

**ITS OUR CITY**

**CLOSING STATEMENT**

**THIS DOCUMENT'S REFERENCE: I/CS - 01**

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## Introduction

1. This document is the closing submission statement of Its Our City to the public inquiry into the Centros proposals to develop the Canal Corridor North area in Lancaster. In our opening statement to the inquiry IOC outlined the evidence that we would put before the inquiry. IOC intended to field five witnesses at the inquiry giving evidence on the five main aspects of our case against the Centros development being allowed and five proofs of evidence were submitted accordingly. Four of these proofs are as follows: on the Transport impact (I-TR-01), Retail impact (I-R-01), Air Quality impact (I-AQ-01), and Tourism impact (I-T-01) of the proposed development.
2. A fifth proof (I-C-01) was also submitted. This proof highlighted the fundamental flaws in the consultation exercise into the proposed development carried out by the Applicant up to the stage at which Lancaster City Council (LCC) granted planning permission for the scheme in October 2008. However, before the inquiry began on 16 June 2009 the Inspector, having read the IOC proof on consultation, determined that this was evidence that did not go to the planning merits of the case before him. The Inspector decided that the consultation proof could be submitted in writing and that it would ultimately be sent off to the Secretary of State along with the rest of the IOC written evidence. The Inspector did, however, decide that IOC's consultation evidence would not be 'heard' and would not be cross examined at the inquiry itself.
3. It is recognised by IOC that the Inspector also ruled at the inquiry on June 16 that statements of public support for the scheme in Centros' supporting documents and in LCC's proofs of evidence for example, did not go to the planning merits of the case either. In terms of the process of the inquiry itself the Inspector's ruling that parties on either side in this case could not use public consultation, or the lack of it as the case may be, as part of their spoken evidence or cross examinations was on the face of it only fair. Given that LCC decided on (24<sup>th</sup> June) to play no further part in the inquiry and that consequently none of the IOC evidence was heard in chief it could be considered that the Inspector's ruling on evidence relating to consultation did not matter in the end analysis.
4. However, IOC objected to the Inspector's decisions on the matter of evidence concerning public consultation both in writing before the inquiry began and also verbally at the inquiry itself on June 16. The basis of those objections to the Inspectors decisions were and are that the need for developers and local authorities to properly and fully consult the public on development proposals is enshrined in national, regional and local planning policies. Given that this is the case IOC cannot accept that matters relating to the public consultations or lack of them into this or any other development do not go to the planning merits of the case. If such matters are not material to the planning merits of a particular case then the question arises as to why public consultation is given the emphasis that it has in planning policies at every level. If these policies have any weight at all, given the ruling of the Inspector in this case, another question that arises is that of at what point in the planning and appeals process and by whom can developers and local authorities be properly judged on whether or not they have adhered to those policies. These are not matters on which IOC can comment any further other than to point out that a precedent may have been set in this case which is detrimental to the letter and the spirit of national, regional and local planning policy on public consultation.
5. Notwithstanding the Inspector's decisions on evidence relating to consultation in this case IOC expects that our written evidence on consultation will be given due weight and will be taken fully into account by the Secretary of State in the consideration of this case. For this reason the

conclusions contained in the IOC proof of evidence on consultation are included in this document below.

6. It is not the intention of IOC in this document to go through in detail the evidence we have already submitted in writing. Given the absence of the Applicant from the inquiry and given that LCC decided to play no further part in the inquiry after (24<sup>th</sup> June) IOC's written evidence remains unchallenged save for two rebuttal documents submitted by LCC against the IOC evidence on Transport and Tourism. What follows is a brief summary of each piece of evidence submitted by IOC with comments relating to the LCC rebuttals and other matters which arose in the cross examination of LCC's witnesses included where appropriate.

## Consultation

7. IOC's proof of evidence on consultation was submitted by Dr Jane Hunt and its document library reference number is I/C-01. Dr Hunt is a social scientist with specialisms in public consultation and in the sociology of environmental knowledge, and is currently an Honorary Research Fellow at Lancaster University. Dr Hunt has carried out research, review, analysis, evaluation, design, conduct and reporting of public consultation for some 12 years, both as a Senior Research Fellow at Lancaster University and as an independent consultant.
8. In her proof of evidence Dr Hunt examines national and local government policy on consultation, and evaluates the consultation associated with the Canal Corridor North development proposals. Dr Hunt's conclusions quoted from her proof are as follows:

*“I have examined the available material pertaining to the consultations relating to the Canal Corridor Development, and the written objections submitted in response to the 2008 planning application.*

- *Centros’ reporting, analysis, interpretation of data and representation of comments is of poor quality, misleading and inaccurate.*
- *Centros’ consultation was fundamentally inadequate:*
- *It generated alienation and mistrust*
- *It missed heritage as key issue*
- *Information was biased*
- *It was not inclusive and accessible*
- *It failed to consult before plans were developed*
- *It misrepresented Centros’ initial commitments*
- *It failed to respond sufficiently to respondents’ comments*
- *It failed to be accessible*
- *It was dishonest in its stated intentions and parameters*

*The Lancaster City Council public consultation was inadequate, given the scale and significance of the development and its own commitments.*

*Consultation in relation to this planning proposals does not comply with*

- *PPS1 [CD48]*
- *Lancaster City Council consultation strategy and associated guidance [CD87 and CD88]*
- *Lancaster City Council Statement of Community Involvement [CD89]*

- *Lancaster City Council Canal Corridor Development Brief [CD65]*
  - *Lancaster City Council Core Strategy [CD62]*
  - *Any general standard of good practice*
- Other, more generic, policy is also not complied with.*

*The planning decision is thus inappropriate as it:*

- *Relied substantially on Centros consultation, which was fundamentally inadequate and did not meet Lancaster City Council's standards for consultation*
  - *Relied on inadequate reporting of Lancaster City Council consultation*
  - *Failed to take account of other relevant consultation*
  - *Failed to recognize this inadequacy*
- *Therefore failed to sufficiently take account of consultees' views.*

*This failure to consult adequately provides grounds to refuse the planning application."*

9. The decision of the Inspector in relation to evidence on consultation submitted by any party to the inquiry meant that it was not possible for IOC to raise matters relating to consultation in the cross examination of LCC's witnesses. However, since consultation into the development before the inquiry appears as a subject in the written evidence of both Mr Cassidy and Mr Dobson on behalf of LCC, Dr Hunt wrote a rebuttal of this evidence which was submitted to the inquiry. The reference number of Dr Hunt's rebuttal is I/C/R/01. IOC stands by Dr Hunt's conclusions in her proof and her conclusions in the rebuttal of Mr Cassidy and Mr Dobson which read thus:

*"In conclusion, consultation is clearly a key element of planning policy as detailed in I/C-01. The proofs submitted by Mr Cassidy and Mr Dobson present the consultation conducted as unproblematic. However as they conducted no evaluation of the consultation they have no grounds to make this assertion.*

*The objective evaluation of the consultation conducted in I/C-01 contradicts the positive assessment of the consultation presented by Lancaster City Council. The adequacy of the consultation carried out in relation to this planning application cannot be taken as a fact and must therefore be scrutinised in detail."*

10. Since the contents of Dr Hunt's proof of evidence and rebuttal was not challenged at the inquiry IOC is of the view that no further comment on either document is necessary here.

## **Transport**

11. IOC's proof of evidence on Transport was submitted by Professor John Whitelegg and W. J Pye and its document library number is I/TR-01. By way of a summary of the evidence in I/TR – 01 its conclusions are as follows:

*6.1 The development proposals represent a totally inappropriate car-dependent development with the overwhelming budgetary and design elements focussed on encouraging car use to this site*

- 6.2 *The development proposals are contrary to formal policy in DASTS, PPS1 and the climate change supplement to PPS1, PPG13, the local plan (strike through edition), the Local Development Framework Core Strategy, the development brief (SPG8) and DfT Transport Assessment Guidance*
- 6.3 *The development proposals strike a blow at the high level UK government commitment to reduce greenhouse gases. The UK government quite rightly makes a great deal of its success as the first country in the world to put on a statutory basis a legal obligation to reduce greenhouse gases. This is simply not compatible with a proposal that increases them especially when that increase is based on poor quality design, low prioritisation of sustainable modes and a poor grasp of policy designed to promote the sustainable modes. It is possible to produce a low carbon development and this has not been done*
- 6.4 *The development proposals represent a significant lurch in the direction of encouraging car use. A new link road and an 800 space car park which provides 500 more spaces than is currently present on site is a strong message aimed at car users to use their cars for the shopping trip.*
- 6.5 *The lack of detailed attention to walking, cycling and public transport in their overall context of links across the city, links to the bus station and across the site demonstrate a degree of neglect for the sustainable modes which is completely at odds with current policy and guidance*
- 6.6 *The development will add significantly to traffic congestion, queue length air pollution, community severance, rat running and a lower quality of life for surrounding areas that provide homes and schools for over 6000 people.*
- 6.7 *No Party to the Inquiry disputes that the proposed development will increase traffic volumes in Lancaster.*
- 6.8 *The Transport Assessment (Ref CD17) TA falls short of the requirements of the City Council's Development Brief for the Canal Corridor North ((SPG 8) (Ref CD65) as it does not indicate clearly by what extent traffic volumes will increase as a result of the development.*
- 6.9 *The base data and method employed by the TA predicts that at least 14,208 extra shopper's vehicles will be attracted to the city by the development in any given week, yet this figure is omitted from the TA.*
- 6.10 *The method employed by the TA to predict increased traffic volumes as a result of the development is flawed as the base data itself is flawed.*
- 6.11 *A proper like for like comparison between existing and proposed net retail floorspace predicts that 21,240 extra shopper's vehicles will be attracted to the city by the development in any given week.*
- 6.12 *The standard of the TA is questionable in terms of the way day data and conclusions are presented.*

6.13 *No account is taken by the TA of changes to the 'increased attractiveness' of Lancaster after the development is opened.*

6.14 *The base data used to predict increased traffic volumes is inadequate.*

6.15 *The promotion of such a development against the lamentable lack of progress with air quality actions in the city centre AQMA is to be regretted and shows a lack of consideration for citizens who look to the local authority to improve air quality. No actions have been taken by the city council to improve air quality and no development generating extra traffic should be permitted unless and until such actions are actually implemented. To do less is to condemn residents to poor health*

6.16 *The TA supporting the development proposals is woefully inadequate. It does not follow guidance, it does not give full weight to multi-modal data and the importance of walking and cycling in Lancaster, it does not include a travel plan and it does not use widely accepted methodologies for calculating trip generation e.g. TRICS data*

6.17 *The lack of a travel plan is directly contrary to official guidance and deprives the Inquiry of the opportunity to frame and discuss planning obligations that could deliver the government's agenda known as "Smarter Choices" and Traffic Demand Management. It is totally unacceptable to fob off the Inquiry with the idea that approval should be given and then a travel plan will follow at some point in the future*

6.18 *The development proposals represent a fundamental failure to recognise the dynamics of how cities work. There is an existing city centre in Lancaster and it has pedestrian and cycle access, a heavily used bus network focussed on Common Garden St, George St and the bus station itself and a network of car parking provision encircling the city. The future of sustainable transport and regeneration depends on an integrated approach to the totality of movement and access in the city as a whole. A totally integrated approach is needed to car parking, pricing, access, walking, cycling and public transport provision across both the city centre and the new development and this has not been done. This brings many risks including a blow to city-wide regeneration aspirations and the success of its wider modal split aspirations in the direction of the sustainable modes. The lack of integration with total city-wide thinking represents a dismal failure of the planning process and the applications should be rejected.*

12. IOC also submitted a rebuttal of LCC's Transport evidence. The IOC Transport rebuttal has the library reference number (I/TR/R/01). The LCC Transport proof of evidence standing in the name of Mr Mullen of MVA does not have a reference number. The conclusions contained in (I/TR/R/01) are as follows:

3.1. *We find the proof of evidence submitted by Mr Mullen to be deficient in its treatment of planning policy, trip generation, car parking, impact on the gyratory system and travel plans.*

3.2. *Further there is very little acknowledgement or recognition of the progress made in national transport policy in delivering a sustainable transport system based on policies that have a proven track record of reducing car use and boosting non-car modes*

3.3. *The methodology used to forecast traffic is weak and unconvincing and has produced*

*unreliable numbers*

*3.4 The development will lead to serious problems of congestion on an already over-loaded gyratory system*

*3.5 The proposed parking supply has not recognised the importance of PPG13 and the need to reduce the need to travel by car*

*3.6 The proposed development is not well served by public transport and the evidence presented by Mr Mullen has ignored the fact that all trips by public transport are in fact both walking and public transport trips and nothing has been done or proposed to improve a poor quality walking environment in and around the city centre*

*3.7 The proposed development damages cycling provision and produces less permeability and lower quality access by bike than the current situation*

13. Mr Mullen was cross examined on behalf of IOC by Professor Whitelegg. In addition Mr Pye, on behalf of IOC, asked Mr Mullen a few questions as well. Some matters arose during IOC's questioning of Mr Mullen which would have been returned to had IOC given its Transport evidence in chief. Instead IOC submitted a further document with the agreement of the Inspector which has the reference number I/TR/A. The matters covered in I/TR/A along with the conclusions reached are as follows:

13.1 **Congestion:** The question which arose during the cross examinations of Mr Mullen and during the Inspector's questions was that of whether or not Lancaster's traffic system could cope with any increased congestion, taking account of the 'mitigating measures' proposed, and so leaving congestion in the city relatively unchanged once the development is open. There seemed to IOC to be an acceptance on the part of the Inspector, if we understood the point correctly, that congestion should be considered in relative or percentage terms. This is to say that in considering an increase in vehicle numbers on the roads one needs to look at the number of vehicles that there already are and, though a predicted increase in vehicles may seem large on its own, it may be that the increase will be a relatively small percentage increase on existing numbers. IOC take a different view and would like to respectfully submit that any increased traffic volumes on Lancaster's roads cannot be seen simply in relative or percentage terms. IOC submit that Lancaster's traffic system is already operating at full capacity in identified peak periods and at other times. (I/TR/A paragraphs 2 – 5)

13.2 **Average Yearly Traffic Flow Data:** I/TR/A refers to yearly traffic flow data included in the Transport Assessment (CD17) itself. I/TR/A draws the conclusion that these figures show that Lancaster's road network is already operating at capacity and that any increase in congestion which will result from the development should be considered in this context and not simply in relative terms. (I/TR/A paragraphs 6 – 10)

13.3 **The 'Increased Attractiveness of Lancaster after the development is opened:** IOC noted in the cross examination of Mr Mullen that in CD17 the Applicant had failed to take account of the 'increased attractiveness' of Lancaster once the development is opened. I/TR/A notes that Mr Nutter of White Young Green on behalf of LCC argues that Lancaster will attract shoppers from outside its traditional catchment area and this argument underpins the claim that the development will be economically viable. Notwithstanding this point IOC submits that that the proposed

development will increase traffic in and around Lancaster to a level substantially beyond the current yearly average levels as is demonstrated in IOC's transport proof (I/TR-01). Further, that without an applied growth factor it is simply not possible to properly evaluate the impact of the development on congestion levels in Lancaster. Nor is it possible to properly evaluate the effectiveness of the proposed mitigating measures. This is a fundamental failure on the part of the Applicant and in itself should be grounds enough to reject the application before the inquiry. (I/TR/A paragraphs 11 – 15)

- 13.4 **Policy T13:** When this matter was raised during Mr Cassidy's cross examination it appeared to be the case the clear breach of T13 which the development would entail was being considered to be a minor point given that LCC could, if it chose to, review its long stay parking strategy across the city as a whole. IOC submits that it is clearly the case that the terms of T13 apply to any given development site within the city and not to the city as a whole. Its terms cannot simply be accommodated by the promise of a future review of the city's parking strategy. The actual proposed development and a future review of parking strategy by LCC are completely separate matters. This is clearly indicated by Mr Cassidy himself in his proof of evidence in paragraph 9.45 on the matter. The proposed development would entail the clearest possible breach of policy T13 and IOC submits that it should be refused on that basis. (I/TR/A paragraphs 16 – 20)

## Cycling

14. There was one other issue which was discussed in the the inquiry which is a Transport matter but which is not covered in I/TR/A though the matter is covered in various documents including I/TR – 01. This is the issue of the effect of the development on cycling in the Canal Corridor North area. The main issue which arose at the inquiry in relation to cycling was that of whether or not the development would make cycling provision better or worse or have no affect on it at all in the area. The issue centred on whether or not cycling would be allowed within the development so maintaining the current dedicated direct cycle route from the end of De Vitre Street to the top of Phoenix Street. IOC notes that in the section of the inquiry given over to members of the public, Lancashire County Councilor Sam Riches pointed out the following paragraph from the Applicant's Design and Access Statement (Final issue 3 July 2008) (CD14), paragraph 9.3:

*“Whilst it is intended that cyclists will have full access through the scheme 24 hours a day, they will, however, be required to dismount when they enter the pedestrianised areas of the scheme in the same way they do on Penny Street.”*

This clearly shows that cycling will not be allowed through the development. This means that in reality the existing cycle link will be at best replaced by a route around northern tip of the development. However, IOC submits that this will make cycling provision in the area much worse.

15. In his statement during the session given over to the public Mr Dick Follows of 'Dynamo', Lancaster & District Cycle Campaign Group said the following:

*It is the case that Centros is proposing an alternative peripheral cycle route around the site one that proceeds down Alfred Street then back along St Leonard's Gate; that is not through the site but around it. This new route is unacceptable for two reasons. Firstly, it is longer; it describes two sides of a triangle as against one of the current route. Lancaster is in the business of encouraging*

*not discouraging new cyclists. But by far the most serious objection is this: St Leonard's Gate will become as cycle unfriendly as you can possibly imagine, no matter the traffic-calming that is proposed. The vehicle traffic flows along St Leonard's Gate will increase without question, and consequently discourage even the most confident cyclists. ... But it is not just the increased flows that will deter cycling, for the truly frightening aspect of the scheme in terms of perceived and real levels of danger is the fact that the peripheral route will pass across the entrance and exit to an 800 place multi-storey car park on St Leonard's Gate. Not only will there be a near constant stream of cars entering and exiting, but there will be roughly 8 delivery lorries per hour as well as and service vehicles adding to the danger. No right-minded experienced cyclist, let alone a novice would use this stretch. So, rather than encouraging cycling in accordance with the three aforementioned documents<sup>1</sup> by creating permeability for cyclists Centros is in effect erecting a barrier to cyclists, and a big one at that.*

16. In addition to the aspects of the 'barrier' to cyclists that Mr Fellows refers to there is also, as part of the development proposals, the plan to build a new link road which will connect the junction of Caton Road and Bulk Road to the new multi-storey car park entrance on St Leonard's gate. This will add to the barrier to cyclists who will be further deterred from using the alternative cycle route proposed by the Applicant.
17. Given the above points in relation to cycling IOC submits that cycling provision in the Canal Corridor North Area will be made much worse and that in reality an existing well used cycle link will in effect be broken.

### **LCC's Rebuttal of I/TR - 01**

18. The LCC Rebuttal of I/TR – 01 was authored in large part by Mr Dobson, the LCC Chief Planning Officer with Mr Mullen contributing to the final sections. This is not indicated on the document itself but is a fact that came to light during the cross examination of Mr Mullen. Mr Dobson did not appear on the stand at the inquiry as LCC decided to play no further part in the inquiry before he was due to give his evidence. However, both Mr Dobson's and Mr Mullen's sections of the rebuttal have been largely dealt with above, in cross examination and in I/TR/R/01 and I/TR/A and needs no further comment here.

### **Air Quality**

19. IOC's proof of evidence on air quality by Mr J. Brooks has the inquiry library reference number I/AQ – 01. In response to errors in the modelling pointed out in I/AQ – 01, LCC requested time to

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<sup>1</sup> The documents referred to by Mr Follows earlier in his contribution were: PPG13 which states, 'a need to encourage sustainable development by promoting public transport use, walking and cycling so reducing the need to travel by car'. RT regulation 17: 'a need to provide continuous, attractive and safe routes for walking and cycling. DfT's Local Transport Directive of 2008: 'encouraging people to cycle is a vital part of any local authority plan to tackle congestion, improve air quality, promote physical activity and improve accessibility'.

remodel their air quality data at the start of the inquiry. LCC's air quality evidence was not presented to the inquiry in chief and IOC did not therefore have the opportunity to cross examine this evidence. Instead IOC submitted an update of our air quality evidence which has the inquiry library reference number I/AQ/U-01. A summary of the main points of IOC's air quality evidence follows.

20. In 2006, against a background of significant exceedences of the nitrogen dioxide (NO<sub>2</sub>) Annual Mean Objective of 40 uG/m<sup>3</sup> within the Air Quality Management Area (AQMA) (up to 67% or 27 uG/m<sup>3</sup> in one case), Lancaster Council stated that a reduction of 60-90% of local emissions of nitrous oxides (NO<sub>x</sub>) would be necessary to meet the NO<sub>2</sub> Objective. The Lancashire Transport Plan (page 447) shows that the implementation of all potential measures to reduce the NO<sub>2</sub> Annual Mean Resident Exposure within the AQMA is expected to result in a reduction of only 0.9 uG/m<sup>3</sup>. Every Council NO<sub>2</sub> monitor location in the AQMA that was included as a receptor in the Waterman Assessment, except two at its northern periphery, is predicted to show an increase in emissions with the development, exceeding the Annual Mean Objective Limit even further. Lancashire County Council has made it clear that even with section 106 and 278 agreements, congestion will increase. It is logical therefore to conclude that the development is likely to make achievement of the statutory NO<sub>2</sub> Objective unworkable, and render any future Air Quality Action Plan (AQAP) ineffective.
21. The list of provisions of PPS 23 quoted in Mr Howard's Proof that imply compliance with PPS 23 do not embody its intent or spirit, and it does not include provisions that aim to ensure that air quality issues are properly considered.
  - Seven of the measures in the AQAP are directly undermined by the plan.
  - The 2006 Further Assessment on Air Quality states the risk of extension of the AQMA if residential development was to occur on St Leonard's Gate and the master plan includes such a development at the northern end of the site, but the risk has not been evaluated and was dismissed in the Officers report to planning committee, based solely on Waterman's Assessment.
  - The development does not follow the requirements of PPS 23 regarding potentially polluting developments and has not adhered to the criteria in the Local Plan in which Lancaster Council determines to maintain or improve air quality by resisting unnecessary development.
  - There has been no collaboration on air quality at any stage between either the developer or the LPA and the Environment Agency as PPS 23 directs.
  - In Appendix 1 of our Proof, Dr Massey mentions that levels of pollutants commonly cited as being safe are in fact not seen as safe by the Environment Agency and that children are prone to detrimental health effects at far lower levels. The Precautionary Principle suggests that the Morecambe Road High School monitor should have been included in the model.
  - The AQAP has been seriously compromised by its stated dependence on a report from consultants also employed by the developer rather than based on technical justification in the 2006 Further Assessment as the AQAP itself states it should be.
  - A recent study in the Lancaster AQMA by Prof Maher of Lancaster University using an improved measurement technique, shows that current EU Limit Values for Annual Mean PM10 concentrations are being significantly exceeded at several locations though Council modelling shows otherwise. PPS 23 would suggest that the Precautionary Principle should be considered in such circumstances.
  - A key scheme of the Lancaster Core Strategy is an Air Quality Zone. This is the only air

quality measure shown in the Lancashire Transport Plan whose potential to reduce NO<sub>2</sub> levels is yet to be determined. The increase in congestion will make this initiative unworkable.

- The development contravenes Local Plan Policy E2 because the multi-storey car park and the traffic it attracts will make it effectively impossible to reduce local traffic impacts through the Lancaster Air Quality Management Plan.
- The development contravenes Northwest RSS Policy DP9 because increased traffic means increased carbon dioxide emissions and DP7 because air quality is neither protected nor enhanced by increased congestion.

22. Superficially, Waterman's atmospheric diffusion modelling appears thorough, but closer examination reveals a high degree of uncertainty in predictions for both NO<sub>2</sub> and PM<sub>10</sub> due to a failure to follow technical guidelines that are designed to minimise errors in the dispersion model verification process. This occurred in both the original and remodelled predictions. The assessment's claim that results were subject to an acceptable margin of error is unsupported by analysis or any mention of the degree of uncertainty introduced by the verification methodology employed.

- Whilst accounting for decreasing NO<sub>x</sub> background levels, the methodology used does not factor in increasing primary NO<sub>2</sub> emissions.
- Several diffusion monitors were excluded from model verification, significantly contributing to the degree of uncertainty of predictions.
- Model verification was not consistent with the 2006 Further Assessment as claimed. It used fewer samples to derive adjustment factors, which increases the degree of uncertainty of predictions. Special conditions relating to unmodelled road NO<sub>x</sub> emissions in the Further Assessment are also not considered in Waterman's Assessment.
- The PM<sub>10</sub> predictions are not related to any PM<sub>10</sub> measured data and are also subject to the additional uncertainty arising from the flawed NO<sub>2</sub> verification procedure.
- Waterman's Assessment uses meteorological data from Blackpool airport though both Lancaster and Lancashire Councils have previously stated that Blackpool data is not appropriate for modelling air quality in Lancaster.
- The 2006 existing base line predictions for the eight receptors that share an identical location with Council NO<sub>2</sub> monitors show that there is no broad agreement between measured and predicted values and this is characteristic of a failed verification process. The average error of the eight samples is 20% of the NO<sub>2</sub> Objective Limit which indicates an unacceptable margin of error.
- We have shown that NO<sub>x</sub> emissions could rise by over 17% during demolition/construction. The absence of a quantitative assessment of traffic and dust impacts ignores the possible health impacts not only on local residents but also on the hundreds of school children transiting the area daily.
- We refute the implication in Mr Howard's addendum to his proof and in the accompanying letter from Prof Laxen, that incorrect data originally used for model verification did not affect the predictions. Prof Laxen's assertion that there was no substantive difference in the results does not consider the degree of uncertainty which would influence the relevance and significance of such a conclusion .

## **Retail**

23. IOC's proof of evidence on the retail impact of the development authored by Mr Tim Hamilton-Cox has the inquiry library reference number I/R – 01. Mr Hamilton-Cox cross examined Mr

Nutter of White Young Green (WYG) who presented the retail case for the development on behalf of LCC. Several issues arose in the cross examination of Mr Nutter which IOC would have returned to had IOC's evidence on retail been presented in chief to the inquiry. Instead IOC submitted an addendum to its retail evidence and this document has the inquiry library reference number I-R-A-01. What follows is a summary of IOC's evidence on the retail impact of the scheme.

24. At the outset we understood that the development had to be both compliant with planning policy at national, regional and local level and commercially viable for the developer. This meant that scheme had to be viable for the applicant without damaging the vitality and viability of the existing town centre. But the LPA failed to make the case that an increase of over 80% in the quantum of net retail comparison goods floorspace, relative to the existing city centre retail footprint, was justified.

Inadequacy of the quantitative need model

25. Via its consultant, WYG, LCC submitted a new quantitative model in its retail proof of evidence (Appendix KN04) which included revised data on two of the three variables included in the model: on population (up) and per capita comparison goods expenditure (significantly down). The destination data from the LRS (CD101) was reused despite the small sample sizes in four of the six zones of the expanded Primary Catchment Area (PCA).
26. The model was subject to amendment following detailed rebuttal by IOC of WYG's original evidence (I-R/R/01). Errata sheets were distributed by WYG to the inquiry immediately before Mr Nutter gave his evidence-in-chief.
27. As is demonstrated in the supplementary evidence presented by IOC (I-R/A/0), there is insufficient 'surplus [expenditure] capacity' in 2014 to justify the scale of the scheme. The data presented by WYG has to be reviewed in the light of its inconsistency with WYG's reasoning presented at the Knowsley public inquiry (I-R 32). In being inconsistent with that reasoning it adopts unrealistic assumptions on floorspace productivity improvements (including no uplift in the PCA outside Lancaster); on SFT expenditure growth; and on expenditure in other committed/implemented (since 2006) schemes within the PCA. Once these adjustments are made, the available 'surplus capacity', which fell short of the projected scheme turnover in 2014 more than halves (I-R/A/01, table 1).
28. Untested assumptions on the amount of expenditure attracted from the secondary catchment and from 'inflow' from outside the catchment accounted for more than the remainder of the surplus capacity, illustrating that the scale of the development was also significantly dependent on increases in expenditure by people living beyond the extended primary catchment area.
29. However, the largest component of the projected surplus expenditure capacity was predicated on a wider definition of Lancaster to include edge- and out-of-centre destinations, and an increase in market share for this extended Lancaster shopping offer from under 52% to 67.4% (of the extended PCA) See Appendix KN04, table 8A: errata sheets. This 30% increase in market share for 'Lancaster' was what Mr. Nutter said was required to make the figures fit the case. But there was no explanation forthcoming as to how that 30% increase would be achieved either across the six zones of the PCA; or by the mix of comparison goods in the shopping offer, given that nearly 40% of comparison goods expenditure is on bulky goods which are not generally found in town centre

shopping schemes. The proposed anchor department store, Debenhams, is not a major outlet for such bulky goods, according to analysis of its sales. The inquiry was expected to place its faith in the 'informed judgement' of Mr. Nutter that such an uplift in market share was realistic and achievable, in the absence of an evidence-based approach.

30. Mr. Nutter also attempted to buttress the scale of the scheme by confirming, under cross-examination, the visitor numbers originally quoted in the Applicant's PPG 15 assessment (CD 25, p.45). He explained that the numbers were based on a pro-rata analysis of the draw of the Trafford Centre. He explained that the Applicant's scheme was a third of the scale of the Trafford Centre and therefore would draw a third of the number of visitors of the Trafford Centre. The supplementary evidence (I-R/A/01/APP: appendix 6) demonstrated that the base data from the Trafford Centre was inaccurate - that the proportions were wrong; and argued that the comparison must be a false one given the disparity in range of shopping offer and the Trafford Centre's out-of-town location. In cross-examination, Mr. Nutter also used unsourced data on average spend per visitor to demonstrate that the scheme turnover corresponded with those visitor numbers. Aside from the fact that, according to his own figures, well over 90% of the average spend of the 8.5 million visitors would be consumed by the scheme with little left over to spend in the existing city centre, the supplementary evidence rebutted the visitor numbers assertion on the issue of the traffic implications. It was clear from the most conservative assumptions on access to the scheme by 8.5 million visitors that additional numbers of vehicles on the gyratory would surpass existing peak-time numbers throughout the day, and would therefore completely undermine the transport impact assessments (I-R/A/01, section 11). As the supplementary evidence demonstrates, it was clear from MVA's audit (L 22) of the Applicant's 2008 Transport Assessment (CD 17) and from Mr Mullen's proof of evidence to the inquiry (para.3.17.1), that MVA had asked for, but not received, data on visitor numbers and origin of destination in order to validate the Applicant's traffic model.
31. Beyond the five-year time horizon stipulated by PPS 6, the quantitative model forecast expenditure levels in 2018. It was clear that projected expenditure growth depended both on significant population expansion; LCC's Annual Monitoring Report 2008 (I-R 31, para.3-2-1) showed that recent population growth was a function of migration and not of the area's birth rate; and of year-on-year increases in per capita comparison goods expenditure above the ultra long-term growth rate and beyond the time horizon of MapInfo 09/02 (I-R 04) which forecasts to 2016 only.
32. IOC concludes that LCC has failed to present the quantitative evidence-base to prove that expansion on the scale proposed – net 24900 sq.m. of comparison goods floorspace - is sustainable if the existing city centre is not to see its vitality and viability vitiated by migration of both existing stores and footfall to the proposed scheme.

#### LCC's failure to analyse the scheme within the context of current economic conditions

33. It is accepted that, in general, the scheme must be considered solely within the context of planning policy. But PPS 6 requires an assessment of the impact on the vitality and viability of the existing town centre to be effected. Ultimately, this cannot ignore the wider economy when GDP, and with it consumer expenditure, is declining so far and so fast. Planning to build a very significant increase in floorspace demands that some degree of judgement is exercised.
34. IOC has tried to introduce such a perspective in its proof and supplementary evidence. A recent article in the commercial property trade press (I-R/A/01/APP: appendix 10) says that the existing retail development model is bust because declining capital values and now reducing rents, have

undermined the returns to be made from building new shopping centres. The question of viability is one that only the Applicant can answer. It is especially problematic to grant planning permission when the consequence is an extended period of blight for the Canal Corridor North site. It is also recognised that it is not the role of the inquiry to make this judgement-call. The call-in letter did refer to the need to for good design and economic weakness would militate against the sort of expenditure which would deliver on design desiderata. IOC can fairly assert that if a large quantum of new retail space is built in a period of economic decline or stasis, it is inevitable that retailers will migrate to the more modern space offered by the scheme, without there being the demand to fill the voids created; as Allied Lancaster tried to show in instancing the edge-of-centre Eagle scheme in Wrexham in its proof.

#### LCC's failure to prove the qualitative case for the scheme

35. Both Mr. Nutter and Mr. Dobson attempted to demonstrate a qualitative case for the scheme. IOC concedes that there is no room for complacency in Lancaster's shopping offer but that this assertion is also a truism for every shopping destination: as the retail market evolves, so must the offer of any shopping centre. Where we draw a distinction is in the LCC's use of assertion rather than hard evidence. There is leakage of footfall to other destinations outside of the district but this is evident nearly everywhere: it is accepted that shopping is not simply about a satisfaction of needs but a leading leisure-time activity and the consumer is always seeking out novelty and a wider range of choice. But the extent of net (if we cancel inflow and outflow expenditure against each other) leakage is overstated: it is disproportionately concerned with clothing and footwear if we analyse the LRS' (CD 101) household survey responses. The relatively self-contained nature of the district's comparison retail market was confirmed by LCC itself (I-R17). Mr. Dobson's view that there are 'very serious deficiencies' and that people in the catchment have to travel outside of the district for 'even an average to upper tier' retail experience is not substantiated either in his evidence or in reality.

#### The scheme's failure to comply with planning policy taken as a whole

36. IOC would have wished to question Mr. Dobson about his perspective: in his proof he appears to want to subvert the retail hierarchy laid out in the Regional Spatial Strategy by raising Lancaster above Kendal and Barrow so that Lancaster becomes *the* sub-regional shopping destination drawing on an even wider catchment than the one proposed for the scheme.
37. What is clear from IOC's evidence, supported by contributions from other parties including Mr Cassidy, is that we do not agree with Mr. Dobson that the scheme is in accordance with the development plan when 'taken as a whole'.
38. The Regional Spatial Strategy does not point to Lancaster city centre as *the* location for new comparison goods development. As LCC's topic paper (I-R 02) points out, it is already performing a sub-regional role by virtue of its existing floorspace capacity, demand for that floorspace reflected in the lower yield in the city centre, and its more accessible location. Lancaster is *a* location for retail growth, but as policy W5 makes clear, schemes should be both consistent with the scale and function of the centre, and should not undermine the vitality and viability of any other centre.
39. The Core Strategy (CD 62) directs most new comparison goods retail development to Lancaster as

part of the urban concentration strategy but does not, and cannot, direct development to a particular location within the city: it refers to an existing proposal to develop the Canal Corridor and that site as the 'key retail development opportunity' in the district. But the draft Land Allocation Development Document for the site is yet to be published. IOC demonstrated in the proof that the retailing element of the Core Strategy has been made-to-measure in a development-led process to provide some degree of planning cover for the applicant's scheme where the development brief for the site does not.

40. The policies in the Lancaster District Local Plan which implied a more modest expansion of Lancaster's retail offer, laid down a sterner test of edge-of-centre locations, and described an intention to protect and enhance Morecambe's mixed retail offer, have been deleted. But the development brief for the site remains as SPG 8 (CD 65) and, as Mr. Cassidy confirmed in cross-examination, is not of diminished relevance despite dating from 2002 and being adopted in 2004. The SPG clearly envisages a more modest scale of retail as part of a mixed use development of the land largely owned by Mitchell's in the west of the site; and a refusal to countenance commercial development of 'site 2' to the east of Edward St., directly contrary to what is proposed in the scheme (CD 65, para.7.8).
41. Therefore IOC contends that it is logical to draw the conclusion that the development plan, taken as a whole, does not support this scale of retail at this particular location.
42. We have already suggested that the scheme is not congruent with PPS 6 insofar as it is likely to undermine the vitality and viability of the existing city centre retail offer, as well as those of other centres within the PCA, and beyond.
43. It is clearly a matter of concern to South Lakeland DC – and a reasonably held one given the projected 30% increase in market share across all categories of comparison goods – that Lancaster would draw heavily from the overlapping catchments, at the expense of Kendal's more modest retail offer.
44. It is, at best, not proven that the scheme is sustainable economic development insofar as it would reduce the net number of shopping-miles travelled by people in the catchment. For car journeys from zone 1 saved (and over 6.6% of shopping trips from zone 1 were by rail: Preston and Manchester city centres are as close or closer to their main rail stations than Lancaster), how many people would travel further by car than previously? One of the most potentially damaging, but largely ignored aspects of the scheme's justification is the absence of serious analysis of the impact on Morecambe's retail offer, even though the Core Strategy purports to direct new comparison retailing to support regeneration in central Morecambe (CD 62, policy ER5). The LRS showed that virtually equal numbers of residents in zone 5 travelled to either Kendal or Lancaster for their last clothing/footwear shop. A larger share of the market for Lancaster might well see further car-miles travelled with a reduction in the number of visitors to Kendal. The LPA presented no data to prove the case one way or another.

## **Tourism**

45. IOC's proof of evidence on Tourism was authored by Professor John Walton and has the inquiry library reference number I/T – 01. LCC submitted a rebuttal of Professor Walton's evidence which was authored by Mr Dobson. IOC was unable to cross examine Mr Dobson or to present the IOC evidence on tourism in chief. Instead, with the agreement of the Inspector, IOC submitted a

rebuttal of Mr Dobson's rebuttal of Professor Walton's evidence. This latter IOC document has the inquiry library reference number I/T/R/01.

46. Professor Walton's proof of evidence contains the following conclusions:

64. *Tourism is an important component of the economy of the city of Lancaster, as employer and income generator.*

65. *Lancaster's visiting public is drawn disproportionately from middle-class families with an independent cast of mind and an interest in seeking out distinctive places and experiences.*

66. *The Council's tourism policy acknowledges these points, and has incorporated them into its tourism strategy.*

67. *It is therefore surprising that the Canal Corridor makes no mention of tourism. This suggests that the proponents do not expect the scheme to have a positive impact on Lancaster's tourism volume or profile.*

68. *We argue that the Canal Corridor proposal, if adopted, would damage Lancaster's tourism economy by undermining the viability of the existing centre rendering it less attractive to the kind of visitor on which Lancaster's strong and growing tourism industry depends.*

69. *As part of this process the scheme would undermine Lancaster's historic distinctiveness, contribute to the erosion of attractive historic townscapes, and compromise the capacity of the city centre to generate feelings of comfort, affection and familiarity among residents and repeat visitors.*

70. *An alternative proposal on a more human scale, showing respect for the historic environment and offering detail, texture, diversity and individuality, could become a positive attribute in developing Lancaster's tourist economy; and the present proposal therefore carries an additional weight of lost opportunity.*

47. Professor Walton's conclusions are clear and concise and need no further elaboration here. The only 'challenge' to Professor Walton's conclusions came in the form of a rebuttal document authored by Mr Dobson. IOC's response to Mr Dobson's rebuttal on Tourism is I/T/R/01. Since LCC decided to play no further part in the inquiry IOC's tourism evidence is unchallenged save for Mr Dobson's efforts.

48. I/T/R/01 makes clear that that Mr Dobson appears to have misunderstood the main line of Professor Walton's evidence. However, I/T/R/01 is in itself a sufficient answer to Mr Dobson's rebuttal document as a whole and there is no need to reiterate its terms here.

### **Summary of IOC's case**

49. IOC's case against the proposed development before the inquiry is summed up in the following bullet points:

- The public consultation into the proposed development by the Applicant's PR company 'Halogen'

was in fact a sham and was nothing more or less than an exercise in marketing a set of preconceived and predetermined plans for the Canal Corridor North site. Further, LCC was complicit in this marketing exercise and consequently failed in its responsibilities to make sure that the Applicant complied with national, regional and local planning policy on public consultation as well as failing to adhere to its own standards on public consultation. (I-C-01 and I/C/R/01)

- IOC's case against the development on transport grounds is based on the fact that the development would entail a breach several national, regional and local planning policies as well as government climate change and emissions targets. The development will add significantly to traffic congestion, queue length air pollution, community severance, rat running and a lower quality of life for surrounding areas that provide homes and schools for over 6000 people. The Applicant's TA is inadequate and flawed. The development will make cycling provision in the Canal Corridor North area worse. ( I/TR – 01 and I/TR/R/01 and I/TR/A)
- IOC's case against the development on Air Quality grounds rests on the failure of the developer's air quality assessment to follow relevant technical guidelines related to modelling or to properly conform to important provisions of PPS 23. In combination, this has seriously compromised confidence in the accuracy of pollutant emission predictions and we have shown that increased congestion, against the backdrop of significant existing exceedences of the NO2 Annual Mean Objective, will render existing and future measures to achieve the Objective unworkable and may lead to an expansion of the existing AQMA. Policy at national, regional and local levels has been ignored.
- IOC's Case against the development on Retail grounds is that the need for the scale of the proposed expansion in Lancaster's retail offer has not been demonstrated. LCC has failed to analyse the scheme within the context of current economic conditions. The Applicant and LCC have failed to prove the qualitative case for the scheme. The scheme fails to comply with planning policy taken as a whole. The scheme will damage the vitality and viability of Lancaster's existing centre. ( I/R – 01 and I-R/A/01)
- IOC's case against the development on Tourism grounds is based on the undisputed fact that Tourism is an important component of the economy of the city of Lancaster, as an employer and income generator. The development's impact on tourism has not been taken into account by the Applicant or by LCC. The development will damage Lancaster's tourism economy by undermining the viability of the existing centre rendering it less attractive to the kind of visitor on which Lancaster's strong and growing tourism industry depends. ( I/T – 01 and I/T/R/01)

## Conclusion

50. IOC in its opening statement to the inquiry stated that:

*“Neither Its Our City, or anyone associated with it, is opposed to the redevelopment of the Canal Corridor North area. We have been clear throughout the past three years that our opposition to this proposed development is exactly that and nothing more. To be clear we are opposed to this particular scheme in this particular place.”*

51. This remains the case and, in the event that this development is not allowed, IOC is committed to working with LCC and other agencies to formulate proposals for a mixed use development for the

Canal Corridor North area of Lancaster which is based on what the City and its whole community needs and wants.

52. IOC would like to end this closing statement with a quote from a book entitled 'A History of Lancaster'<sup>2</sup> edited by Andrew White. The quote comes from the last chapter in the book which is entitled 'Challenge and Change in a New Century' by Stephen Constantine and Alan Warde. We include this quote on the basis that it says much about the emphasis and motivations of many of the people who are opposed to the development before this inquiry and who at the same time love this city. We do not, of course, wish to give the impression that the authors of what follows oppose the development themselves. Their closing paragraphs are, however, apposite. They read:

*The recent history of Lancaster ... might be seen in terms of the competing imperatives of retaining local controls and distinctiveness in circumstances where external pressures, increasingly of a global kind, impinge on local autonomy. The economic agents primarily influencing Lancaster's prosperity are no longer locally owned or controlled. The state, the banks, and the chain stores operate policies national in scope and with little consideration for local sentiment. The most profitable industrial corporations are multi- or trans – national in provenance, and hence their strategies for the location of new businesses and the closure of old ones pay no regard for consequences for local populations. Equally, the culture industries – television, music, publishing, advertising – have become increasingly global operations, both in terms of targeting audiences and determining popular taste. Add to these forces a post war tendency to reduce the autonomy of local political authorities and it would seem that the scope for control and independence at the local level is in sharp decline.*

*Yet there are counter- tendencies. Now that big business can locate almost anywhere, the particular features of particular places become more rather than less influential in decision making. For personal as well as business reasons, low levels of congestion, an attractive residential environment and a rich local culture may make towns like Lancaster appealing to entrepreneurs, managers and professionals with mobile capital and movable skills. Likewise, tourists wish to visit, and revisit, those scenes that are distinctive, different and memorable. The preservation of Lancaster's distinctiveness including selected features of its past may be the necessary clue to the city's future.*

53. IOC agrees with the authors of these words and we urge the Inspector and Secretary of State to refuse permission for this development. END

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<sup>2</sup> 'Challenge and Change in a New Century', Stephen Constantine and Alan Warde in A History of Lancaster, Andrew White (Ed), Edinburgh University Press, 2001, p270-271, ISBN 0 7486 1466 4