SECRETARY OF STATE FOR TRANSPORT
DEPARTMENT FOR TRANSPORT

APPLICATION BY MR. RICHARD BUTTERFIELD FOR AN ORDER UNDER 247 TOWN AND COUNTRY PLANNING ACT 1990

ORDER REF: NATTRAN/Y&H/ S247/4337

IN RELATION TO LAND AT WOLFSTONE HEIGHTS FARM CONCERNING THE STOPPING UP AND DIVERSION OF PART OF HOLMIRTH FOOTPATH 60

PUBLIC INQUIRY (VIRTUAL EVENT)

COMMENCED ON 24TH AUGUST 2021 AND ADJOURNED 27TH AUGUST 2021

FINAL COMMENTS ON RESPECTIVE CLOSING SUBMISSIONS

Applicant Response to Closing Submissions by Mr. Gill on Behalf of the Council (as Objector)

Paragraph No.	Comment on Council Closing behalf of Applicant		Response on behalf of Council to Comment by Applicant
N/A	The Council's comment opposite is noted, but in the Applicant's submission not relevant or applicable.		**The Council will only comment in detail where the parties disagree as to the evidence given, ie what witnesses said in giving evidence. The Council does not agree with the Applicant's submissions and silence as to the Applicant's criticisms is not to be taken as a concession. The Council will not misuse this process to make submissions.** The above comment in bold was provided with the first draft of comments on 24/12/21. It was omitted by the Applicant from the first draft of this combined document. It is a clear caveat that silence does not amount to acceptance of a

			submission. Where the Applicant claims that silence equates to acceptance the Inspector is respectfully referred back to this comment.
2	"tendentious" – no examples or evidence are provided, so the Council was invited to either elaborate or withdraw this.		No, this is a submission not a reporting of factual evidence. Whilst the Applicant may disagree with a submission it is not for the Applicant's advisors to rewrite the Council's closing
8	Mr. Earnshaw has never used the words: "flush" to the building line, but the situation on the ground is different in any event. It is perhaps flush to a building line, but the actual building line in part is a raised bed and bin store area, so there is a short area before it meets the wall of the actual dwelling or its newer outbuildings. The building line referred to is not in fact the building line of Wolfstones Heights, but the old raised plant beds (which were and are in the ownership of Wolfstone Heights Farm, not Wolfstone Heights), which is identified in further information from Mr. Earnshaw's correspondence dated 28th December 2021. Further, it is contended that the Plan as modified by the DfT can be construed as "in the middle" of the old driveway. Mr. Earnshaw in XX and IXQ said that it was simply down to one thing: "scale". Although noted in single and not double inverted commas, Mr. Earnshaw maintained the "scale" point and has never said to the Inquiry during examination or otherwise, 'I'll just draw another'. This we submit is a misrepresentation. There is not such a contradiction as stated and should be removed. **NB.** Mr. Earnshaw has since written to the Inspector (via the Programme Officer) in correspondence dated 28th December 2021 on this perceived issue and the Inspector is referred to this. The Council has elected not to engage or respond to this, save by reference only to acknowledge the existence of this in a footnote. This is viewed as acquiescence of the position, otherwise the Council would have requested Mr. Earnshaw be re-examined on this point.		Flush is not in quotation marks – it has therefore not been suggested the specific words 'flush to the dwelling' were used. Flush to the building line is acceptable to the Council. Mr Earnshaw did say he could just draw another plan, a note was made. The Council submits there is a contradiction. That is the Council's submission and this process is not for the Applicant to rewrite submissions it does not like. The NB post dates the drafting of the Council's comments.

	This is now a matter for the Inspector. However, please do also see comments in relation to paragraphs 48 and 49, below.		
9	Mr. Gill in his Closing has stated that Mr. Earnshaw has claimed wide expertise across many areas. This is not accurate and a misrepresentation of the position. It is stated that "the Council submits that there is no way to remedy this insufficient plan within this Inquiry process." Even if this situation is not applicable or relevant, we submit that Mr. Gill knows that this statement is not correct in law or in fact and that both the Inspector and indeed SoS does have such powers to make minor alterations and indeed if need be, to cause a further Inquiry day (or time) to re-examine this specified position. We invite Mr. Gill to remove what he knows or should know is inaccurate. **NB.** Mr. Earnshaw has since written to the Inspector (via the Programme Officer) in correspondence dated 28th December 2021 on this perceived issue and the Inspector is referred to this. The Council has elected not to engage or respond to this, save by reference only to acknowledge the existence of this in a footnote. This is viewed as acquiescence of the position, otherwise the Council would have requested Mr. Earnshaw be re-examined on this point. This is now a matter for the Inspector. However, please do also see comments in relation to paragraphs 48 and 49, below.		The order line has been advertised and the inquiry has proceeded on this basis. If the order line under the Applicant's case is not as the order plan shows it then the Applicant will need to remedy that. As a matter of fact, the Council considers that the Inspector was entirely right to raise the issue as the order plan submitted by the Applicant and then put forward in the order does not reflect the Applicant's submissions. If the Applicant proposes a new order plan which reflects the Applicant's case then that will require readvertising for the public and is not a 'minor alteration' in the Council's submission. This would require either an extended prolongation of this inquiry with multiple extra sitting days or another inquiry.
11	*"On the first day of the inquiry, Sir, you explored in detail with Mr Earnshaw the parts of the relevant permissions which conflict with the current footpath. Frankly, the benefits are paltry."*		No. The Inspector did not call the diversion route a double benefit – the Inspector was clarifying a witness' evidence. The Inspector has been punctilious in not making any findings during his inquiry process before reporting.

	The Inspector did indeed explore the benefits, but the Inspector was clear in correcting Mr. Gill that all aspects of the development are part of the planning permissions, even later referring (albeit in terms of clarification and obviously not statement) to the diversion route as a form of **"double benefit**". We invite the removal of this reference as it is not a representation of events.		
12	**"**The applicant requires a second access." – this is a not-so-subtle attempt to revisit the merits of planning permissions granted. In any event, access from the southernmost side to the terrace, from the existing garden at Wolfstone Heights Farm following the proposed movement of the current wall is a key part of the design envisaged and permitted by the planning permission, as explained by Mr. Earnshaw in IXQ (which in fairness did interject on Mr. Gill's XX). Mr. Gill and the Council know full well that the process is not an opportunity to revisit the planning permissions granted or their merits. This should be removed in the applicant's view as it is a blatant attempt to revisit the permissions. We invite removal of this reference.		No, it is not. It is a submission on the Inspector's discretionary merits test process. It is not for the Applicant to rewrite another party's submissions which it does not agree with.
13	Mr. Earnshaw used the example of the horse trailer, but also used the example of where the final order is not made, there would be simple vehicular conflict between pedestrians and users of the driveway, compared with the diversion route. Consider including the latter or removing the reference altogether. Again, this feeds into the narrative of attempting to revisit the merits of the planning permissions already granted and part-implemented.		No, these are the Council's submissions. It is not for the Applicant to rewrite submissions it does not like.
14	It is inaccurate to state that there is 'no societal benefit' and this is certainly not the evidence falling out of the examination of witnesses at the Inquiry. Please see Applicant Closing and refer to all Applicant-witness evidence. Whether or not something is a subjective judgement		Submissions are a combination of fact and opinion. That the Applicant acknowledges that this is opinion shows that the comment by the Applicant is otiose.

	is ultimately a matter for the Inspector in his deliberations based on evidence and application of the law. This paragraph is in large part opinion and not fact.		
20	This is not an accurate representation of the questioning (EiC) of Mr. Appleton. My apparent 'relentlessness' in EiC of Mr. Appleton (which one must accept would be a strange feature in itself of EiC) mis-characterises the examination and omits key information elicited from Mr. Appleton during EiC and IXQ. Please refer to Applicant Closing in this respect.		The Council makes its submissions on the manner in which Mr Scanlon sought to go behind the witness' evidence. It is for the Council to make its submissions. It is not for the Applicant to rewrite submissions it does not like.
21	No examples are provided. Please either consider removing the allegation of Mr. Appleton being evasive, or alternatively provide specific examples. This is an accusation, so we invite the Council to either back it up against specific evidence or events at the Inquiry, or remove such a reference.		This is the Council's submission.
28	The Council through Mr. Gill states at **Paragraph 17** that: *"The Council does not contend that substantial highways risk arises from the proposed diversion of the Footpath. The Council accepts the accident data compiled by the Applicant."* However, at Paragraph 28 then attacks the applicant's evidence on safety. Either one or the other is the position, but not both. This however feeds into and reinforces the clear contradiction and confusion surrounding the Council's evidence.		The Council accepts the Applicant's highways accident data – this is one piece of highways evidence, ie the lack of accidents on this section of road. That does not prevent the Council passing comment on other data gathered or other areas of highways impact data not gathered.
33	Mr. Appleton did not say at any point of examination that summer surveys would have been "preferable". This is inaccurate. The situation is as described in Applicant Closing. Consider revising because this is not an accurate portrayal of the actual event and evidence elicited.		The Council's note disagrees. Where there is disagreement the Council is happy to rely upon the Inspector's note.

34	Specifically Footnote 5 – Mr. Cropper was Chairman of the Holme Valley Land Charity and was a Member of the Holme Valley Parish Council, both until early-mid 2019. Also, Mr. Cropper has not ever in any part of his examination used the words: "very unlikely" on the prospect of the Trig Point land being sold off or otherwise ceasing to be for public use/benefit. Please consider removing this inaccurate reference which did not occur.		The Council's note is that Mr Cropper did state this. The Council does not dispute the ownership details and that the land is not PROW. Nor is it disputed that the HVLC has acted to protect its positions as a landowner. However, the Council's note is that Mr Cropper nonetheless thought it 'very unlikely' the land would be closed to the public. In any event the phrase is not in direct quotation marks. Where there is disagreement the Council is entirely happy to rely upon the Inspector's note.
37	Whilst this user would not have been captured by the Applicant's survey counts walking at certain hours, this does not mean that he always walks in those hours. In any event, following Mr. Gill's line, this is in fact further evidence of use of the diversion route outside of the survey hours, meaning on this basis usage of the diversion route is even higher than surveys suggest. The same obviously applies to other users that may not have been 'caught' in the survey data. We have no note or recollection of examination on this point and shall therefore defer to the Inspector's notes and recollections.		This is exactly when says he walks, ie it was his evidence of when he walks and not other times.
39-43	The Applicant remains very confused as to what the Council's position actually is here, even following examination of Mr. Champion. We await further comment and feedback from Mrs. Haigh before commenting further. Please refer to Applicant Closing.		
45-47	Mr. Gill makes this point on the part of the Council, but then does exactly the same himself on behalf of the Council in this 'Post-Script' section of the Council's Closing. In any event, this is now irrelevant. Mr. Gill and Mr. Scanlon both agree that where this Inquiry is concerned, there is no statutory or regulatory process governing such a rule for the purposes of this Inquiry (this would include the Highways		The Post Script exists purely because of the Applicant's advocate's threat. There is no statutory procedure but the Inspector set out a process he wishes followed and it is that which the Council has tried to follow. The parties disagree what the Inspector intended in his note.

	Inquires Procedure Rules 1994, which in any event does not govern this Inquiry, has no such rules on exchange and workings on Closings, ansd which the Programme Officer has used as a guideline only). We are therefore entirely reliant on the Inspector's 'Inquiry Note 1', dated 31st August 2021. The Inspector's Inquiry Note 1 was clearly put in place to curtail prospective interruption and challenge from either party during the course of closing on the final day to be re-convened. We are agreeing submissions and modifying accordingly, as Mr. Gill has done 'Post-Script' (sent to the Applicant only on the morning of 31st December 2021) and which we have commented on. Where the Inspector intended something different, then he would clearly have stated this. The Inspector's intention was simply to manage the situation by ensuring that the Closing session would be a shorter and less adversarial affair than it otherwise might be. Nothing more. How Closings are administered and finally generated was and is clearly not a concern for the Inspector, otherwise he would have stated this in Inquiry Note 1. The Inspector simply wants to know where, on the final day of submission (being 31st December 2021), there is outstanding disagreement as to fact. This document does just that. Where Mr. Gill has worked on a different basis, that is a matter for he and the Council. That is not a matter for the Inspector or the Applicant. Multiple rounds of exchanges were arranged prior to submission of initial drafts. Whilst there was slippage in these timescales due to unforeseen childcare arrangements (on both sides), child illnesses and Mr. Scanlon's Covid-19 illness, Mr. Gill has had ample opportunity to modify his Closing and has even been invited by Mr. Scanlon to do so. He appears to have taken this up now with his Closing 'Post-Script'.		The Council is drafting this response to round 4 of Mr Scanlon's comments on the afternoon of 31st December 2021. Mr Scanlon has this morning informed the Council that he intends to make a further set of response thereafter – a fifth round of comments. Mr Scanlon states that a series of exchanges were proposed. In his email of 16/11/21 he proposed exchange of closings on 17/12/21 – this occurred with the Council's being sent that evening after Mr Scanlon said he would try to send something that night. Mr Scanlon's draft closing was sent after it was chased on the morning of the 20th December. Comments were exchanged on each first draft by the 24th – this was also proposed in the email of 16/11/21 Mr Scanlon's email of 16/11/21 then referred to a 'hopefully final exchange' by 30/12/21. It is not understood how it has come to be that there are now five rounds of comments being made by the Applicant.

	Mr. Gill, as he has been encouraged to do in multiple correspondence between us, has added to his Closing by included his 'Post-Script' analysis, so complaint would again seem that this is entirely irrelevant now. Any attempt to add further information in Closing (save for matters of the UU, as this is the subject of discussion at the reconvened Inquiry day in any event (see also below), will be strongly resisted and we submit should not be entertained by the Inspector.		
48	This is noted, but in fairness (in fact to Mr. Gill, if nothing else), the Council has known since 31st August 2021 that the deadline for submission of Closings is 31st December 2021. Given subsequent exchanges between the Council and the Applicant representatives, it was equally likely that we would be in a position of going down to the proverbial wire and that instructions would be required on certain items during the Christmas and New Year week leading up to Friday 31st December 2021. Where the Council has not made management or contingency arrangements for Mr. Gill to be able to obtain instructions over this period, then that is a matter for the Council and not the Applicant or the Secretary of State Inspector. We would in fact question, where Mr. Earnshaw's evidence and subsequent correspondence is concerned, whether Mr. Gill would in fact need instructions to be able to respond on the part of the Council. Overall, we therefore submit that Mr. Gill has stated his position in Closing. The Applicant will resist any attempt to expand on its Closings following submission on 31st December 2021.		The Council could not expect that a witness to the inquiry would submit representations to the Inspector in the week between Christmas and New Year. These submissions from Mr Earnshaw include a new plan and written submissions amounting to new evidence on his part and submissions written against the Council's closing. The Council's position as to the likely effectiveness of a new plan was made in the earliest draft of closings. It is not possible to make submissions on new written evidence and submissions by Mr Earnshaw without instructions. It is also noted that it is not for witnesses to draft their own submissions on the meaning of evidence or against the submissions of another party.
49	These are not the facts falling from evidence at the Inquiry. Moreover, this is not at all what Mr. Earnshaw's correspondence of 28th December 2021 says.		The submission in para.49 has been made in earlier drafts and therefore is with instructions.

	Whilst it is accepted that this is to some extent simply submission, this is a complete mischaracterisation of Mr. Earnshaw's evidence and Mr. Earnshaw's subsequent correspondence, which he has offered again to be re-examined upon, but it is noteworthy that the Council has elected not to insist upon this, which goes to acquiescence in the Applicant's view. Again, as in 48 above, where Mr. Gill is speculating because he does not have instructions, is not a matter for the Applicant or the Inspector. Management arrangements and contingencies should have been made by the Council and it is in the Applicant's view wrong for Mr. Gill to attempt to hide behind lack of instructions, much as though he himself can only state the facts. On this occasion, the facts demonstrate the lack of management and organisation on the part of his client, which should not be an issue for the Applicant adhering to the requested deadline for submission of Closings, nor the Inspector in considering Closings.		
50	This is a misrepresentation of the position and does not reflect arrangements and multiple correspondence between the Applicant and the Council.		
52-53	Whilst it is accepted that these are submissions on the part of the Council, we would simply add that this 'Post-Script' information is in direct response to the Applicant Closing. Again, the Council cannot complain about exchanges of Closings, with edits and additions following such exchanges and then do the same itself. Its complaint in this respect (paragraph 45-48) is therefore redundant.		The Post Script is produced in specific response to the threats of the Applicant's advocate to resist any comment on the evolving submissions of the Applicant.

Council Response to Closing Submissions by NSCL on behalf of Applicant

Paragraph No.	Comment on Applicant Closing on behalf of the Council		Response on behalf of Applicant to Comment by Council
10	The Applicant never pursued this interpretation of the judgement in opening or any other submission prior to closing. The Council will not comment on the Applicant's interpretation of case law as part of this process. This interpretation was not raised until now and so it would inappropriate to redraft the Council's closing to address an interpretation that it would not have been aware of in the normal inquiry process in circumstances where the Applicant would have raised this interpretation of case law after the Council had already formally closed. The Council will not redraft its closings to address the Applicant's closings in this manner as it would be the same breach of process that the Applicant repeatedly makes in its closings.		We are not saying that it did. This is for the purposes of Closing, setting the detailed context of the legal tests that underpin this application and therefore this Inquiry. The Council is free and is indeed invited to state a contrary position in its Closing; i.e. this is the Council's view of what this means as opposed to the Applicant's. It is in any event not an interpretation of Judgment, but pointing out the language used in reasonable everyday understanding of those words. No 'breach of process' is occurring. There is no such a 'process' governing this Inquiry. This Section 247 Application and subsequent Inquiry is run free of such Rules, save that it is loosely aligned to only the extent that it can be under the Highways Inquiries (Procedure Rules 1994), which incidentally do not align to this Inquiry The Council is invited to add to or otherwise edits its Closings accordingly. The 1994 Rules contain no such 'process' or other restrictions for Closings. By way of reminder, the Inspector has asked parties to agree Closings but provided no form; simply that it needs to be highlighted on submitting by 31st December where the parties disagree on facts. It is hopeless to suggest that an applicant would somehow not respond and deviate from Closing script where a point of contention is raised during the Council's or any other party's Closing. Perfectly normal. In any event the Council has opportunity to respond here and before final submission, the same as the Applicant. Where the Council disagrees, it can state so and put an alternative in its Closing if it so wishes. Where the Council does or does not add to or edit its Closing, is a matter for it. There are no restrictions in this process or complaints from the Applicant in this respect. That is entirely a matter for the Council.
16	Parts of this have been written following receipt of the Council's draft closing. This is a breach of the specified procedure. In light of Mr		Incidentally the Council's Draft Closing was not submitted until 22:22 on Friday evening, over ten hours after the initial 'deadline'. The 'Skeleton' had to be

	Scanlon's inability to exchange by Friday 17th December the Council expected him to have produced his closing draft prior to reading the Council's closing. The exchange of closings is to allow for disputes of fact as to the evidence to be resolved not to allow redrafting of arguments. However limited Mr Scanlon's experience, this is not acceptable conduct. The Council would note that Mr Scanlon sent a draft of his closings at 1631 on 17/12. In his email Mr Scanlon described these submissions as 'a mostly completed skeleton draft Closing'. Mr Gill has not opened this draft and does not know its content. The Council has proceeded to consider only the final draft circulated by Mr Scanlon on 20/12. 'I do not understand what the Council's fundamental objection actually is' – the Council does not agree that this was said by the Inspector. However, since this is alleged to the be the Inspector's own words, the Council will rely on the Inspector's notes and recollection.		submitted by noon by the Applicant for reasons explained and it was clear in the covering email that the Council should not send its Draft Closing if it was not comfortable to do so in the absence of the Applicant's substantial Draft Closing. The same point as above is reiterated. The Applicant in final Closing, where in a more usual way these would not have been exchanged, would ordinarily respond to points raised in the Council's or other objector's Closing (for example, breaking off during reading and stating that the opposite point is noted and this addresses the point, or here is why we disagree). In any event, no such 'procedure' governs. The Inspector has introduced a requirement anticipating disagreement; not a 'procedure' governing what is an is not permitted or otherwise in a Closing Statement. The reasons for lateness have been clearly explained (a combination of urgent childcare and Covid-19; and childcare was also incidentally Counsel's excuse for lateness in prearranged response). The arrangements for exchanged have slipped by a few days as a result. The Council has every right to modify its Closing Submissions following seeing the Applicant's Draft Closing and associated comments/initial feedback already sent separately. The Inspector clearly (in fact very clearly) used the words: '*I do not understand what the Council's fundamental objection is'*. It is very memorable, because only seconds later what we now know to be Ms. Haigh was identified passing a note to Mr. Champion.
25	NS "During XX Mr Payne would not say whether he used the proposed diversion route. Council's notes read: NS "Have you used the diversion?" DP "Used with a friend not part of the group"		No recollection of this, but will defer to the Inspector's notes. Where this is the case, then it adds to the confusion as to the status of Mr. Payne and his alleged 'organisation'. The question in XX was whether he used the diversion route, not had he ever used it.

54	The Council does not agree that either Mr Leader or Mr Champion said the impact was 'neutral'. Both Mr Champion and Mr Leader indicated that it was not the loss of the direct route per se, but the extent of the deviation from it and the breaking of the flow of the route that was significant. They both agreed that diversion on to another route with a different termination point *might* be acceptable.		Not agreed. This is not correct in our submission and following reference again to notes. There can be no such thing as indication in a direct XX question, as Counsel is well-aware. On revisiting notes there is no question that both parties have referred to the impact on PROW network as "neutral". The point on deviation from the present legal route (the breaking of the straight line, as has been put in applicant closing) was an additional crucial admission/acknowledgement, clearly made by both Mr. Leader and Mr. Champion in XX, which the Applicant and the Council agree on.
57	The Council did not XX on this point. This line of questioning was all from the Inspector.		Not agreed. The Inspector intervened on the Council's XX on this issue.
59	The drafting of this closing subsequent to the provision of the Council's draft is a breach of the specified protocol and unacceptable. Drafts were to be exchanged to ventilate disputes of fact not to allow the Applicant to redraft their closings in light of the Council's closings.		Which specified protocol? There is no such protocol in these proceedings nor any statement or instruction from the Inspector during or post-adjournment of the Inquiry. This is nothing untoward; simply responding in Closing to what is alleged by an objector in their Closing. Any disagreement is what this exercise is for, to assist the Inspector where facts are disputed.
60	This is not the place to comment on the Applicant's misinterpretation of the Council's case. The Council would emphasise with regard to this paragraph that it does not agree with this characterisation of its argument. Again this redrafting of the Applicant's closing in light of the preview of the Council's closing that Mr Scanlon had is inappropriate and should be ignored.		This is noted but not agreed. Again, on the latter point, this is responding to the Objector's Closing. This is no breach of any rules or guidance or instruction from the Inspector.
62	This is a misstatement of the case put in the Council's closing. If the Applicant had observed the process envisaged with simultaneous exchange of drafts then this misstatement would not have been made, it should be ignored.		Noted but not agreed. There is nothing wrong with this and does not breach any rules, guidance or instructions.
64	The Council will not comment on the Applicant's interpretation of case law as part of this process. This interpretation was not raised until now		It is Closing. Please feel free to respond before final agreement and submission. The Council is invited to and indeed should. Where it does not, that is a matter

	and so it would inappropriate to redraft the Council's closing to address an interpretation that it would not have been aware of in the normal inquiry process in circumstances where the Applicant would have raised this interpretation of case law after the Council had already formally closed. The Council will not redraft its closings to address the Applicant's closings in this manner as it would be the same breach of process that the Applicant repeatedly makes in its closings.		and a choice for the Council. In any event the same comments as above apply; this is giving words their reasonable everyday meaning.
66	The Council will not comment on the Applicant's interpretation of case law as part of this process. This interpretation was not raised until now and so it would inappropriate to redraft the Council's closing to address an interpretation that it would not have been aware of in the normal inquiry process in circumstances where the Applicant would have raised this interpretation of case law after the Council had already formally closed. The Council will not redraft its closings to address the Applicant's closings in this manner as it would be the same breach of process that the Applicant repeatedly makes in its closings.		Not agreed. On the contrary, it is entirely appropriate for the Council to modify its Closings should it so wish during these exchanges. The reference is in any event not in response to the Council's Closing, but a point to address the application of clear case law where the Council as objector chooses not to.
67	The Inspector's interventions as to the accuracy of the Order Plan had nothing to do with the DMMO application. The Applicant has misunderstood the import of the evidence on this issue.		Not agreed and not at all. The Inspector was clearly querying whether the DMMO had any implication and thereby affect on this Order at that time during the Inquiry. The Inspector's final position on this did not happen until the final day of the Inquiry.
68	Re Insp's questions on accuracy of the plan. NS states "Mr Earnshaw answered the position in one word "scale" and says not disputed. Council's notes read differently: Insp queries - location of 1.2 metre path – does not appear to be on the northern side but in the middle RE Drawing very difficult to do – very small scale not easy to do Insp Saying on the northern side but the plan doesn't say that"		Not agreed. There is no certainly no recollection of such an exchange, but in any event, Mr. Earnshaw has written to the Inspector on this issue in correspondence dated 28th December 2021 and offered himself for further examination on this point.

	RE Approximately Insp Does not say approximately RE scale Insp Yes 1:1250 difficult at that scale RE Can we agree on the north side? Insp For you to tell me – happy for you to tell me that North side but the plan you submitted shows somewhere else. RE Do it again for you Insp Been public consultation – not saying more or less. RE Doesn't the statement say where it is Insp You are the witness NS Will cover in re-examination.		
70	The DMMO has nothing to do with this evidence. This evidence relates to the accuracy of the Order Plan to this application upon which this inquiry has proceeded. There is no evidence on this issue which should be excluded.		We are pleased that the Council agrees that DMMO has nothing to do with this evidence. However, this is stating facts of Mr. Earnshaw responding to IXQ
79	Again, Mr Scanlon's closings rely upon drafting carried out in spite of the provision for simultaneous closings. Mr Scanlon's personal circumstances having been excused it is not acceptable to use a preview of the Council's closings to redraft/draft his closings. This conduct is unacceptable.		As further above. The Applicant sees no need to cover this further.
82	Mr Walker would be difficult to call as a witness as he does not work for the Council.		This is new information, if indeed it is correct. However, paragraph 82 does reference: *"…or another safety engineer representative…".* Otherwise, no comment.
87	In response to the Inspector's questions Mr Appleton accepted that norm of lower summer traffic was not applicable in a tourist area, ie where the traffic goes during the summer holidays. This evidence has been omitted by the Applicant here.		The Council's assertion is not agreed and this did not occur. This is the Applicant's submission.

91	The quotation relates to speeds only, not speed and traffic/pedestrian counts. Mr Appleton made a number of concessions on pedestrian counts – principally to the Inspector.		Not agreed. The quote relates to that but his evidence leading to that quote in his Proof did not. Explanations in IXQ did not and do not amount to 'concessions'. This is clearly not the case.
110	Inappropriate reference to Council's closing again, see previous.		See above. Nothing to add.
117	Inappropriate reference to Council's closing again, see previous.		See above. Nothing to add
119	Inappropriate reference to Council's closing again, see previous.		See above. Nothing further to add.
120	Inappropriate reference to Council's closing again, see previous.		See above. Nothing further to add.
145	Mrs Cronie was not asked this in XX.		Not agreed. Mrs. Cronie was asked in XX according to Applicant notes, because Mr. Gill actually remarked that he was enquiring due to his own alleged lack of knowledge, as he was 'not a keen runner' himself according to his statement position prior to the relevant question in XX.
163	The Inspector did not request Mr Sizer to produce any further documentation.		Not agreed. Mr. Sizer was clearly asked in IXQ and XX and he volunteered this information stating that he had a minute and authorisation in writing from the Holmfirth Harrier's Committee that when asked in XX if he could provide he answered that he would.
215	The Council's advocate made his position clear at the time.		And what…? This should be in the Council's Closing and it is invited to include it appropriately. Where it is not, that is a matter for the Council.
216	Here an 'inference' in 214 is being made into an outright accusation. The witness confirmed in his evidence that he had not been prompted in any way by Mrs Haigh. It was made clear that Mrs Haigh was trying to pass a document referred to in questioning as the witness did not have it in front of him. This would not be uncommon in an in person inquiry. Mr Champion		And what…? In any event it is not an outright accusation and remains an inference, therefore being a point of concern to be engaged with. This should be in the Council's Closing and it is invited to include it appropriately. Where it is not, that is a matter for the Council.

	confirmed in evidence, that in any event, he did not see what Mrs Haigh was trying to pass him as he was addressing the camera.		
222	Mr Champion conceded that Mr Cheetham was 'principally' the author of the SoC. Mr Champion maintained that the 257 report was produced by the officer body – 'report of the officer body that had a recommendation with a caveat'. In Mr Scanlon's next question Mr Scanlon said 'Mr Cheetham's recommendation'.		Not agreed. He did no such thing. On XX Mr. Champion clearly stated that Mr. Cheetham was the author of the report, notwithstanding the 'officer body' claim.
223	The officer body is more than Mr Cheetham and Mr Champion.		And what…? This is hopeless as a result of the above. Mr. Champion under pressure of quite reasonable XX notified the Inquiry that Mr. Cheetham was the author of the report.
225	Mr Cheetham was not available to be the Council's witness.		And what…?
228	Mr Gill cited Scottish Widows v Cherwell. BeeBee is cited within that judgement but Mr Gill did not refer to the judgement in BeeBee.		Noted, but the Applicant recollection was the two cases separately, so I shall leave as per my notes and recollections. The difference or effect is relatively neutral in this case and so we are content to rely on Inspector notes.
232	The Council does not have any record of Mr Champion accepting this.		He certainly did state and acknowledge this in XX. In fairness he could not have done any other due to his earlier answers in XX and what logically followed.
246	The Council does not accept this as a correct record of Mr Champion's evidence. See above.		Noted, but not agreed. Most certainly Mr. Champion did very clearly state this in XX.
252-259	It is understood that this is not to be the subject of closings.		Noted and it is understood why this would be raised. However, this is not quite agreed as accurate. It is restating this position that it is not to be taken into account in terms of width, but that alignment may be an issue according to the Council and the Inspector. Mr. Earnshaw's communication may conclude this and the Council may wish to comment further in Closing.

			However, it is also clear that where this is the case, several aspects of the Council's PoE should be removed or considered redundant in that scenario and hence why they are specifically covered.
261	Inappropriate reference to Council's closings. See previous.		See above. No further comment is required in relation to the reference to Council's Closings. However, the Applicant would wish to add in particular here, that the Applicant has been waiting for feedback from the Council in order to advance matters forward. The Council has chosen to provide feedback to this point only through its Draft Closing. However, further correspondence has been received from Ms. Haigh on 23rd December following internal dialogue. As a point of assistance: the Council seems to be working on the basis that the s.106 UU must be submitted on the 31st December. This is not correct. The draft (albeit substantial form) UU must be submitted two weeks before the Inquiry reconvenes and is then discussed at the reconvened Inquiry before Closing. It is then executed, if applicable, two weeks after the Inquiry is closed. The Council may as a result wish to review its position on the s.106 UU.
275	Mr Scanlon examined extensively on the Applicant closing the footpath during the pandemic. There was extensive examination on text messages relating to the closure. The Council has not made submissions on closure but as a matter of fact Mr Scanlon has examined in evidence establishing that the footpath being closed in the recent past. He now declares evidence he examined in to be a 'myth'.		And what…? Not understood.
291	I did not XX on those witnesses' use of the Trig Point.		Not agreed. This does not accord with Applicant recollections or notes and there was XX on direction and destination.
319	Reiteration of interpretation of case law not made in any previous document before the inquiry. The Council will not comment on this		Not agreed. There is no such a process. See also above. The Council is still invited to put an alternative position in its Closing if it finds that reference to

	interpretation in this document as it would be a breach of the process set out.		the words (reasonable understanding of everyday use of the words) are somehow wrong. Mr. Gill has in any event done this in 'Post Script' in his final Closings, so the point is academic and now inconsequential anyway.
319-321	Reiteration of interpretation of case law not made in any previous document before the inquiry. The Council will not comment on this interpretation in this document as it would be a breach of the process set out.		Not agreed. There is no such a process. See also above. The Council is still invited to put an alternative position in its Closing if it finds that reference to the words (reasonable understanding of everyday use of the words) are somehow wrong. Mr. Gill has in any event done this in 'Post Script' in his final Closings, so the point is academic and now inconsequential anyway.