips AADT (just under 4%) for 2006 compared with the previous model, and 2,000 trips AADT (just over 2%) for 2021. It shows that the WRR would carry more traffic on all sections and in all scenarios, in both 2006 and 2021, including a significant increase on the PDL, with an increase of over 1000 AADT in the opening year, and slightly increased flows on Cawston Grange. When the PDL is included in the scheme, the WRR is still more successful in attracting traffic from the existing highway network. [4.18, 4.19]
- 9.18 Without any WRR, traffic flows would increase on Lawford Heath Lane. With the WRR but no PDL, traffic flows on Lawford Heath Lane would not be reduced much and flows on the A428 between Coventry and Rugby would remain unchanged. Both of these routes have high accident rates. [4.19]
- 9.19 None of the objectors, either at the 2003 inquiries [TM 7.50] or (with the exception of two objectors, who would prefer a bypass further to the west rather than a WRR [7.3.2, 7.4.2]) at the reopened inquiries, question the need for the WRR. Although Mr Millington expressed puzzlement about two aspects of the earlier traffic flow predictions submitted by the County Council [TM 7.58], neither these predictions nor the revised figures submitted to the reopened inquiries have been challenged by objectors. With the possible exception of the relative flows at the southern end of Newbold Road for the published scheme compared with the Cawston option, the revised flows seem quite logical to me. Insofar as they show a further reduction in the flows on the existing highway network in Rugby by comparison with those presented to Mr Millington, I conclude that the case for the WRR has been strengthened and is compelling.
- 9.20 Insofar as an Air Quality Management Area has had to be declared in the urban area of Rugby and Rugby is likely to come under pressure for further development [4.10-4.12, 4.47, 4.48, 5.7, 7.4.2], the case for the WRR has been further strengthened.

### **Economic Assessment**

- 9.21 The costs (at May 2004 prices) of the three main options for the published scheme would be:
- Northern Section alone: £17.89 million. [4.34]

- Northern Section and Cawston Link (in two phases): £25.45 million [4.37]
  - Full scheme as published: £26.38 million [4.37]
- 9.22 The results of the earlier 30-year COBA economic assessment of the published scheme were reported at TM 4.101. Based on low growth (approximately 1% per year), a re-assessment of the various scheme options has now been undertaken using the Government's new assessment tool, TUBA. The "Net Present Value of Benefits" (PVB) and the "Net Present Value" (NPV) of the three options examined are assessed [4.20, 4.21] to be:
- Northern Section only: PVB - £145 million; NPV - £133 million
  - Northern Section plus Cawston Link (built as two phases): PVB - £295 million; NPV - £274 million.
  - Published scheme: PVB - £319 million; NPV - £298 million.
- 9.23 These figures imply the following benefit/cost ratios:
- Northern Section only: 8.10:1
  - Northern Section plus Cawston Link (built as two phases): 11.59:1
  - Published scheme: 12.09:1. This compares with the 6.879:1 suggested at the 2003 inquiries. [TM4.100]
- 9.24 An analysis using the DfT's COBA model suggests that, even on the A428 and Lawford Lane alone, the total number of accidents that would be saved over only a 30-year period would be 47.2 for the Northern and Cawston Link Sections. This would increase to 194.1 with the PDL included, thus saving an additional 147 accidents. Discounted to a net present value in 1998, this equates to a saving of £3.538 million for the Northern and Cawston Link option and £11.905 million if the full scheme, including the PDL, were to be built. [4.22].
- 9.25 At first sight, this suggests that, in purely economic terms, a WRR including a PDL would provide better value for money than would the scheme without the PDL, and far better than would the Northern Section alone. However, the County Council did not submit costings for the Northern Section and Cawston Link built as a single scheme and the benefit/cost ratio for that option should be treated with caution.

### **Financial Consequences of Delay to the Start of the Scheme**

- 9.26 The County Council's evidence on the consequences of delay for scheme provision can be found at TM4.143-4.147, with Mr Millington's conclusions on S106 funding at TM 7.129 – 7.135. At TM 9.1, Mr Millington recommended that only those parts of the Orders necessary for the Northern Section be confirmed, but concluded that the remainder of the scheme should be subject to a comprehensive re-assessment of the need

for a PDL [TM 8.2] and an investigation of the feasibility of implementing the October 2000 permission [TM 8.4].

9.27 As Mr Millington pointed out at TM 7.168, and contrary to the view expressed by CPRE at the reopened inquiries [7.1.19], any delay which would be caused by the possible selection of an alternative route must, in law, be regarded as a material consideration in deciding a CPO case. Whether or not part of the delay would have been the result of the County Council's actions is therefore beside the point – much though I sympathise with its possible effect on some objectors. [6.1.2, 6.1.21, 6.1.23, 6.2.9, 7.1.20] However, Mr Millington assumed that further investigation of objectors' alternative proposals need not result in a significant delay to the scheme [TM 7.168]. This was partly based on his assumption that the "non-controversial" Northern Section of the WRR [TM 8.7] could go ahead whilst the feasibility of implementing the October 2000 planning permission to connect with Cawston Grange Drive was examined [TM 8.4, 8.7, 8.8]. In the event, however, the County Council decided that this would be neither desirable nor feasible [4.24, 4.28].

- First, although the Northern Section by itself would provide relief on some roads, such as Parkfield Road and Newbold Road, it would also increase flows on a number of unsuitable roads (including the A428 Lawford Road and Addison Road), some of which have high accident rates [4.26-4.29]. Furthermore, although there is now a second access for the Cawston housing development, there would still be no relief for the busy A4071 through Bilton village. [4.27, 7.5.3]
- Secondly, the County Council says that it has been advised that the DfT would regard the Northern Section by itself as a separate scheme, so that LTP funding could not be guaranteed [4.34].
- Thirdly, the S106 agreements for developer funding contributions to the scheme run out after 10 years, after which the developers can require the return of their funding. These agreements were based on completion of the full WRR scheme. The Northern Section by itself would not mitigate the traffic impact on the developments. The Cawston Consortium, in particular, has confirmed that it would resist use of its funds for this purpose. Without the Cawston contribution, the whole of the major scheme funding would be required for the Northern Section. Moreover, it is probable that, for legal reasons, only part of the S106 funding even from the other developments could be available for this purpose. S106 funding based only on confirmation of Orders for the Northern Section cannot therefore be guaranteed. [4.35-4.37, 5.6.1]
- The Environmental Statement is for the whole scheme. A new statement would be required for just the Northern Section. [4.25]
- Finally, the planning permissions, for both the published scheme and the October 2000 scheme were both granted on the basis of a complete WRR. Given doubts about the feasibility of completing a phased scheme in the light of probable delay as a result of statutory procedures and consequences for funding, the County Council

believes that a partial scheme could not be undertaken based on the existing planning permissions. [4.40]

The County Council believes that all these considerations still apply.

- 9.28 As far as central Government funding is concerned, it could be argued that, if this formed only the first part of a phased scheme approved by the Secretary of State, the County Council's fears that DfT would withdraw its support for the Northern Section would not be justified. However, in a situation in which the Secretary of State might prefer one or more alternative alignments for the remainder of the WRR which would require new planning permission and orders (and might therefore be rejected during the statutory process), there would, to my mind, have to be a question-mark over whether the allocation of scarce LTP funds, in competition with other candidate schemes, would be justified.
- 9.29 Although some objectors do not agree that adoption of the Northern Section as a first phase would not have been, and would still not be, feasible and suggest that any delay to the scheme has been of the County Council's own making [6.1.2, 7.1.8, 7.1.19], these arguments, whether valid or not, are rather academic in that some two years have now elapsed since Mr Millington submitted his report on the 2003 inquiries. The S106 agreements, on which much of the funding for the scheme currently depends, are valid for only 10 years, after which the developers can require the return of their funding. The agreements run out in:
- RMC (£0.66 million) – 23 February 2006
  - Swift Valley (£2.14 million) – 25 May 2007
  - Cawston development (£3.94 million) – 17 November 2008
  - Coton Park (7 million) – 17 March 2010
- [4.35, 4.36]
- 9.30 These S106 developer contributions are therefore likely to be lost if construction of the WRR, including the Countryside Section (whether incorporating the PDL or Cawston Grange Drive), is not started before each of these cut-off dates. [4.36]
- 9.31 The objectors suggest that there might be opportunities to extract further S106 contributions from renegotiation and further developments, such as those at Malpas Farm, the St Modwen estate, Cawston Grange (where 150 units can now be released for development) and from the sale of land at several sites within the Borough to make up the deficit should the scheme be delayed. However, there can be no assurance that any existing S106 agreement could be renegotiated and, as the County Council says, the new schemes they cite are either speculative or too small to make any significant contribution. Furthermore, at least some of such funding would be required to make up the existing shortfall. As such new funding would also be dependent on the commencement of such developments, I conclude that it would be unwise to assume that sufficient additional S106 funding would become available to compensate

adequately for funding lost through any significant delay to the scheme that might arise – whether as a result of the scheme being phased or through adoption of an alternative alignment. [4.15, 4.32, 4.110, 5.6.2, 6.1.17, 6.2.16, 6.2.17]

## **Potford's Dam Link**

### ***Question 1a – Is there a pressing need for the PDL or would use of Cawston Grange Drive be an appropriate alternative?***

9.32 Mr Millington's conclusions regarding the PDL and his doubts as to whether there is a pressing need for such a link can be found at TM 7.50 – 7.61.

#### *Planning Permission*

9.33 The PDL is an integral component of the published scheme, which has the benefit of full planning permission and funding. The County Council went through all proper statutory processes in seeking and obtaining planning permission. The application was not called in by the First Secretary of State, nor was it challenged by way of judicial review. [4.42]

#### *Traffic*

9.34 Whether or not the WRR would be serving a strategic function [TM 7.55, 7.56] is, in my view, somewhat academic. The key question for this County scheme is that of what the traffic benefits would be and whether the latest model results indicate that the need for the PDL is more urgent than was apparent to Mr Millington [TM 7.61] to the point where it ought to be part any scheme endorsed by the Secretary of State.

9.35 My examination of the modelled traffic flows (none of which have been challenged by objectors) shows clearly that either the PDL or Cawston Grange Drive needs to be provided as part of the WRR before significant reductions in flows on the wider network would be achieved. Given the agreed need for some form of WRR to achieve relief within the town, this suggests that there is a pressing need for one or the other. [4.19, 4.43, 4.44, 9.19]

9.36 The choice between the PDL and Cawston Grange Drive would appear to make little difference to the flows immediately north of the town centre (but see 9.19 above). However, apart from Cawston Grange itself, the key routes to be considered are, in my judgement, the three busiest roads to the south and west of the town centre (the A4071 through Bilton, the A428 through Long Lawford and Addison Road), together with the sub-standard and accident-prone Lawford Heath Lane, which has a school on it. [4.26, 4.45]

9.37 Although there would be relatively little additional traffic along Addison Road in the opening year were Cawston Grange Drive to be used, rather than the PDL, it would amount to 7.6% by 2021 – bringing flows up to 12,010 AADT. Along the A 428 through Long Lawford, on the other hand, there would be a significant difference from the outset, with well over

50% more traffic than with the PDL. On the busiest road, the A4071 through the Bilton shopping area, flows under the Cawston Grange Drive option would be some 15% higher in the opening year and would even be above the present level, which already results in congestion in Bilton, by 2021. [4.58, 7.1.3] With the PDL, Lawford Heath Lane flows would be reduced by about 50%. Thus, I am unable to agree with the suggestion that there would be no overall improvement in adopting the PDL rather than Cawston Grange Drive. [6.1.5]

- 9.38 Cawston Grange Drive itself was constructed to Primary Distributor Road standards [4.51]. Not surprisingly, flows on that road would generally be well over 50% higher without the PDL but along even its busiest sector would be no more than 6,579 AADT in the opening year (well below the link capacity for such an urban road) and the 2021 'Do Nothing' flows would not be reached until about 2012 [6.1.6]. In practice, however, the capacity of that road would be dictated more by its roundabouts. Although the flow would still be little more than 10,000 by 2021, the roundabout junction with the A4071 would be operating with a ratio of flow to capacity (RFC) of 0.97 – well above the desirable 0.85 and indicating that it would be starting to become congested in the PM peak period by then. [4.53-4.54]
- 9.39 As far as HGVs are concerned, planning permission exists that permits 348 two-way lorry movements per day between the Southam quarry and the cement works in Rugby. Were the PDL to be provided, it would be possible to route RMC lorries via the A4071, instead of the B4455 Fosse Way and A428. On the return journey, lorries would no longer have to pass through the town centre. Although a change to the Routing Agreement would require the concurrence of both parties (Council and RMC), use of the PDL would probably be attractive to RMC. With Cawston Grange Drive in lieu of the PDL, it would be more difficult politically to divert HGV traffic to the WRR [4.44, 4.58]
- 9.40 Even now, about 6% of the traffic on the A4071 in Cawston village is HGV traffic. Using Cawston Grange Drive as part of the WRR could lead to substantial HGV traffic passing through the estate - at least 400 lorries per day in 2006 and possibly much more, depending on how much HGV traffic is attracted to the WRR route from other routes such as the A428. With the PDL in place very few HGVs would pass through the estate. [4.55]
- 9.41 Use of Cawston Grange Drive as an alternative to the PDL would also limit the acceptability of future traffic management options, such as the closure of Lawford Lane to through-traffic in the vicinity of Bilton High School or traffic calming and other traffic management measures in the Main Street, Bilton, shopping area, where there is significant pedestrian activity. [4.58]

#### *Environmental, Safety and Social Effects*

- 9.42 At the time of the 2003 inquiries, the expected change in noise level as a result of WRR traffic being routed along Cawston Grange Drive was only 2-3 dB(A). The latest traffic predictions suggest that the percentage of HGVs in the traffic mix would increase from about 1% with the PDL in

place to about 6% without it. Although no houses have frontages directly onto Cawston Grange Drive, this would result in a further increase of about 2dB(A), the vulnerable properties therefore being exposed to a total increase of 4-5 dB(A) – ie, a ‘slight to moderate’ adverse impact. [4.56, 5.2.3, 7.1.9]

- 9.43 Air quality was not a substantive issue at the earlier inquiries [TM 7.117]. Although an Air Quality Management Area has had to be declared in the urban area of Rugby, the fact that there would be little difference in traffic flows in the town centre or around the Rugby Cement plant suggests that air quality should not be a significant factor in the choice of alignment in this context. On the other hand, although standards would not be breached, the additional traffic along Cawston Grange Drive itself as a result of traffic being well over 50% higher along that road must be viewed as being to the detriment of the Cawston Estate residents. [4.47, 4.48, 4.54, 4.53, 4.56, 5.2.3, 7.5.2]
- 9.44 As a result of the reduced traffic flows on a number of dangerous roads [4.45], provision of the PDL would result in significant accident savings. Use of the DfT’s COBA model suggests that, on the A428 Lawford Road and Lawford Lane alone, 194 accidents would be saved. Using Cawston Grange Drive, only 47 would be saved. Thus, the PDL would result in 147 more accidents (equating to £8.367 million) being saved on just these two roads than would the use of Cawston Grange Drive [4.22, 4.46].
- 9.45 As a result of increased housing density and more land becoming available, the size of the Cawston development is now expected to be up to 40% larger than originally envisaged (1,400, rather than 1,000 houses). In particular, there are already many more houses on the western side of Cawston Grange Drive than were originally planned. Children already have to cross the road to get to Cawston Grange Primary School (on its western side) and Bilton High School (to its east) and will need to do so in the future to get to the Local Centre (yet to be built). Residents of the estate who have bought properties on the understanding that the published scheme would be built and whose “searches” would not have identified anything to the contrary, would be understandably aggrieved. Substantial opposition could be expected and elected members of the County Council have to date not supported such a scheme. Furthermore, the Environmental Statement is for the whole scheme; the County Council suggests that a new Environmental Statement would be required for the Cawston Grange Drive option [4.39, 4.52, 4.57, 5.2.3, 5.6.1, 5.6.2]

#### *Value for Money*

- 9.46 The County Council’s figures suggest that the Cawston Grange Drive option would cost nearly as much as would that with the PDL (£25.45 million, as against £26.38 million), the benefit/cost ratio being 11.09:1, as against 12.09:1. [4.13, 4.21, 4.37] Whilst this would imply that the PDL would be better value for money than would Cawston Grange Drive, the absence of costings for the Cawston Grange Drive option built as a single scheme is such that I draw no conclusion from these figures.

### *Funding*

- 9.47 The DfT's December 2004 LTP settlement letter to the County Council makes it clear that its contribution of £8.06 million would be subject to the scheme remaining unchanged in any significant way following the statutory processes [4.34]. However, were a scheme based on the Cawston Grange Drive option to be approved by the Secretary of State, this reservation might no longer apply. I am therefore unconvinced by the County Council's suggestion that omission of the PDL would necessarily put the whole scheme at risk [4.49].
- 9.48 On the other hand, the draft Local Plan does not envisage any further developments in the WRR corridor of sufficient size to fund the PDL as a stand alone scheme at a later date and DfT might not be willing to give such a scheme sufficient priority to attract its support. As far as County funding is concerned, higher priority for funding highway schemes related to brown-field sites is likely to be given for improvements in the immediate vicinity but also, if required, at the M6 Junction1/A426. [4.50]
- 9.49 If the Cawston Grange Drive option did gain acceptance for Government major scheme funding and could be promoted through the statutory processes for a start of construction before the Cawston S106 agreement reached the end of its 10-year life in 2008, the Cawston Consortium funding ought not to be lost. However, it would require a very swift conclusion to be reached on statutory processes to avoid loss of the Cawston S106 contribution [4.38].
- 9.50 As Mr Millington says [TM 7.59], Cawston Grange Drive ought not to cater for through traffic – certainly not for the long term. However, were the Cawston option to be adopted as an interim measure, there must be a risk that, as the S106 developer funds would already have been spent and would not be available for the PDL, the PDL would never be built – with all that implies for the welfare and environment of the local community. [4.50]

### *Bilton Bypass*

- 9.51 CPRE suggests [7.1.13] that the sums needed for the PDL would be better spent on a bypass for Bilton. However, the case for such a scheme was not a matter before me. In any case, the PDL would materially reduce traffic in Bilton and it is not evident to me that such a bypass, unlike the PDL, would have any beneficial effect on the wider road network. [4.58]

### *Conclusions regarding the choice between Cawston Grange Drive and the PDL*

- 9.52 I conclude that:
- there is a pressing need for a full WRR scheme, including either Cawston Grange Drive or the PDL, to be built;
  - that, provision of the PDL would bring with it significant traffic benefits for the local road network over and above those available using Cawston Grange Drive;

- that the PDL would yield significantly more accident savings than would use of Cawston Grange Drive;
- for environmental reasons, use of Cawston Grange Drive would be most undesirable; and
- were the Cawston Grange Drive option to be adopted, it is doubtful whether the PDL would ever be provided.

9.53 In my judgement the need for inclusion of the PDL in the WRR scheme should now be regarded as pressing.

***Question 1b – Would the Potford’s Dam Link design and created access to Potford’s Dam Farm be of an acceptable standard?***

9.54 Mr Millington’s conclusions regarding highway design at Potford’s Dam can be found at TM 7.62 – 7.73. He was aware of the County Council’s proposal to introduce advanced bend warning signs, coloured skid-resistant surfacing and mandatory markings to prevent overtaking in this area but, in view of the substantial increase in traffic flow and speed, nevertheless considered that the accident potential would be greater than that normally to be expected. He would have accepted this as an interim arrangement but for his reservations about the proposed access arrangements, concluding that the design for this southern extremity of the WRR needed to be reconsidered. [TM 7.68, 7.71]

9.55 No changes to the geometry or design of the published scheme have been proposed by the County Council. However, since the earlier inquiries, there have been 4 accidents in the immediate vicinity and a 50mph speed limit has been imposed northwards from a point to the south of the S-bend south-west of Potford’s Dam Farm. Under the published scheme, this would be maintained and continued to a suitable point to the north-east of the Potford’s Dam junction with the existing A4071. [4.64, 4.65]

9.56 As the County Council says, the proposed radius of 200 metres outside the farm would be a significant improvement on the 80 metres under the existing situation. Furthermore, the new speed limit would mean that this radius would now be only 3 steps below the Desirable Minimum of 510 metres – a permitted relaxation under TD 9/93 Document 202a, paragraph 3.4 - and the forward visibility of 120 metres would now be only one step below the Desirable Minimum of 160 metres (two steps are permitted under TD 9/93, paragraph 2.8). [4.66]

9.57 On the other hand, traffic flows in this area are now predicted to be even greater than those assumed by Mr Millington and, by 2021 are predicted to be even above the Congestion Reference Flow [4.19, 4.60, 4.61, 6.1.9]. To have to accept these relaxations in addition to the proposed traffic management measures and, to my mind, a somewhat artificial means of lowering the design speed on what would be a new road at this point seems to me to be less than satisfactory. Whilst the 50 mph speed limit may have been based on the observed 85 percentile speed of 78 kph (49 mph), I suspect that, on a road which would be rather straighter

- than is currently the case, especially when approaching from the north, this limit might often be exceeded in practice. [4.65, 6.1.10]
- 9.58 Turning to visibility from the two accesses to Potford's Dam Farm, I am content that that to the south-west from the front (southern) access (180 metres) would comply with TD 42/95 [4.69]. The objector claims that the visibility to the north would be only 90 metres, which is appropriate only for a design speed of 60 kph (30 mph) and would be a major departure from standard. [6.1.11] My examination of the scheme plans suggests that the County Council is correct in saying that this visibility (which is currently sub-standard) would actually be 170 metres [4.19]. This would be within the standard (160 metres) with the lowered speed limit of 50 mph speed limit. However, it would not be available were an anti-glare barrier to be erected at the new rear (northern) access. [TM 7.70]
- 9.59 As far as the safety of the new rear access is concerned, the County Council has produced new evidence, in the form of a count of traffic using the access, to suggest that, with the low numbers involved, the visibility should be regarded as acceptable under the terms of TD 9/93. [4.70] However, there is no evidence to suggest that Mr Millington would have assumed otherwise and his observation that headlight glare might be an infrequent occurrence could be taken as confirming this [TM 5.54, TM 7.70]. Clearly, visibility to the south from the new rear access (140 metres) would be about double that currently pertaining but, even with the new speed limit, would still be one step below the desirable minimum of 160 metres. [4.67] Relaxations on visibility distance from minor roads are not available under TD 42/95 (para 7.6c). Furthermore, my reservations above about improbability of the speed limit always being strictly adhered to are, although arguably of less concern in the context of northbound traffic, also relevant in this context.
- 9.60 I have nothing to add to Mr Millington's comments about the need for, and effect on visibility of, a fence or barrier to prevent headlight glare [TM7.70] beyond acknowledging the County Council's two points: that no accidents involving vehicles issuing either access have been reported and, secondly, that even with such a barrier (the need for which it disputes) visibility would still be better than that at present [4.68-4.70]
- 9.61 Turning to Mr Alexander's alternative alignment, this would have the advantage that it could be built within the CPO land and involve no departures from standards or require a speed limit to be imposed [4.77]. It would also avoid the need to purchase Plot 101. The County Council now estimates that it would cost over £565,000, rather than the £200,000 suggested at the 2003 inquiries - although this is disputed by Mr Alexander [4.75, 6.1.17]. However, whilst I understand the County Council's reservations about Mr Millington's comment on the merits of only one accident being saved [TM 7.72] and its investment policy in terms of accident saving opportunity-costs [4.74], a large proportion of the cost might be off-set by the two or three accidents which would be saved over the 60-year economic (TUBA) life of the scheme [4.75, 6.1.17].

- 9.62 While accepting that the published scheme would result in a considerable improvement on the current situation at Potford's Dam Farm, I conclude that there is still a strong case for reconsideration of the alternative scheme proposed by Mr Alexander and for Plot 101 being deleted from the CPO.
- 9.63 In coming to this conclusion, I take into account the fact that this need not necessarily result in delay to the start of WRR construction works [4.77, 6.1.19]. The County Council estimates that statutory procedures might delay the Secretary of State's confirmation of new Orders to support a scheme incorporating the alternative until October 2007. However, as a means of avoiding such a delay to the scheme, it has suggested that the WRR might be terminated on the published alignment at Chainage 700, with an interim roundabout between the Penthouse and Potford's Dam Farm connecting to the existing A4071. This could be constructed within the Order lands but would require the approval of County Council members. Although this would result in the existing 80-metre radius bend outside Potford's Dam Farm remaining unaltered for the time being, the roundabout would help to reduce the speed of southbound traffic at this point. Mr Alexander's alternative scheme, leading from the roundabout, could then be adopted at a later stage. [4.77]
- 9.64 The County Council suggests that the works involved in replacing the interim roundabout with a ghost island and constructing the new link to the A4071 south of the farm would cost about £1 million and that the extension would be unlikely to attract LTP major scheme funding. However, Mr Alexander suggests that such replacement would be unnecessary as it would be safer than a priority junction with the A4071 [6.1.18]. I have much sympathy with this view and am not convinced by the County Council's suggestion that this would make a route to the Cawston Grange development more attractive than that via the Cawston roundabout. On the other hand, I agree with its view that Mr Alexander's further alternative of providing a ghost island midway between Potford's Dam Farm and the Penthouse, with the Penthouse access forming part of the junction, would be most undesirable. [4.78]

### **Route Alignment**

- 9.65 Mr Millington's general conclusions about route alignment options can be found at TM 7.89-7.93.
- 9.66 Given the objectors' complaint that the interpretation of the railway alignment used by the County Council in criticising it does not accord with their alternative proposal and would be unnecessarily expensive, I take Mr Bragg's version as the basis for comparing the two alignments [4.126, 4.127, 6.1.7, 7.2.12].

### ***Question 1c(i) – What would the potential effects of route alignment be upon Badgers?***

- 9.67 Mr Millington's specific references to badgers are at TM 7.101-7.116.

*Numbers of setts affected*

- 9.68 The County Council's survey of badger setts along the railway cutting slopes and embankment took place between 2001 and 2004. There are 28 setts on the cutting slopes and embankments, three of which are main breeding setts. Although the precise number of animals occupying these setts is not known (and could never be known precisely), this is thought to be the highest density of setts in Warwickshire. The Council therefore regards the site as a special case. A further survey would be carried out prior to applying for a licence. [4.80-4.84, 7.1.14]
- 9.69 The objectors, on the other hand, suggest that much of the County Council's 2003 survey report is out of date and the counting methodology employed self-fulfilling. As the County Council concedes [4.83], Badgers are dynamic creatures and, as a result of the Cawston Grange development works and encroachment of population, a significant decline in the number of setts occupied by badgers has been observed. This has been confirmed by the survey carried out in March 2005 by Mr Bragg (a retired university lecturer in Biogeography and Environmental Science) and the Vice-Chairman of the Warwickshire Badger Group, a conclusion supported by the Long Lawford Parish Council. [7.1.15, 7.2.8, 7.5.4]
- 9.70 Although the County Council contrasts the professional basis of its badger survey with that of the objectors [4.83], given the background of those conducting the latter it would, in my view, be quite wrong to dismiss it as a material consideration. Furthermore, the additional housing planned to be built west of Cawston Grange Drive can be expected to increase the migratory pressures on badgers [4.52, 5.6.2, 7.5.4].
- 9.71 The published scheme would not result in the closure of any setts [4.80]. Although the objectors suggest that, in following the railway alignment, all the important badger setts could be protected [7.1.5, 7.2.15], I accept the County Council's view that, assuming the planned widths of the road and its verges (including the cycleway) are preserved, the combination of the required works on the north-western slopes along the road and infilling required to maintain an acceptable horizontal profile south-west of the underpass would result in a significant number of setts effectively being destroyed [4.82, 4.127]. However, the objectors argue that the cycleway, if needed at all, need not necessarily be immediately adjacent to the road so that the destruction of the cutting/embankment slope (and thus land-take) could be minimised [7.3.3, 7.3.4]. Furthermore, if the underpass is not needed [see paragraph 9.110 below], less infilling would be required than the County Council suggests. Thus, the destruction of badger setts under the railway alignment might not need to be quite as extensive as suggested by the County Council and fewer badgers would be destroyed.
- 9.72 By comparison with the published scheme, given the relatively limited foraging along the railway itself and the fact that the land to the west would remain undisturbed [7.2.7], I conclude that the railway alignment would have less effect on foraging than would the published scheme. However, many more setts would effectively be destroyed, although the

number of badgers likely to be affected might be rather less than might have been anticipated at the time of the 2003 inquiries.

### *Licences*

- 9.73 As the County Council concedes, Badgers are protected on animal welfare, not conservation, grounds. Although the Protection of Badgers Act 1992 does not refer specifically to the provision of mitigation for development impacts on badgers, the construction of such a scheme would require a licence from English Nature in order to demonstrate that the welfare of the animals would not be compromised. It is accepted practice nationwide that new (artificial) setts are provided wherever important setts are being destroyed. [4.80, 4.85]
- 9.74 English Nature has now issued licences to destroy main badger setts in order to accommodate development projects on a few occasions but, to the County Council's knowledge, the only licence issued for multiple main sett closures was allied to the Channel Tunnel Rail Link, involving a significantly lower density of setts than it believes is currently the case along the disused railway. [4.85]
- 9.75 The objectors point out [7.2.6] that there have been recent calls for numbers to be reduced by culling in order to reduce the spread of bovine tuberculosis, suggesting that a licence might now be easier to obtain than might have been anticipated in 2003. The County Council argues [4.84] that it is not possible to obtain an *a priori* prediction from English Nature as to whether or not such a licence application would be approved but I note from the report of 24 May 2004 to its Rugby Area Committee that English Nature's chief mammalogist has been contacted and sees no reason why a licence should not be obtainable. If the objectors are correct in asserting that the badger population is declining, it may be that obtaining a licence for the railway alignment might be less difficult than the County Council suggests, whether the animals are moved or simply culled. Given the conflict of evidence, I every much endorse Mr Millington's strong advice [TM 160] that English Nature's Peterborough Office be asked for advice on this matter.
- 9.76 I conclude that, as a licence to remove badgers from the site could be a crucial factor in deciding whether further investigation of the railway alternative alignment would be worth pursuing, the Secretary of State may, given the possible consequences of delay to the start of construction [see 9.98 below], wish to consult English Nature before deciding on the matter.

### ***Question 1c(ii) – In considering the alignment, what weight should be placed on the suggested need to retain the dismantled railway?***

- 9.77 Mr Millington's conclusions on the suggested need to retain the dismantled railway line for possible reopening can be found at TM 7.144-7.153.

### *Policy Background*

- 9.78 The County Council has been mindful of Government policy, requiring local authorities to take a long-term, strategic view in planning for their areas [4.88]. PPG13 includes guidance to local authorities on the protection of potential rail routes, paragraph 45 requiring them to "*identify and protect sites and routes, both existing and potential, which could be critical in developing infrastructure for the movement of freight ...*". Paragraph 47 requires local authorities to seek to enable transport of materials and waste to landfill by rail. [4.89]
- 9.79 On the other hand, there is no policy support for protection of the disused railway in either the adopted Local Plan or the first deposit of the emerging plan. Nevertheless, a policy to protect disused railway lines may be included in the Re-deposit Draft. This has been agreed by the Borough Council's Development Panel but awaits confirmation by the Cabinet and may attract objections at the second deposit stage [4.9, 6.1.20, 6.1.21].

### *Potential Rail Use*

- 9.80 As Mr Millington was aware, the Strategic Rail Authority has commented that it has "no intention of re-instating the dismantled Rugby to Leamington Spa line". However, it was not consulted on possible local use of the line. The County Council accepts that there is no prospect in the short or medium term that the railway will be brought back into use. However, this route connects the quarries at Southam to both the Rugby cement works and the West Coast Mail Line. The quarries, which have at least 40 years of potential extraction life left, are critical to the County Council's decision to protect the dismantled railway route. [4.90]
- 9.81 Notwithstanding its Director of Planning, Transport and Economic Strategy's recommendation that its aspiration of retaining the railway for future use be abandoned [6.1.20, 6.2.7, 7.1.16], the County Council argues that the economic situation underlying Rugby Cement's decision not to ask that the railway line be reopened might change. For example, a lorry road user charging scheme is due to be implemented by the Government in 2007/8. This might in due course alter the economics of transporting minerals between Southam and Rugby by road. [4.91] Although the option is not foreseen at present, the disused quarries also have the potential in the long term to be used for landfill, as acknowledged by Rugby Cement only a few years ago. Whilst national policy aims to minimise landfill, it is very likely that large conurbations will continue to need to send significant volumes of waste to landfill. This would best be achieved by rail. The County Council argues that the Southam quarries are well-located between Birmingham and London and could therefore be needed in the future. [4.92, 5.7.1]
- 9.82 Thus, there are no indicative plans for prospective reopening of the line. Although the County Council has expanded on the background to its policy in this matter, there has been no material change in the situation since the 2003 inquiries, apart from the possibility of a disused railway protection policy being introduced in the second deposit draft of the emerging Local Plan.

- 9.83 Government policy clearly favours protection of such routes in principle. The weight to be put on the need to protect the line for future rail use must depend on future Government financial policy and other commercial factors that could change the economics of using the line for mineral transport (in which the introduction of a lorry road user charging scheme [4.91] might be a factor).

***Question 1c(iii) – In considering the alignment, what weight should be placed on the possible use of the dismantled railway as a walking/cycling track?***

- 9.84 The proposed improvements to the National Cycle Network include a route along the disused railway track as part of Cycle Route 41. Planning permission for the change of use of the track has been granted and the County Council is about to make an agreement with Railway Routes Ltd that it would help to fund the track. A covenant, protecting the railway for cyclists, has been deposited with the Secretary of State. [4.94, 4.157]
- 9.85 The County Council argues that the route would provide an excellent leisure facility directly accessible to a large population, especially in the Cawston area. With the WRR on the published line, the railway would still be able to provide a very pleasant and safe leisure facility which would be rural in character and certainly more attractive than along the WRR as published. [4.95]
- 9.86 Although the County Council argues that this would not be the case were the railway alternative route to be adopted, the objectors suggests that a cycle track could be incorporated into the WRR scheme along the railway track, as was envisaged under the October 2000 scheme - in which case, Railway Paths Ltd would be unlikely to object to the alternative. [4.96, 7.1.17, 7.3.3]. However, they also suggest that cyclists would be better kept away from the WRR, by making use of existing highways and enhancing and extending the bridleway network, thus saving unnecessary expense. Use of the railway track would also eliminate a facility used for illegal activities by drug users and petty criminals, and the general vandalism and anti-social behaviour referred to in Mr Millington's report at TM 5.20 and 7.85 that are of very real concern to the objectors. [7.3.4, 7.5.1, 7.5.7]
- 9.87 Whilst the disused railway track would, no doubt, be seen by many as an ideal route for cyclists and provides a valuable leisure facility, I conclude that its use for the WRR ought not to preclude an acceptable route being provided for cyclists as part of the National Cycle Network. Bearing in mind the possibility of reducing opportunities for petty crime, preservation of the disused railway for use as a cycle track, whilst having some advantages, ought not, in my judgement, to carry much weight in considering possible alignments – especially as a railway alignment need not preclude provision of a cycleway of some form.

***Question 1c(iv) – What increased cost and delay would be involved with the alternative alignment along the railway?****Cost*

- 9.88 At the 2003 inquiries, the County Council said that the published scheme would cost more than the alternative alignment along the disused railway, Mr Millington agreeing with CPRE's estimate of about £2 million [TM 7.149]. However, the County Council now estimates that adoption of the railway alternative would cost £29.95 million – some £3.57 million more than the published scheme [4.103] (the Council's explanation of the difference can be found at 4.104 above). However, at the cost of a minor infringement of the Green Belt at the southern end of the scheme, this could be reduced to £29.49 million by eliminating the need to demolish the sub-standard railway bridge over the A4071 [4.105], a variation supported even by those who object in principle to use of the Green Belt [6.1.7, 7.3.15, 7.3.2].
- 9.89 Thus, the increase in scheme cost would be £3.1 (29.49-26.39) million, bringing the total shortfall to £7.67 (4.57+3.1) million even if all S106 contributions were secured (but see 9.92 below). Assuming the PVB would be about the same as would that of the published scheme (£319 million) [4.21], I estimate that this would give a benefit/cost ratio of 10.82:1.

*Delay*

- 9.90 In paragraphs 9.26 to 9.31 above, I have set out the general consequences for funding should the start of construction be delayed.
- 9.91 Whether Railway Paths Ltd and/or Sustrans would object to use of an alignment along railway must be a matter for conjecture but the possibility of them doing so (especially if the railway were to be used beyond the Cawston Link) cannot be discounted [4.107, 4.157, 7.1.12]. In any case, however much support there might be generally for the railway option, it would, in my judgement, be unlikely that Orders for such a scheme would not attract at least some objections (as indicated by the objections to the October 2000 planning permission [4.111]), necessitating further public inquiries. This would inevitably result in further delay to the WRR scheme, perhaps delaying opening of the WRR until as late as July 2010 [4.108]. However, the precise delay would depend on a number of factors.
- 9.92 The County Council estimates that, assuming the Secretary of State decides that the full railway alternative (ie, including the PDL) should be further pursued, construction (for which badger and great crested newt mitigation works would count for the Cawston S106 agreement purposes) could start in February 2008. In this case, the S106 developer funding by RMC and Swift Valley (totalling £2.80 million) would be lost, increasing the funding shortfall for the scheme (assuming £0.46 million is saved by avoiding use of the railway bridge over the A4071) from £7.67 million to £10.47 million. [4.105, 4.108, 4.109] The delay includes periods of 15 weeks after the Secretary of State's decision to obtain County Council Cabinet approval, 25 weeks to secure Government

funding and 41 weeks not only for preliminary design but also for application and approval of planning permission. While this might be accelerated if there were a danger of losing S106 funding, I judge it unlikely that construction could be brought forward sufficiently to achieve a start date earlier than 24 April 2007, the deadline for securing the Swift Valley contribution of £2.14 million. Whilst it might be possible to secure some additional S106 funding, it would be unwise to assume significant assistance from this source [4.110, 6.1.17, 6.2.16, 6.2.17].

- 9.93 As regards the Cawston Drive option, the precise delay would depend on whether the route between Lawford Road and Cawston would be that following the published scheme as far as the Cawston Roundabout before using the short link to Cawston Drive or that following the line of the railway.
- 9.94 The County Council argues that, even were the Orders to be confirmed for the Cawston link on the published alignment, it is very doubtful whether planning permission could be obtained for the connection between the Cawston Roundabout and Cawston Grange Drive [4.39]. If this was true, the considerations set out in 9.28-9.30 above would apply. However, in that the published scheme already includes a short link from the Cawston Roundabout to the one at the northern end of Cawston Grange Drive, it seems to me that no additional planning permission or Orders would be required. The views of those who object to Cawston Grange Drive being used for part of the WRR have been fully represented at the reopened inquiries. I therefore conclude that no delay would be involved were that option to be adopted.
- 9.95 The situation were a route following that reflected in the October 2000 planning permission (as proposed by CPRE [7.1.3]) to be adopted is, however, less clear. CPRE argues that the Cawston option could be built using that planning permission combined with that for the Cawston Development, the two areas for which overlap. Although the permission for the former runs out in October 2005, CPRE suggests that it could always be renewed, matters such as balancing ponds and any agricultural land required for mitigation purposes being dealt with under the conditions attached to the planning permission without the need for advertisement. [7.1.4, 7.1.6] On the other hand, the County Council argues [4.29] that, even if the land is contiguous, there is no permission that links the 2000 scheme to the Cawston Grange Drive and that no planning permission could be granted unless and until an Environmental Impact Assessment had been undertaken and taken into account by the relevant planning authority. Even if such permission could be achieved by application for reserved matters, the County Council would not contemplate granting such permission without full consultation with the local residents [4.129, 4.130]. Substantial opposition could be expected from the Cawston Grange residents and elected members of the County Council have to date not supported such a scheme. [4.39]
- 9.96 I find CPRE's argument persuasive. Whether it would be appropriate to deal with matters such as balancing ponds and any agricultural land required for mitigation purposes under the conditions attached to the planning permission without the need for advertisement and consultation

is a moot point. However, there has been no suggestion that the October 2000 permission, for which an Environmental Statement was prepared, was not properly granted and the report on which the grant of planning permission by County Council's Planning Sub-Committee on 6 October 2000 was based made it clear that the "*relief road connects through to the Cawston housing development*". Similarly, the County Council briefing paper accompanying the planning application for the Cawston development states that "*there need be no further planning application*" for Cawston Grange Drive to be used as part of the WRR, a view reinforced by TM 7.54. The areas covered by the two permissions are contiguous. However, were the Secretary of State minded to select the railway alignment for the Cawston option, he should be aware that the planning permission expires on 5 October 2005, before which renewal would be required for it to be used for the WRR.

- 9.97 Even if planning permission is not required for the October 2002 scheme, new Orders would be required. As with a railway alignment for the full scheme, these could be expected to attract objections from both Railway Paths Ltd and/or Sustrans as well as from local residents. Although part of the 41 weeks allowed for preliminary design, planning application and approvals estimated by the County Council for the full railway alignment might be saved, this would still not allow construction to start before the Swift Valley S106 deadline (29 April 2007), so that the same £10.74 million shortfall in funding would arise even with a shorter delay to the start of construction.
- 9.98 I conclude that adoption of an alignment along the railway, whether as far as Potford's Dam or using the October 2000 scheme alignment to connect with Cawston Grange Drive, is likely to result in the loss of £2.8 million in S106 developer contributions. Unless additional contributions could be found from elsewhere. This would increase the total scheme shortfall to some £10.47 million.

### ***Other Implications of Alignment along the Disused Railway***

#### *Impact on the Green Belt and the Landscape*

- 9.99 The County Council views on the relative impact on the landscape of the railway alignment compared with that of the published scheme are at 4.112 to 4.119 above. Mr Millington touched on the impact of the published scheme on the countryside and Green Belt at TM 7.32, 7.33 and 7.49 but made no comparison with that of the railway option.
- 9.100 As PPG 2 makes clear, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; there is a general presumption against inappropriate development. The published scheme would not affect urban sprawl, which is already prevented by the railway line defining the edge of the Green Belt. Nor would it be an 'urban' feature per se and, set against the examples listed in PPG", I could not classify it as "inappropriate development". As is also made clear in PPG2, the most important attribute of Green Belts is their openness. In my judgement, the WRR along the published line would not interfere with the openness of the Green Belt, especially as it would occupy only a sliver along its edge. In any case, I agree that the

compelling need for the WRR and the benefits of the published scheme would outweigh the harm to the Green Belt so that the WRR would constitute a "very special circumstance", as allowed for in Local Plan Policy R/E10 governing development within the Green Belt. Clearly, with most of it lying beyond the eastern boundary, the railway alignment would hardly infringe the Green Belt. [4.127, 4.158, 4.159, 7.2.5, 7.2.6, 7.2.9, 7.2.15, 7.3.2, 7.5.1]

- 9.101 As far as the impact of the WRR on the landscape is concerned, the County Council argues that the published scheme would offer the opportunity to address the problem of declining landscape as a result of hedgerows being replaced by post and wire fencing. However, I saw little evidence of such decline during my site inspections and there would be little difference in impact between the published scheme and the rail option in this context. I acknowledge that construction of the rail option would result in the loss of some 7.5 ha of semi-natural vegetation but mitigation would result in a net gain of about 1 ha. Although this compares with 3.35 ha with the published scheme, given the scale of the scheme the difference is not, in my view, very significant. [4.113-4.115]
- 9.102 I agree that the vegetation along the railway line, where it runs over higher ground along the more open part of the landscape, would provide a softening backdrop to the published scheme and that, due to the loss of vegetation on its north-western side, the rail option would be more visible, where it runs on embankment, until mitigation took effect. On the other hand, whereas the rail option would be occupying an existing line feature (except where Mr Bragg proposes that it diverges from the railway in order to avoid having to dismantle the bridge over the A4071 to save costs), the published scheme would run across what are now fields. Whilst, in my view, the difference between the two options in terms of their impact on the landscape is not great, I would still agree that the published scheme would, on balance, have the greater impact on the countryside. Furthermore, as Mr Millington points out [TM 7.33], it would be at the cost of some 18.6 ha of good quality (grade 2 and 3a) agricultural land. [4.116-4.119, 4.127, 7.2.13]
- 9.103 Thus, although I would not regard the relative impact on the Green Belt as being a significant issue in the choice of alignment, the published scheme would have a little more impact on the landscape and much more on the good-quality agricultural land owned by two of the objectors.

#### *Impact on Ecology*

- 9.104 The County Council also draws attention to the fact that the disused railway line is designated as an "Ecosite" (a County term), being a wildlife site of county importance and is a potential Site of Importance for Nature Conservation (pSINC), affording it protection under policies in the relevant Local and Structure Plans. However, although it is a "material consideration" in planning under PPG9, the Structure Plan makes it clear that its protection is subject to an important qualification: that it is subject to "other material considerations which are sufficient to override the conservation importance. [4.120]

- 9.105 Clearly, except for the short length near Sow Brook where it would mount the railway embankment, the published scheme would not impact directly on the ecosite. On the other hand, assuming the railway alternative includes the cycleway, so that the road would occupy the same width as under the published scheme, about 60% of the width of the ecosite over 65% of its length would be lost. The site has recently been found to contain the Bloody-Nosed Beetle, a species qualifying for protection under the Countryside and Rights of Way Act 2000. Appropriate habitat mitigation (including that for badgers and great crested newts) would be required, with implications for the scheme timetable (see 9.92 above). [4.121-4.125]
- 9.106 I conclude that, although pSINC is a non-statutory designation, the ecological impact of the railway alignment would be greater than that of the published scheme. Although this should not, in my view, be regarded as overriding, it is a material consideration.

#### *Engineering Constraints*

- 9.107 Because of engineering constraints, the County Council does not believe it would be possible to adhere to the scheme granted planning permission in October 2000. It would not be possible to construct the WRR, to its planned width, within the confines of the cutting/embankment, nor to follow precisely the line of the railway. It would also be necessary to raise the level of the road above that of the existing track at the Bilton Lane junction. Access to the severed field on the south-eastern side of the WRR would not be possible from the other side of the road. [4.98 - 4.101] The County Council says that these criticisms would apply equally to Mr Bragg's alternative proposal [4.127].
- 9.108 I am surprised that a scheme granted planning permission as recently as October 2000 should now be regarded as impracticable from the engineering viewpoint. I am equally surprised that the County Council should, without consulting the objectors, have based its comments on an indicative scheme so different from that proposed by them, necessitating an adjournment to the inquiries so that it could examine their proposals further [1.7, 4.126]. No doubt the Secretary of State will draw his own conclusions about the Council's commitment to a thorough examination of any alternative alignment along the line of the railway. However, I accept that the railway alignment extending as far as Potford's Dam would require a new planning permission, with all that implies for delay to the scheme, and that its later plans are sufficient for comparison purposes at this stage. [4.127, 7.2.12-7.2.15] Whether new Guidelines to Local Authorities, should they come into effect, would cause further delay to any revised scheme, as CPRE suggests [7.1.20], I am unable to say.

## **Other Matters Raised in 2003 Inspector's Report**

### **Question 2a – *Should Bilton Lane be closed at its junction with the north-west side of the WRR?***

- 9.109 Mr Millington's conclusions about whether or not Bilton Lane should be closed at the north-western boundary of the WRR are at TM 7.76-7.79.
- 9.110 There is no suggestion that the road should be closed other than to vehicular traffic and the County Council acknowledges that benefits would arise for pedestrians, cyclists and schoolchildren. Closure would be welcome by some local residents but the proposal in the October 2000 scheme attracted significant opposition from the public. [4.132, 7.2.19, 7.2.20, 7.3.2]
- 9.111 The County Council's proposal to carry out a consultation exercise before coming to a final view on the matter is welcomed by the objectors [6.2.20, 7.5.5] and I note that this will be obtained in time for the issue of the Secretary of State's final decision on the Orders [4.134].
- 9.112 Given the Secretary of State's agreement in paragraphs 16(a) and 17 of the February 2004 letter to the County Council with Mr Millington's conclusion [TM 7.78-7.82] that there would be merit in closing the north-western side of Bilton Lane to vehicular traffic and the County Council's wish to conduct a public consultation exercise before coming to a final view on the matter, it is perhaps surprising that such consultation has not already taken place [4.133]. In the absence of such consultation, I feel unable to come to a definitive conclusion on the matter.

### **Question 2b – *Should Footpath R126 be retained as an underpass where crossed by the WRR?***

- 9.113 Mr Millington's doubts about the need to provide an underpass for Footpath R126 are at TM 7.80-7.82.
- 9.114 During my site inspections, there was little evidence of Footpath R126 being used and the Long Lawford Parish Council suggests that it is seldom used. I have been given no evidence to come to a different view from that of Mr Millington [TM 7.80-7.82] on likely pedestrian use of the underpass. [3.3, 7.2.21, 7.5.6]
- 9.115 Although the Rugby Borough Council has aspirations to provide a cycleway to Henry Hinde School, the school now says that parents and children would not use the underpass to access the school (a point conceded by the County Council) - a view supported by the local objectors to the scheme [4.139, 7.2.21, 7.3.2, 7.6.1]. I am not persuaded by the argument that an additional connection is required between the proposed cycle route along the disused railway and the network on the western side of the WRR [4.138]. Such a connection would be available by using the footway/cycleway on the south-eastern side of the WRR and the Bilton Lane junction (which would still be available to cyclists even if the junction were to be closed to vehicles on the north-western side).

- 9.116 The underpass has been designed to accommodate both agricultural vehicles and equestrians. Although it would provide an alternative means of access to the severed field on the south-east side of the WRR, the relevant landowner no longer considers that he needs it for access purposes [4.141]. Were Bilton Lane to be stopped up, it might be necessary to provide an alternative means of allowing agricultural vehicles to cross the WRR at the Bilton Lane junction but, with a signalled junction for Bilton Lane (east), means of achieving this ought to be possible without an underpass.
- 9.117 The local objectors [7.2.21, 7.3.2] suggest that few equestrians use Bilton Lane, which is dangerous for horses [7.2.22]. Although consultation with the British Horse Society suggests that the underpass would benefit equestrians by removing the need for riders to cross the WRR at grade, I am doubtful about how many riders would actually choose to make the 600-metre detour, all of it alongside the WRR, to use the underpass.
- 9.118 Although removal of the underpass from the scheme would necessitate the acquisition of an additional 10-15m<sup>2</sup> of land for the Pegasus crossing [4.140], it would no longer be a constraint affecting the vertical profile of the WRR, so that the mitigation for Lodge Farm could be improved slightly by lowering the height of the WRR at that point [4.150]. The cost of acquiring the additional land could also be off-set by the underpass construction costs saved.
- 9.119 Given local concerns about public safety [6.2.21, 7.2.21, 7.6.1], the likelihood that the underpass would be little used and the fact that the vertical profile of the WRR would no longer be constrained by the underpass, I conclude, like Mr Millington [TM 7.82], that the underpass should be deleted from the scheme, this being reflected in the required changes to the SRO and CPO identified by him.

***Question 2c – Should the proposed footway/cycleway immediately to the north-west of Bilton Lane switch from one side of the WRR to the other?***

- 9.120 Mr Millington's conclusions about the footway/cycleway arrangement immediately to the north-east of Bilton Lane are at TM 7.85.
- 9.121 The County Council has confirmed its intention, proposed to the 2003 inquires [TM 4.109], to provide a footway/cycleway on both sides of the WRR between the Bilton Lane junction and the proposed underpass [4.143]. However, this addresses neither Mr Millington's point nor the concern of the objectors [TM 5.26]. Unless equestrian access to the proposed underpass from Bilton Lane is required (see 9.117-9.117 above), I, like Mr Millington, can see no justification for duplicating the footway/cycleway at this point.

**Question 2d – Is the land proposed for Landscaping and the Balancing Pond at Chainage 1900-2080 excessive?**

- 9.122 Mr Millington's conclusions about the extent of land required for landscaping and the proposed balancing pond at chainage 1900 to 2080 are at TM 7.86-7.87.
- 9.123 Calculation of the minimum land required for drainage purposes now shows that Plot 201 can be reduced from the 77,152m<sup>2</sup> assumed in 2003 to 71,987m<sup>2</sup> [4.145]. The changes now proposed by the County Council would meet the objection [6.2.23]. However, the Secretary of State should be aware that the vertical alignment of the scheme might need to be changed in order to win more material for use in earth embankments. Although this would be accommodated within the published Orders, the landowner would prefer the balancing pond to be moved further to the south to approximately chainage 1600. This would require planning permission and would have to be by agreement between the County Council and the landowner following confirmation of the Orders – a position accepted by both parties. [4.145, 6.2.24]
- 9.124 I conclude that, to cater for any failure to complete the agreement or obtain the associated planning permission, the Orders in respect of Plot 201 should be modified in accordance with the County Council's proposals to reflect the smaller area.

**Question 2e – Would the proposed mitigation of the environmental impact of the WRR on Lodge Farm be sufficient?**

- 9.125 Mr Millington's conclusions about the environmental impact of the published scheme on the Lodge Farm holiday cottage and caravan/camping site are at TM 7.88.
- 9.126 Whilst the objector was incorrect in assuming that the then planned 2-metre high noise fencing would be at the toe of the WRR embankment, which may have led him to believe that there would be no room to provide plants for screening, the County Council has now agreed to increase the height of the fence to 3 metres above carriageway level. To prevent multiple reflections between fences, the fences would also be made absorptive. This would reduce the increase in noise level experienced at the property to less than 3dB(A), resulting in a noise level of less than 50 dB(A), and would screen all but the highest vehicles from the property. [4.147, 7.3.7, 7.3.9, 7.3.10]
- 9.127 It is now proposed to soften the visual impact of the noise fences through planting on both sides of each fence. Off-site planting would also be offered to Mr Brown and the hedgerows surrounding the site could be managed to enable them to grow and form a screen. Nonetheless, as the County Council acknowledges, planting measures would take time to have any real screening effect. [4.148, 7.3.9]
- 9.128 The WRR could be lowered into cutting only if it were decided to dispense with the underpass for Footpath R126 but, because of engineering constraints at the Bilton Lane Junction, the road could not be lowered more than about 1-1.5 metres [4.150].

- 9.129 The proposed lighting to the north of the Bilton Lane junction would extend well past Lodge Farm. The County Council suggests that light spillage onto the Lodge Farm property would be minimal. No doubt the use of modern lanterns would help to minimise light spillage but, with the edge of the WRR being so near the property, it seems to me that a fair degree of light pollution would be inevitable [4.149, 7.3.11].
- 9.130 There is no doubt in my mind that, even with the mitigation now proposed, the published scheme would have a serious impact on the Lodge Farm site, to the extent that it could no longer be said to be located in a tranquil area [7.3.10]. Clearly, insofar as the WRR would impact on Mr Brown's livelihood and the peaceful enjoyment of his property, the scheme would result in an interference with his Human Rights [7.3.17]. Nevertheless, I am forced to conclude that the mitigation measures now proposed are all that could reasonably be provided to minimise the impact of the WRR on its planned alignment and that, bearing in mind the wider public interest in such a relief road being provided for Rugby, a reasonable balance has been struck, between the public interest and Mr Brown's human rights. Nevertheless, I am bound to observe that interference with those rights would be reduced were the Secretary of State to agree with my conclusion [9.117] that the underpass should be deleted from the scheme or to decide that an alignment along the disused railway should be adopted rather than one along the published route.

**Question 2f – *Would the proposed acquisition of land between chainage 1050 and 1300 for mitigating the effects of the WRR on badgers and newts be justified?***

- 9.131 Mr Millington's conclusions about the land required for mitigation of the impact on great crested newts and badgers can be found at TM 7.94-7.116.

*Great Crested Newts*

- 9.132 Although there is no statutory requirement specifically for mitigation of foraging within 250 metres of breeding ponds [TM 7.97], great crested newts are a European Protected Species under Schedule 2 to the Conservation (Natural Habitats, &c.) Regulations 1994 and I accept that there is a general requirement for mitigation of the effects of the scheme on this species. English Nature, in its capacity as statutory technical advisor to DEFRA (the licensing Authority) has issued guidelines on the matter – *English Nature's Great Crested Newt Mitigation Guidelines (2001)*. [4.151, 4.152]
- 9.133 Licences are required from DEFRA for derogation from the legal prohibition of taking or disturbing great crested newts, so as to enable appropriate safeguard and mitigation schemes to be implemented on development projects. The County Council says that the mitigation measures proposed are in line with these guidelines and with current accepted practice nationwide on other development schemes. Prior to the 2003 inquiries, English Nature had approved the proposed mitigation in writing. Since then, English Nature has written to the County Council to say that, were this mitigation not to proceed, an alternative mitigation

scheme would need to be drawn up to support the application to DEFRA for a licence. I accept that, without such a licence, the WRR scheme could not be completed. [4.151,4.152]

- 9.134 The justification for the proposed mitigation for the published scheme was explained at TM 4.44-4.48. Only 1.85 ha of high-grade habitat is proposed as a replacement for the lower-grade 1.99 ha foraging area lost [4.152]. These figures were available to Mr Millington but, contrary to his view, I accept that, given the need for mitigation, this amount of land would be reasonable. However, the County Council went on to say that, because the land is also required for balancing ponds and other sustainable drainage features, a total of 2.7 ha would be available in practice [TM 4.46]. The background to the case for acquiring land beyond that needed for the published scheme is set out in TM 4.39 and 4.40. The landowner still objects to the acquisition of his good quality agricultural land for such mitigation. Like Mr Millington [TM 7.100], I question the propriety of acquiring land compulsorily for purposes unconnected with this highway scheme (a matter on which the County Council offered no further evidence). The case for this should stand on its own merits and be pursued by other means.
- 9.135 Thus, apart from the additional advice from English Nature, no additional substantive evidence has been submitted to me that was not available to Mr Millington. Whilst I believe that the provision of the proposed 1.85 ha of replacement foraging land for the purposes of great crested newt mitigation would be justified, I conclude that, subject to the Secretary of State agreeing with my conclusions below on mitigation for badgers, the size of CPO Plot 104 is excessive and, in consultation with the County Council, should be reduced.

### *Badgers*

- 9.136 Mr Millington's conclusions specifically in regard to compensating foraging areas for badgers can be found at TM 7.114 and 7.115.
- 9.137 Although the Protection of Badgers Act 1992 does not refer specifically to the provision of mitigation for development impacts on badgers, the construction of such a scheme would require a licence from English Nature in order to demonstrate that the welfare of the animals would not be compromised [4.80]. I note that Section 44(3)(b) of the Habitat Regulations states that "*Licences shall not be granted unless action authorised will not be detrimental to the maintenance of the population of the species*".
- 9.138 The County Council says that it is accepted practice nationwide that replacement foraging areas should be provided in mitigation when significant proportions (over 20%) of their current important foraging areas are being lost [4.80, 4.151]. I have no reason to question this but, in the absence of new evidence and for the reasons he set out, I share Mr Millington's reservations at TM 115 concerning the justification for the acquisition of additional land for this purpose.
- 9.139 I conclude that, subject to any advice the Secretary of State may wish to obtain from English Nature concerning the consequences for the issue of

a licence [TM 160], the acquisition of land merely for badger foraging mitigation purposes would not be justified.

### **Question 3 - Other Matters relevant to the County Council's proposals or to alternative route proposals**

#### ***Noise Impact on Lawford Fields Farm***

9.140 As a result of concerns expressed by the objectors, the County Council has re-examined the noise impact on Lawford Fields Farm. Without mitigation, the noise level would increase from the existing 45 dB(A) to 58dB on opening and 60 dB by 2021. It has concluded that the 3-metre noise fence should therefore be extended northwards from Lodge Farm to chainage 3+500. [4.161 7.3.10] I conclude that the noise impact on the farm would be acceptable.

#### ***Noise Impact on Henry Hinde School***

9.141 The school is concerned that an adequate noise barrier should be provided [7.6.1]. As a 3-meter high noise fence is now proposed, so that no more than 40-45 dB(A) would be experienced on the façade (well below the 55dB(A) standard for schools, I conclude that the noise impact on the school would be acceptable [4.162]

#### ***Impact on water supply to pond at Lodge Farm Pond***

9.142 Mr Brown is concerned that the published scheme would reduce the amount of water going into his pond, which acts as a fire reservoir and, he believes, contains great crested newts [7.3.16]. However, the County Council's view, confirmed by my own observations of the nearby ground profile, is that the published scheme is unlikely to have any impact on the supply of water to the pond [3.3, 4.164.

#### ***The Case for a full bypass***

9.143 It has been suggested by some that, instead of a mere relief road, a bypass should be built, further to the west of Rugby [7.3.2, 7.4.2]. The case for providing a full bypass was not a matter before me but I find the County Council's response that a route linking the A45 to the M6 would be a major incursion into the Green Belt, would not carry sufficient traffic to justify its construction and could not be built with the funding for the WRR persuasive. It would provide little traffic relief for the existing network in Rugby. [4.160]

#### ***Flood Protection***

9.144 As the published scheme would provide 100-year flood protection, I conclude that Mrs Wyatt's concerns would be met [4.167, 8.1.1].

#### ***Air Quality***

9.145 Air quality was not a substantive issue at the 2003 inquiries [TM 7.117]. In the context of Mrs Pallikaropoulos's concern at the reopened inquiries

[7.4.1], I was given no evidence that the WRR would worsen pollution from the Rugby Cement plant.

## **Overall Conclusions**

- 9.146 Except where stated, I do not dissent from Mr Millington's conclusions.
- 9.147 The need for traffic relief within Rugby has not been challenged. Future development in the area is likely to increase the need. The proposed WRR would provide significant relief to the town. This accords with Mr Millington's conclusions [TM 8.1].
- 9.148 Some two years have elapsed since the inquiries first opened. Because construction might not now be started before some S106 agreements come to an end, there is now a risk that further delays to the scheme could result in some funding from developer contributions being lost.
- 9.149 For S106 developer funding to be assured, the WRR must extend from the north at least as far as Cawston. Confirmation of Orders for the Northern Section pending a decision on the Countryside Section, as recommended by Mr Millington [TM 8.8], is no longer an option.
- 9.150 Although there is currently a shortfall of some £4.57 million in the funds provisionally allocated for the WRR scheme, it should be possible to make this up, so that there is unlikely to be any financial impediment to the published scheme being built promptly.

### ***Potford's Dam Link***

#### *Urgency and Choice of Route*

- 9.151 There is a pressing need for a full WRR scheme, including either Cawston Grange Drive or the PDL, to be built. Provision of the PDL would bring with it significant traffic benefits for the local road network over and above those available using Cawston Grange Drive. Over a 30-year period, at least 147 more injury accidents would be saved with the PDL than would be the case were Cawston Grange Drive to be used. For environmental reasons, use of Cawston Grange Drive would be most undesirable. Were the Cawston Grange Drive option to be adopted, it is doubtful whether the PDL would ever be provided.
- 9.152 I conclude that, the need for the PDL should now be regarded as pressing and that Cawston Grange Drive would not be a satisfactory route for the WRR. This conclusion differs from that of Mr Millington.

#### *Link Design*

- 9.153 Traffic at the southern end of the PDL is predicted to be higher than that suggested at the 2003 inquiries to the extent that it would already be approaching the Congestion Reference Flow, even in the opening year. Although palliatives, such as a 50 mph speed limit, anti-skid surfacing and bend warning signs are proposed, the scheme would still fail to meet DMRB standards and, in my view, its design would be less than satisfactory for a new road.

9.154 Mr Alexander's alternative alignment would involve no relaxations from standards. It could be provided from within the CPO land and would avoid the need for compulsory purchase of Plot 101. Although it would cost between £330,000 and £565,000 more than would the published scheme, it is probable that this would be largely off-set by the cost of accidents saved over a 30-year period. With minor modifications, to the scheme, this alternative could be provided without prejudice to the timely completion of the remainder of the published scheme. I conclude that the scheme should be modified to incorporate Mr Alexander's alternative alignment and that Plot 101 should be deleted from the CPO.

9.155 These conclusions accord with those of Mr Millington at TM 7.70 and 7.71.

### ***Route Alignment***

9.156 Effect on badgers. The railway alignment would have less effect on foraging than would the published scheme. However, a considerable number of setts would effectively be destroyed (none would be destroyed under the published scheme). It should be possible to obtain a licence for their removal but, given the possible financial consequences of delay to the start of construction, this could be crucial to the choice of alignment. As concluded by Mr Millington [TM 7.160, 8.3], the Secretary of State may wish to consult English Nature before making a decision on alignment. In the meantime, I share Mr Millington's doubts about the overriding significance attached to the potential effect of the railway option on badgers by the County Council.

9.157 Need to Retain Dismantled Railway. There are no indicative plans for the railway to be reopened. Unless future Government policy or other commercial factors change the economics of using the line for transporting material from the Southam quarries to Rugby, there would be no need to retain the railway. I thus have no reason to dissent from Mr Millington's conclusion [TM 7.153] that relatively little weight should be attached to the need to protect the line for possible future rail use.

9.158 Use of Dismantled Railway for Walking /Cycling. The railway track is a useful leisure facility and is planned to become part of the national Cycle Network and part of Cycle Route 41. However, use of the track for the WRR would not preclude the provision of an acceptable alternative route for cyclists and would have the advantage of reducing opportunities for petty crime. Its retention for cycling/walking need not, therefore, be given great weight when considering the choice of alignment. Although he commented on the Railway Paths Ltd objection at TM 7.136 and 7.137, Mr Millington's conclusions do not relate directly to this question posed in my terms of reference.

9.159 Cost and Delay Involved in Use of Railway. Contrary to the evidence submitted to Mr Millington that the railway alignment would be cheaper, the County Council now says that it would actually cost some £3.1 million more than the published scheme (£29.49 million). The opening of the WRR would be delayed from September 2007 to July 2010. Due to loss of S106 developer funding, the shortfall in funding could increase to as much as £10.47 million.

- 9.160 Other Implications of Railway Alignment. The railway alignment would have more impact on ecology than would the published scheme. However, except for a small incursion at the southern end, the railway alternative would avoid having to run across fields on the south-eastern side of the Green Belt and destroying 18.6 ha of good quality agricultural land.
- 9.161 Overall Conclusions on Alignment. Like Mr Millington [TM 7.32], I believe that the objectors' proposed alignment would have considerable merit and would be preferable to the published alignment in terms of its impact on the countryside, on agriculture and on those properties particularly affected by the published scheme. In my view, its disadvantages have been overstated by the County Council. However, not only would its adoption involve the road safety and environmental advantages of traffic relief for the local road network being delayed by nearly three years; assuming the County Council's costings are accurate, it would also involve significant additional expense, probably raising the shortfall in funding to over £10 million (nearly 50% more than the funds currently earmarked for the scheme) unless additional sources of funding could be found. It would also have a greater effect on ecology and leisure. I must regretfully conclude that its advantages over the published scheme are not sufficient to outweigh its disadvantages and that it should not therefore be given further consideration.

#### ***Other Questions Posed by the Secretary of State***

- 9.162 Bilton Lane. A decision on whether or not Bilton Lane should be closed on the north-western side of the WRR should await the outcome of public consultation – a conclusion related to that in TM 7.79.
- 9.163 Footpath 126 Underpass. The proposed underpass for Footpath R126 should be deleted from the scheme, waiting areas being provided for a Pegasus crossing at the Bilton Lane junction - a conclusion similar to Mr Millington's in TM 7.82.
- 9.164 Footway/Cycleway near Bilton Lane. Like Mr Millington [TM 7.85], I see no need for the proposed footway/Cycleway on both sides of the WRR, especially if the underpass is deleted, and conclude that it should be deleted from the scheme.
- 9.165 Land for Balancing Pond. Following Mr Millington's conclusion at TM 7.87, it has been confirmed that the Orders can be modified to acquire a smaller area of land for the balancing pond between chainages 1900 and 2080.
- 9.166 Mitigation for Lodge Farm. I support Mr Millington's conclusion [7.88] that the adverse environmental impact of the published scheme on the Lodge Farm holiday cottage and camping site could be only partially mitigated. Some further mitigation is now proposed but the impact would still be considerable. That now proposed is, in my view, all that could reasonably be provided to minimise the impact of the WRR on its published alignment and strikes a reasonable balance between the public interest and Mr Bragg's human rights.

- 9.167 Mitigation Land. Subject to any advice the Secretary of State may wish to obtain from English Nature concerning the issue of the necessary licence, the land proposed for acquisition between chainages 1050 and 1300 for mitigation purposes should be reduced to that required for great crested newts.
- 9.168 Other Matters. The impact of the published scheme on Lawford Fields Farm, Henry Hinde School, the Lodge Farm pond, vulnerability to flooding and air quality would be acceptable. The case for a full bypass is not worthy of further consideration.

## The Orders

9.169 The following modifications would be required to the CPO:

- a. To cater for my conclusion that the scheme should be modified to include Mr Alexander's alternative alignment near Potford's Dam, Plot 101 should be deleted from the CPO [9.62-9.64, TM 7.71].
- b. Plots 201, 211, 301 and 302 may need to be amended, depending on the outcome of public consultation on the closing of Bilton Lane at the north-western side of the WRR [9.112, TM 7.79].
- c. If the proposed underpass for Footpath R126 is deleted from the scheme, the CPO would need to be modified to incorporate Pegasus crossing waiting areas for horses [9.118].
- d. To reflect the agreed reduction in the land required for the balancing pond between chainages 1900 and 2080, the CPO should be modified in respect of Plot 201, as shown at Document 202s [9.124, TM 7.87].
- e. In consultation with the County Council, Plot 104 should be reduced in size, commensurate with the area need for the balancing pond between chainages 1050 and 1300 and adequate foraging for great crested newts only [9.135, 9.139, TM 7.100].

9.170 The following modifications would be required to the SRO:

- a. To reflect my recommendation that the proposed underpass for Footpath R126 be deleted from the scheme, that footpath should be added to the list of highways to be stopped up under Schedule 3 of the Order.
- b. If, following consultation, the County Council concludes that Bilton Lane should be stopped up on the north-western side of the WRR, the C88 Bilton Lane should be added to the list of highways to be stopped up under Schedule 3 of the Order.
- c. The SRO plans should be modified to reflect those required for the CPO, as identified above.

9.171 As regards the Compulsory Purchase Order, and taking account of the modifications referred to in paragraph 9.169 above, I have examined the

detail and justification for each plot proposed for acquisition. Having regard to ODPM 02/2003 (paragraphs 14 to 20), I am satisfied that:

- all the land and rights specified would be required for the scheme, for which there is a compelling case in the public interest;
- this justifies interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, and, in the case of a dwelling, to Article 8 of the Convention;
- the County Council has a clear idea of how it is intending to use each plot of land it seeks to acquire and is not proposing to acquire any land before reasonable time; and
- subject to the availability of central government funding, the Council has shown that all necessary resources to carry out its plans are likely to be available within a reasonable timescale and that there should be no impediment to implementation of the scheme.

I conclude that, subject to the modifications set out in paragraph 9.169 above, the Order should be confirmed.

9.172 As regards the Side Roads Order, I have examined each of the proposals for stopping up highways and means of access to premises and am satisfied that:

- another reasonably convenient route would be available, or would be provided, before any highway would be stopped up, and that
- no means of access to premises would be stopped up unless no access to the premises is reasonably required or another, reasonably convenient, means of access to the premises is available or would be provided.

I conclude that, subject to the modifications set out in paragraph 9.170 above, the Order should be confirmed.

## **10 RECOMMENDATIONS**

10.1 I recommend that THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD) COMPULSORY PURCHASE ORDER 2002 be modified as indicated in paragraphs 9.169 above and that, so modified, the Order be confirmed.

- 10.2 I further recommend that THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD) (SIDE ROADS) ORDER 2002 be modified as indicated in paragraphs 9.170 above and that, so modified, the Order be confirmed.

A handwritten signature in black ink, appearing to read "D. J. Hahle", with a horizontal line underneath it.

**INSPECTOR**

**Appendices:**

- A. Appearances
- B. Terms of Reference
- C. List of Documents
- D. List of Proofs of Evidence

## Appendix A

**APPEARANCES****FOR THE WARWICKSHIRE COUNTY COUNCIL**

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**For Mr Bragg and Mr Brown:**

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## Appendix B

**INSPECTOR'S TERMS OF REFERENCE**

The inquiries held by Mr T Millington in April and May 2003 are to be reopened by Mr A L Roberts to hear further representations from persons interested in the land concerned and, at his discretion, representations from any other persons who may desire to appear and be heard. To enable the Secretary of State to come to a decision on the Orders, the Inspector has, in particular, been asked to obtain further information and to consider further submissions:

1. With regard to the Council's proposed route from the improved A428 Lawford Road south-westwards to Potford's Dam Farm:

*Potford's Dam Link*

- a. whether there is a pressing need for the Rugby Western Relief Road to incorporate the Potford's Dam Link (from Cawston to Potford's Dam) and, were that not considered to be the case, whether the use of Cawston Grange Drive would be an appropriate alternative for the southern link of the Relief Road;
- b. whether or not the Potford's Dam Link road design and created access at Potford's Dam Farm would be of an acceptable standard to introduce with the Rugby Western Relief Road;

*Route Alignment*

- c. *About-*
  - i. the potential effects upon badgers;
  - ii. the suggested need for retention of the dismantled railway, in considering any indicative plans for its prospective reopening;
  - iii. use of the dismantled railway as a walking/cycling track (with the possibility of it becoming part of the National Cycle Network); and
  - iv. aspects of increased cost and delay,

in considering whether the alternative route alignment, for the countryside section of the Rugby Western Relief Road, along the dismantled railway line, would provide a better route than the Council's Orders route.

2. About matters raised in the Inspector's report following the previous Inquiries:
  - a. whether or not Bilton Lane where it junctions with the north west side of the proposed Rugby Western Relief Road should be closed;

- b. whether or not footpath R126 should be retained as an underpass where crossed by the Rugby Western Relief Road;
  - c. whether or not the proposed footway/cycleway arrangement of the Rugby Western Relief Road eastwards towards Lawford Road from Bilton Lane should switch to its western side from its eastern side, south westwards from Bilton Lane junction;
  - d. whether or not the land proposed for landscaping and a balancing pond at chainage 1900 - 2080m is excessive and should be reduced consistent with a reduced pond boundary;
  - e. whether or not the Rugby Western Relief Road adverse environmental impacts upon Lodge Farm holiday cottage and touring caravan site will be sufficiently mitigated by the noise barrier and landscaping proposed by the Council; and
  - f. whether the land acquisition plans for a multi-purpose ecological mitigation area (between chainage 1050 and 1300m) for newts and badgers, are justified.
3. At the discretion of the Inspector, Mr A L Roberts, any other matter considered relevant to the Council's proposals for the Rugby Western Relief Road, or of alternative routes which have been suggested.

## Appendix C

**DOCUMENTS**

Documents with numbers below 100 are those submitted to Mr Millington. They are not included here but are listed in his report.

**Core Documents**

- 100 WCC letter to Secretary of State, 1 July 2004
- 101 Inspector's Report, RWRR 2003 Inquiry
- 102 Scheme Costs Breakdown
- 103 Full Rail Scheme Sheet 1 of 2, Drg 791 B
- 104 Full Rail Scheme Sheet 2 of 2, Drg 792C
- 105 Bar Chart showing program for Published Scheme vs Rail Option
- 106 Letter from British Horse Society, 5th August 2002
- 107 Traffic Survey at Potford's Dam Farm
- 108 Cycle Route to Henry Hinde School, Rugby
- 109 Accident Data for Potford's Dam, Jan 2003 - Jan 2005
- 110 Traffic Diagram for Published Scheme, Cawston Option and North Section Only, Drg 797
- 111 The Secretary of State's letter, 5th January 2005 and Inquiry Notice
- 112 The December 2004 L TP settlement letter from DfT
- 113 Extract from the "Full Guidance on Local Transport Plans" dated December 2004
- 114 Accident statistics for the A428 between Rugby and Coventry; Lawford Heath Lane
- 115 Relevant COBA output tables showing accident savings on A428 Rugby to Coventry and on Lawford Heath Lane
- 116 Map showing lorry routing between Rugby Cement works and Southam quarry.
- 117A RBC Minute 54(ii) of Cabinet dated 29 Nov 2000
- 117B RBC Minute 36 of Council dated 11 Dec 2000
- 117C RBC Minute 29 of Planning & Highways Committee (PHC) dated 31 July 2002
- 117D RBC Minute 29 of Planning & Highways Committee (PHC) dated 13 Nov 2002
- 118 Extracts of Policy R/TR3(1) and supporting paras 7.22 to 7.24 - RBLP 1997
- 119 Extract - paragraphs 7.4.28 to 7.4.28 of Inspector's Report on Rugby Borough Local Plan Inquiry 1995

- 120 RBC Officer's Report on response to Local Plan Inspector's Recommendations - Extract of Page 86
- 121 Plan showing modification (M63) to Western Relief Road to provide widened corridor (proposed modifications dated October 1996)
- 122 Extract from report of response to Public Consultation on the proposed modifications (February 1997) in relation to Modification 63
- 123 Extract of Policy T9 in first deposit of RBLP Review dated May 2004
- 124 Schedule of representations on Policy T9 - RWRR, RBLP Review First Deposit
- 125 Draft Policy T11 - Safeguarding Future Railway opportunities - RBLP Review
- 126 Extract of Paragraphs 6.14 and 6.15 of Planning Policy Guidance Note 12 - Development Plans (PPG 12)
- 127 Extract of Policies PA9, PA11 and CF2 of Regional Spatial Strategy for the West Midlands (RSS11)
- 128 Extract of Para 2.17 of Panel Report - Milton Keynes and South Midlands sub-regional spatial strategy (MKSM SRSS)
- 129 Extract of Paragraphs 1.4 and 1.5 of Planning Policy Guidance Note 2 - Green Belts (PPG2)
- 130 Economic Assessment Results from TUBA, February 2005
- 131 Sustrans Cycle route 41
- 132 Cost of the Potford's Dam Realignment
- 133 Letter from English Nature, 14th February 2005
- 134 Letter from Museum Field Services, WCC, 11th February 2005
- 135 Habitat Re-survey of the Disused Leamington to Rugby Railway Ecosite, Autumn 2004
- 136 Letter from Warwickshire Wildlife Trust, 17th February 2005
- 137 Photographs and Sketches: Comparison between Published Scheme and Railway Corridor Option
- 138 Extracts from Rugby Borough Local Plan Review 2004 First Deposit
- 139 Extracts from Warwickshire, Coventry and Solihull Local Biodiversity Action Plan, 2003

### **Inquiry Documents**

- 200 Attendance Lists.
201.
  - a. Department for Transport "interim letter" to Warwickshire County Council, dated 12 February 2004.
  - b. Inquiries Notice, dated 5 January 2005.
  - c. CPRE letter to the Planning Inspectorate, dated 8 March 2005.

- d. Letter from Planning Inspectorate to Mr Sullivan, dated 29 March 2005.
202. Documents submitted by the Warwickshire County Council:
- a. Extract from TD9/93.
  - b. Plan showing visibility at rear access to Potford's Dam Farm.
  - c. Cross-sections of three possible options for railway alternative.
  - d. Extract from Document 104 – section showing levels of rail formation and road for the WRR railway alternative.
  - e. Railway Paths Ltd letter to DfT, dated 15 July 2004.
  - f. Appendix C of Agenda No 2 for the Rugby Area Committee meeting of 7 June 2004 – Rugby Western Relief Road Funding and Construction Costs.
  - g. Drawing H/A426-31/798 – Existing Topography
  - h. Capital Receipt at Paynes Lane.
  - i. Date of recent serious accident near Potford's Dam farm.
  - j. Implications of the published scheme on reopening of the disused railway.
  - k. Economics of an improvement to achieve accident savings at Potford's Dam Farm.
  - l. Economic benefits of accident savings on A428 (Rugby to A46) and Lawford Heath Lane.
  - m. Route capacities.
  - n. Progress of development at Cawston Grange and prediction of final capacity.
  - o. Revised Cawston master plan and the October 2000 planning permission for RWRR.
  - p. Further funding sources for RWRR from development (S106 contributions).
  - q. 1998 report on planning application for the Cawston Development.
  - r. Rugby Borough Council letter, dated 24 May 1996, to the Planning Inspectorate concerning the Local Plan Inspector's report, and responses from the Planning Inspectorate.
  - s. Note and plan on land required for balancing pond at Ch 2+000.
  - t. Predicted noise levels at Lawford Fields Farm.
  - u. Note on objector's amendment to the full rail scheme at Potford's Dam Farm.
  - v. Notice of planning permission by Rugby Borough Council for use of disused railway as linear parkway, dated 19 February 2003.
  - w. Extent of the Ecosite 6/47.

- x. Note on issue of licence for the great crested newts by English Nature.
- y. Cost of Cawston Roundabout and Link to Cawston Grange Drive.
- z. Note by Dr Mark Webb on extent of trees and hedgerow lost and planted in mitigation for both the published and rail schemes.
- aa. Notice of 2003 Inquiries.
- bb. PPG24 Glossary.
- cc. Route Capacities (Addendum to Document 202m).
- dd. Total Accident Benefits from Construction of the RWRR and PDL.
- ee. Economics Benefits of a Scheme on the Railway Embankment.
- ff. Use of Cawston Grange Consortium S106 Funding on a combined Northern and Countryside Scheme.
- gg. Closure of Bilton Lane.
- hh. WCC Comments on Mr Brown's proposed amendment to Document 342 [Document 202(d)].
- ii. Clarification of points raised by Inspector.
- jj. WCC Comments on Mr Eves Alternative Scheme costs for Extension at Potford's Dam.
- kk. Underpass at Ch.3200, Footpath R126.
- ll. DMRB – TA 79/99 – Determination of Urban Road Capacity – Table 2.
- mm. Mitigation Measures near Lodge Farm.
- nn. Has the Authority made a formal agreement with Railway Paths/SUSTRANS yet (ref: Doc M)/What is the position with SUSTRANS?
- oo. Comment of the alternative route proposed in the evidence on Lilian Pallikaropoulos.
- pp. Note on Statutory requirement for badger mitigation.
- qq. Appendix A to Dr Bull's proof of evidence - Results of DMRB screening assessment.
- rr. Cawston Grange, Rugby, Master Plan.
- ss. Consequences of terminating the relief road at the Penthouse, Potford's Dam.
- tt. Movement of balancing pond at Ch 2+000 further south.
- uu. Extent of lighting at Bilton Lane junction.
- vv. Note on S106 agreements and their relationship to construction of RWRR.
- ww. CPO Options at Bilton Lane Junction.
- xx. Assessment of the Rail Option Proposed By Mr D Bragg.
- yy. Rebuttal proof of evidence on ecology by Dr Mark R Webb.

- zz. Railway Paths Ltd letter to Warwickshire County Council, covering extract from its agreement with the Secretary of State for Transport.
  - aaa. Critique of the Inspector's Report.
  - bbb. Response to Document 203k.
203. Documents submitted by Mr Eves:
- a. Appendices to his proof of evidence:
    - (i). WCC Rugby Area Committee report 17 March 2004.
    - (ii). WCC Cabinet report 25 March 2004.
    - (iii). WCC Rugby Area Committee report 7 June 2004.
    - (iv). WCC Cabinet Report 24 June 2004
    - (v). Plan PFA4.
  - b. Public agenda for Worcestershire County Council Cabinet meeting on 3 February 2005.
  - c. Alternative Scheme Costs.
  - d. DMRB - Extract from HD 37/99
  - e. DMRB - Extract from HD 28/04
  - f. DMRB - Annex D to TA 46/97 – Congestion Reference Flows.
  - g. Congestion Reference Flows.
  - h. Alternative Scheme Costs.
  - i. E-mail exchange on 9 May 2005 between Warwickshire County Council and Mr Eves.
  - j. Statement by Mr Alexander, concerning the late receipt of documents from the Warwickshire County Council by Mr Eves.
  - k. Response to Document 202ss.
  - l. Facsimile transmission from Mr Eves, dated 10 May 2005.
204. Documents submitted by Miss Forde
- a. Planning Policy Guidance 13
  - b. DMRB - TA 46/97
  - c. Appendices to David Mr Bragg's proof of evidence:
    - (i). Proof of Evidence submitted to 2003 inquiries and five attached maps:
      - (a) Map 1: The disused railway as a direct A45 to A426 Leicester Road link.
      - (b) Map 2: Incursion into the Green Belt.
      - (c) Map 3: Spur off the Relief Road Corridor.
      - (d) Map 4: Pressure on the Green Belt from existing industrial estates on the western side of Rugby.

- (e) Map 5: The “rolling back” of the western side of the Green Belt.
  - (ii). Explanation of the Scheme and Non Technical Summary of the Environmental Statement.
  - (iii). Gillings Bilton Lane Traffic Survey (23/24 January 2005).
  - (iv). Planning & Human Rights Issues.
  - d. Supplementary Evidence by Mr Bragg.
  - e. Appendices to Mr Alec Brown’s proof of evidence:
    - (i). Annotated version of Document 108, showing existing bridleway and highway, and potential for cycleway to be extended.
    - (ii). Photograph showing location of Lodge Farm relative to disused railway and land along which published route would run.
    - (iii). Photograph showing pond containing Great Crested Newts.
    - (iv). Extracts from the Human Rights Act 1998
  - f. Photograph taken at eastern corner of Lodge Farm, modified to indicate future view of fencing and traffic on the published scheme.
  - g. Aerial photograph of Lodge Farm with indicative line of published scheme superimposed.
  - h. Mr Brown’s Proposed Amendment to Document 348.
  - i. Plan showing contours to the south of pond at Lodge Farm.
205. Documents submitted by Mr Draper: Part of Ordnance Survey Map 132, dated 1967, showing railways, cement works and hazards.
206. Documents submitted by Mr Hall:
- a. Appendices to Mr Hall’s proof of evidence:
    - (i). J Hall Original Statement to 2003 Inquiry: Martin.
    - (ii). J Hall Original Statement to 2003 Inquiry: Mitchell.
    - (iii). Secretary of State Letter 12 February 2004
    - (iv). Plan of western Relief Road Showing Martin & Mitchell land.
    - (v). Report of Director of Transport 27 May 2004 to Rugby Area Committee and Report to Cabinet 24 June 2004.
    - (vi). Photograph of Cleared Railway Track Bed.
    - (vii). Plan Showing Potential 106 Developer Contributions
    - (viii). Plan of Cawston grange Drive Showing Properties Adjoining.
  - b. Howkins & Howkins map - Pedestrian Access to Schools
  - c. Pamphlet – Welcome to Rugby’s Nature Reserves.

- d. Rugby Local Plan Review – Comments of Behalf of Cawston Consortium.
  - e. Plan showing development sites.
  - f. Extract from Rugby Advertiser, Thursday 14 April 2005.
  - g. Rebuttal Statement – Original Cawston Planning Situation.
207. Statement by Mr Francis on behalf of The Rugby Chamber of Commerce.
208. Documents submitted by Mrs Wyatt:
- a. Statement concerning drainage, S106 agreement between Warwickshire County Council and Rugby Cement and noise levels.
  - b. Four photographs, taken on 10 July 1968, showing flooding in Long Lawford.
209. Documents submitted by Mr Sullivan:
- a. NOT USED.
  - b. NOT USED.
  - c. Range of Options for Rugby Western Relief Road
  - d. Warwickshire County Council – proposal for Key Decision to be taken on 26 February 2004, concerning Bilton Bypass.
  - e. Rugby Borough Council letter to Mr Sullivan, dated 12 April 2005 with plans attached to November 1998 Outline Planning Permission for Cawston development:
    - (i). Plan showing outline of the development.
    - (ii). Amended Master Plan for the development.
  - f. Two letters from Warwickshire County Council to Rugby Borough Council, dated 2 December 1997 and 18 January 1998.
  - g. Draft *Guidance to Local Authorities seeking DfT funding for major schemes*, dated 1 April 2005.
  - h. Drawing 5.7 – Landscaping Proposals, Sheet 1 of 3 for the October 2000 scheme.
  - i. Drawing 0.4 – Typical Cross Sections for the October 2000 scheme.
  - j. Drawing 5.3 – Planning Designations for the October 2000 scheme.
210. Documents submitted by Mrs Wyatt on behalf of Mrs L Pallikaropoulos:
- a. Letter to DfT, dated 18 April 2005, proposing that a western bypass be built in lieu of the WRR.
  - b. High Court Judgement: *Edwards v The Environment Agency* [2005] EWHC 657 (Admin)

### **Written Representations and Other Documents**

301. Letter from Network Rail dated 30 January 2004.
302. Letter from David Cheney dated 18 February 2004.

303. Letter from Mrs A Elson dated 19 February 2004.
304. E-mail from Will Dew dated 4 March 2004.
305. Letter from Basil Skevington dated 8 March 2004.
306. Letter from Mr R Balcombe dated 14 March 2004.
307. Letter from Mark Lissimore received 18 March 2004.
308. Letter from I Pallikaropoulos dated 23 March 2004.
309. Letter from Warks CC dated 31 March 2004.
310. Letter from David B Bragg dated 8 April 2004.
311. Letter from Dr N R Balcombe dated 8 April 2004.
312. Letter from Wright Hassall dated 20 April 2004.
313. Letter from CPRE dated 21 April 2004.
314. Letter from Arnold Thomson dated 21 April 2004, on behalf of Mr & Mrs A D S Mitchell.
315. Letter from Arnold Thomson dated 11 May 2004.
316. Letter from Wright Hassall dated 12 May 2004 .
317. Copy of letter from Long Lawford Parish Council to Ken Browne, Cabinet Member for Transport, dated 16 June 2004 .
318. Letter from Warks CC dated 1 July 2004 .
319. Letter from Railway Paths Ltd dated 15 July 2004.
320. Letter from Cllr W Cleaver dated 15 July 2004.
321. Letter from David B Bragg dated 19 July 2004.
322. Letter from CPRE dated 22 July 2004.
323. Letter from Mr K Polley dated 12 August 2004.
324. Letter from David Todd dated 13 August 2004.
325. Letter from Mr & Mrs Venner dated 15 August 2004.
326. Letter from Mrs A Nolan dated 26 August 2004.
327. Letter from Mr A J Nolan dated 26 August 2004.
328. Letter from Michelle & Peter Stuchbury dated 7 September 2004.
329. Letter from Raymond Montford dated 13 September 2004.
330. Letter from Cllr W Cleaver dated 12 October 2004.
331. Letter from Robert Mead dated 22 November 2004.
332. Letter from Hallam Land Management, on behalf of the Cawston Consortium, dated 17 February 2005.
333. Letter from Andy King, MP, dated 17 February 2005.
334. Letter from David Cheney, dated 19 February 2005.
335. Letter from Terry Medcraft, dated 21 February 2005.
336. Letter from Tracey J Ball, dated 22 February 2005.

337. Letter from Railway Paths Limited, dated 25 February 2005.
338. Letter from SUSTRANS, dated 25 February 2005, supporting County Council's submission.
339. Letter from Councillor W Cleaver (Long Lawford Parish Council), dated 1 March 2005.
340. Letter from WCC to DfT, dated 13 Mar 04.
341. Letter from Cawston Grange Community Association, dated 28 February.
342. Letter from Mr R Balcombe, dated 7 March 2005.
343. Letter from Rugby Borough Council, dated 8 March 2005.
344. Letter from CPRE Warwickshire to Planning Inspectorate, dated 8 March 2005.
345. Letter from Planning Inspectorate to CPRE Warwickshire, dated 29 March 2005.
346. Letter from Mr Hall on behalf of the residents of Firs Drive, dated 15 Mar 2005.
347. Statement from the Town Centre Company.
348. Letter from Cllr W Cleaver – Chairman, Long Lawford Parish Council, dated 13 April 2005.
349. Undated and unsigned letter of support from Mr R B Undy, of Fosse M E Ltd, on behalf of the Road Haulage Association and the Federation of Small Businesses, submitted by Mr G Francis.
350. Undated letter from Coventry and Warwickshire Chamber of Commerce to Rugby Borough Council, received 1 March 2005.

## Appendix D

**PROOFS OF EVIDENCE**

***NB. The proofs of evidence are as submitted. The statements and opinions they contain may have been amended or withdrawn during the course of examination during the inquiries.***

1. **Roger Newham**
  - a. Summary of Proof of Evidence on Policy and Transport Planning - produced for the Inquiry April/May 2003.
  - b. Proof of Evidence on Policy and Transport Planning - produced for the Inquiry April/May 2003.
  - c. Supplementary Proof of Evidence on Policy and Transport Planning - produced for this Inquiry in March 2005.
2. **Naib Singh Sidhu**
  - a. Summary of Proof of Evidence on Engineering - produced for the Inquiry April/May 2003.
  - b. Proof of Evidence on Engineering - produced for the Inquiry April/May 2003.
  - c. Rebuttal Proof of Evidence on Engineering - produced for the Inquiry April/May 2003.
  - d. Supplementary Proof of Evidence on Engineering - produced for this Inquiry in March 2005 .
3. **Gordon Hayles**
  - a. Proof of Evidence on Planning (Rugby Borough Council) - produced for this Inquiry in March 2005.
4. **Carolyn Cox**
  - a. Summary of Proof of Evidence on Landscape - produced for the Inquiry April/May 2003.
  - b. Proof of Evidence on Landscape - produced for the Inquiry April/May 2003.
5. **Jeremy Birkbeck**
  - a. Proof of Evidence on Landscape - produced for this Inquiry in March 2005.
6. **Dr Mark Webb**
  - a. Summary of Proof of Evidence on Ecology - produced for the Inquiry April/May 2003.
  - b. Proof of Evidence on Ecology - produced for the Inquiry April/May 2003.
  - c. Supplementary Proof of Evidence on Ecology - produced for this Inquiry in March 2005.
7. **Colin Waters**
  - a. Summary of Proof of Evidence on Noise - produced for the Inquiry April/May 2003.
  - b. Proof of Evidence on Noise - produced for the Inquiry April/May 2003.
  - c. Supplementary Proof of Evidence on Noise - produced for this Inquiry in March 2005.
8. **Dr Michael Bull**
  - a. Summary of Proof of Evidence on Air Quality - produced for the Inquiry April/May 2003.

- b. Proof of Evidence on Air Quality - produced for the Inquiry April/May 2003.
- c. Supplementary Proof of Evidence on Air Quality - produced for this Inquiry in March 2005.

**9. Graham Eves**

- a. Proof of Evidence in Support of Objection on behalf of Mr S Alexander - produced for the Inquiry April/May 2003.
- b. Further Proof of Evidence in Support of Objection on behalf of Mr S Alexander - produced for this Inquiry in March 2005.

**10. Mark Sullivan**

- a. Statement by CPRE Warwickshire Branch 15 March 2005-03-15

**11. John Hall**

- a. Statement on behalf of statutory objectors Mr J L, Mrs D C & Mr M J Martin.

**12. Mr R Nash**

**13. Alec Brown**

**14. David Bragg**