

## **General Development Applications**

**(5/j) Application No: PAP/2018/0755**

**Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,**

**Outline application - Demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) & (g) (i) and (ii), F.2 (a) & (b), drinking establishment and hot food takeaway uses, a primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for**

**Hallam Land Management Ltd**

### **1. Introduction**

- 1.1 The receipt of this application was first reported to the Board in February 2019. It resolved that progress reports should be brought to the Board and that representatives of the Board should if appropriate, meet the applicant and also representatives from the Tamworth Borough Council. A progress report was tabled in October 2020 and a second report was tabled in July 2023. A series of meetings have subsequently taken place. As a consequence, amended plans have now been received together with an Addendum to the originally submitted Environmental Statement. Their receipt was reported to the Board in June 2024. This current report has been prepared for the purpose of now determining this application.
- 1.2 As a reminder to Members, whilst the great majority of the application site is within North Warwickshire, there is a portion of the site within the administrative area of Tamworth Borough Council. This is land to the south of the B5000 at Chiltern Road, and it is included in order to accommodate the proposed vehicular access into the site. An appropriate application was therefore also submitted to that Council. Additionally, as the whole of the extensive western boundary of the site directly adjoins the administrative boundary with Tamworth, that Council has been formally consulted on the substantive application submitted to this Council. The references to Tamworth Borough Council in paragraph 1.1 are a consequence of these factors.
- 1.3 The latest amended plans and supporting documentation have similarly been forwarded to the Tamworth Borough Council. It is understood that these plans, as far as they relate to matters within the application submitted to that Authority, will be determined by its Planning Committee on 3 September – the day after this Board's meeting. The recommendation is to grant planning permission.

- 1.4 As background information, a copy of the July 2023 Board report is at Appendix 1. It contains copies of the previous reports referred to in paragraph 1.1 above in its Appendices.
- 1.5 Copies of the notes of the meetings referred to in that paragraph are all included within Appendix 2. This includes the meeting with Tamworth BC Members.
- 1.6 A note of the Member site visit is at Appendix 3
- 1.7 A copy of the most recent report that introduced the latest revisions is at Appendix 4.
- 1.8 Members will note from Section 4, that the Warwickshire County Council as Highway Authority has not yet responded formally to re-consultation, following the receipt of the amended plans referred to above. There is understood to be no objection in principle, but detailed design issues to do with the geometry of the proposed new junctions are still being discussed with the applicant. Additionally, without that formal response, officers cannot recommend conditions relating to “trigger” points for the implementation of the proposed highway works. Neither can they address the main highway concerns expressed through the consultation process or advise on the appropriateness of any Section 106 contributions that might be sought.
- 1.9 As a consequence, if that formal response is received between the date of publication of this report and the date of the Board meeting, then officers will table a Supplementary Report which will be circulated as quickly as possible. The Report will also aim to include the applicant’s response to the County Council’s letter.
- 1.10 The recommendation below recognises this situation.

## **2. The Site**

- 2.1 This is almost 74 hectares of mainly arable land north of the B5000, east of the former Tamworth golf course and west of the Robeys Lane, Alvecote. It extends north to the Alvecote Marina and also includes the Daytona Go-Kart track as well as the house and range of buildings at Woodhouse Farm. The house known as Priory Farm to the immediate east of the go-kart track is excluded from the site. It also includes land south of the B5000 around the junction of Chiltern Road with the B5000 as well as a small area to the east of Robeys Lane.
- 2.2 The site is gently undulating with the highest points at its southern end – e.g. the go-kart track with a level of 110m AOD. It then has a slight drop in the centre of the site before rising to 100m AOD in the north-west corner. There is also a noticeable small valley running along the western boundary.

- 2.3 The site as a whole is open in character with large fields, little hedgerow cover and a small number of trees. There are however stronger hedgerows bounding Robeys Lane, along the B5000, around Priory Farm and the watercourse in the valley referred to above as well as towards the northern edge of the site approaching the Marina.
- 2.4 An electricity line runs north-south through the site towards its western edge.
- 2.5 The Tamworth Golf course used to bound the western edge of the site, but this has now largely been residentially developed through a series of phases amounting to some 1100 houses. A primary school and a community hub are also included. The more established residential areas of Tamworth are then to the immediate west. To the south of the B5000 is the Stoneydelph area of Tamworth which extends up to Chiltern Road. Beyond are the North Warwickshire Recreation Ground and a small collection of houses between the B5000 and the line of the former Tamworth Road, before the B5000 passes over the M42.
- 2.6 To the east of Robeys Lane is open agricultural land running up to the M42 and beyond until the western edge of Polesworth is reached. To the immediate east of Robeys Lane is Alvecote Wood - a designated Ancient Woodland.
- 2.7 To the north are the Alvecote Marina, the west coast main railway line, the Coventry Canal, the Alvecote Pools SSSI, Alvecote Priory and the village of Alvecote.
- 2.8 The nearest local centre to the site is Stoneydelph - around a kilometre away - which contains a range of facilities including a convenience store, a doctor's surgery and a community hall. There are two existing primary schools here - Stoneydelph and Three Peaks (1.4 and 1.6 km distant). The closest Secondary Schools are the Landau Forte Academy in Amington and the Polesworth School - both around 2.2 km from the site. There is also a surgery at Dordon and both Polesworth and Dordon have a range of local services and facilities.
- 2.9 In respect of public transport provision, there are regular services along the B5000 linking Polesworth and Dordon with Tamworth. There is a bus stop at the Recreation Ground referred to above. Tamworth has a train station with national and regional connections.
- 2.10 The location plan and aerial photograph at Appendices 5 and 6 illustrate the general location of the application site.

### **3. The Proposals before the Board**

- 3.1 In overall terms, the application seeks an outline planning permission for up to 1370 dwellings - including a 100 bed-care home - together a range of associated facilities and green and open space infrastructure. All matters are reserved for later approval except for access arrangements which are part of this application.

- 3.2 Members will be aware that the current proposal has been amended since the submission. The original submission was for up to 1540 dwellings (including the 100 bed-care home) and that it proposed built development across Robeys Lane to its eastern side along the northern frontage to the B5000. The current site is smaller by some 22 hectares, as the majority of the land on the eastern side of the Lane has been removed from the proposal. This has led to the reduction in the number of units.
- 3.3 The original site is at Appendix 7 and its accompanying illustrative layout is at Appendix 8.
- 3.4 The amended illustrative layout and the new Parameters Plan are at Appendices 9 and 10.
- 3.5 The Parameters Plan shows that some 38 hectares of the site (just over 50%) would be for built development running centrally through the site from south to north. The remainder of the site – essentially around its whole perimeter – would comprise a mix of new green infrastructure, enhancement of established and retained hedgerows and new more formal recreation provision. The latter would comprise sports pitch provision in the south-west corner of the site (south of the existing kart track) with the main areas of green enhancement being along the eastern side of Robeys Lane, immediately adjacent to the western and southern boundaries of Alvecote Wood and in the retention of the open space at the highest portion of the site in the far northern part of the site.
- 3.6 The general parameters as set out above have been “translated” into a possible illustrative layout which is at Appendix 10. This more clearly illustrates the relationship between the built development and its enhanced green perimeter. Of note is the central location of the proposed two form entry primary school, the community hub and the extra care home. It also delineates the necessary “safeguarded” land either side of the electricity line along the western side and the omission of the land at Priory Farm. This land has the benefit of an outline residential planning permission, but its implementation would not prejudice the current wider proposals. The illustrative layout allows for three play areas to be spread through the development area. Members will also note that there is no vehicular link or connection through the western boundary into the redevelopment site beyond, because of the changes in levels and there being no safeguarded access provision. Non-vehicular links can however be provided as illustrated on the Appendix 10.
- 3.7 The illustrative layout also best shows the proposed access arrangements. The numbered location points referred to below in this paragraph are shown there, as well as on the Parameters Plan. The primary access into the site is from the B5000 is a new four arm roundabout at the site of the existing junction of Chiltern Road with the B5000 – point 1 on the plans. The northern arm of this would travel north so as to link with and cross Robeys Lane at point 3b. The secondary access would be an improved traffic-signal controlled junction at the present

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Robeys Lane junction onto the B5000 further to the west of the new roundabout – point 2. This would utilise Robeys Lane up to point 3a – thus giving access to the southern part of the development area. The length of Robeys Lane between points 3a and 3b would be “down-graded” to an emergency link. The new link road at 3b would cross Robeys Lane and continue northwards as the central “spine” road for the majority of the development area. It would also become the preferred route for extended public transport provision. Robeys Lane between points 3b and 4 on the plans would be “down-graded” so as to enable only pedestrian and cycle access, as well as providing a retained agricultural access into the fields on the eastern side of the Lane. Robeys Lane would then remain as existing onwards to Alvecote. More detailed plans of the two access points at 1 and 2 are attached at Appendices 11 and 12. The new roundabout at point 1 is partially within the administrative area of Tamworth Borough Council and hence it will be the determining Authority for the engineering works within its area.

- 3.8 Off-site highway enhancements are proposed at three locations – all to the west of the site along the B5000 as it continues into Tamworth. These are at the Glascote Road/Sandy Way junction, the Mercian Way/Glascote Road roundabout and at the western Chiltern Road junction – see Appendices 13, 14 and 15.
- 3.9 The suggested layout also shows the potential location of the surface water drainage arrangements – on the western side of Robeys Lane beyond the new green barrier thus also expanding the physical distance between new development and Alvecote Wood.
- 3.10 A potential phasing plan is at Appendix 16. This shows a progression through the site from the south to the north – albeit that the karting track is shown to be in the third phase.
- 3.11 The original Environmental Statement submitted with the application has been updated in order to accommodate the changes made to the proposals now before the Board. A non-Technical Summary of the updated chapters was included in the last Board report at Appendix 4.
- 3.12 During the course of the application, the applicant submitted a Viability Assessment in order to determine the level of affordable housing provision for the proposal. A policy compliant provision would be 40% - some 570 units together with a care home. The Assessment was reviewed by the District Valuer in order to assess viability given the level of Section 106 contributions that had been requested from various Agencies. This review confirmed that a 30% on-site provision would be viable, but not a 40% provision. Notwithstanding the reduction in numbers now proposed, the applicant has confirmed that the 30% provision will be maintained as on-site provision – that is 381 units which may include the extra-care home.

- 3.13 The re-consultation that has taken place as a consequence of the submission of the revised plans requested that consultees focus on whether any updates were needed to their original comments in respect of the updated chapters, given the reduction in the size of the whole development. These will be dealt with below.

#### **4. Consultations**

Warwickshire County Council as Highway Authority – A formal response has not yet been received, but it is understood that there is no objection in principle and that there are ongoing discussions with the applicant on detailed design matters. An update will be provided at the meeting.

Staffordshire County Council as Highway Authority – No objection subject to conditions.

National Highways – No objections

Tamworth Borough Council – Whilst the Borough Council will determine the application relating to land within its area – the access arrangements at Chiltern Road – in respect of the wider proposals it seeks contributions towards recreation provision in Tamworth (particularly for indoor provision) as well as half of the affordable housing on-site to be made available for Tamworth residents through housing nomination rights.

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions.

Warwickshire County Council (Ecology) – The original proposals showed a small bio-diversity net gain. The current proposals show a 16.43% net gain in habitat units and a 69% gain in hedgerow units. It will be important that these gains are taken forward through the later reserved matters applications and the subsequent phases. These gains have been appropriately assessed and are all welcomed – including the buffer to Alvecote Wood.

Warwickshire County Archaeology – An objection has been lodged. Some trial trenching has taken place, and this has shown that there are archaeological remains and that mitigation is likely to comprise a programme of archaeological excavation. The whole site however has not been adequately evaluated and therefore its archaeological potential is not understood. Further pre-determination evaluation should be undertaken.

Warwickshire Fire and Rescue Services – No objection

Warwickshire County Council (Infrastructure) – Section 106 Contributions should be sought. These are described and discussed in more detail in Section 10 below.

Warwickshire and Staffordshire Integrated Care Boards – No objections subject to Section 106 matters discussed below.

Warwickshire Wildlife Trust – The Trust acknowledges that there are appropriate buffers between the developable area and Alvecote Wood. As this includes hedgerows and wetland areas, then this would deter and minimise the risk of predation into the Wood. The woodland to the south will provide additional habitat for woodland species. These habitats however will need to be managed.

Canal and River Trust – The Trust raises three matters. Firstly, it has concern about the suggestion from the Warwickshire County Council as Highway Authority that a number of canal bridges are widened in order to mitigate the traffic impacts of the proposal. It points out that some of these are Listed Buildings and that any such works would degrade their heritage value and that ownership should then be transferred to the Highway Authority. Secondly, it notes that surface water drainage is to direct the discharge to the water course along the site's western boundary. This passes under the Coventry Canal through a culvert. The capacity of this feature should be investigated. Finally, it points out that there will be additional traffic over the Alvecote canal bridge. The impact of this on the structural integrity of the bridge requires assessment.

NWBC (Environmental Health Officer) – No objection in principle but conditions should be imposed relating to appropriate noise mitigation measures to be incorporated into the construction of new houses; the need for Construction Management Plans, precautionary conditions in respect of contaminated land and to require LEV charging points.

NWBC (Leisure and Community Development) – The proposals have been assessed against the appropriate 2023 SPD on provision and the on-site recreational provision proposed as well as the green infrastructure shown on the Parameters Plan. A contribution is sought, and this is discussed in more detail in Section 10.

Sport England - It is supportive on on-site provision at the site which would align to the Council's strategic supporting evidence base.

NWBC (Housing Officer) – Polesworth has one of the areas of the Borough with the biggest demand – amounting to some 150 applicants asking for a range of house types. Attention is drawn to the need to consider cross-boundary matters.  
District Valuer – The original proposal would not be viable with a 40% affordable housing provision.

## **5. Representations**

- 5.1 Polesworth Parish Council – The Strategic Gap must be maintained in its entirety and there are concerns about the capacity of existing infrastructure and facilities to accommodate the additional population.
  
- 5.3 Shuttington and Alvecote Parish Council – There are serious concerns about increased traffic through Alvecote and Shuttington on unsuitable roads and the potential harm to Alvecote Wood.

- 5.4 Representations have been received throughout the period since this application was received from residents in both North Warwickshire and Tamworth.
- 5.5 There were 99 objections received at the time of the first receipt of the application – that was for the 1540 house scheme with that development extending east over Robeys Lane within the Strategic Gap between Tamworth and Polesworth with Dordon. The main matters raised were:
- Additional traffic through the surrounding highway network which affects both Tamworth and all of the surrounding villages.
  - There are far too many houses being proposed and built.
  - Existing facilities and services are under pressure and will not cope with the extra demand.
  - Loss of wildlife and natural habitats.
  - Adverse impacts on Alvecote Wood
  - Building in the Meaningful Gap – what value is the Gap if it's built on?
- 5.6 The amended plans that are now before the Board – as described in Section 3 above – were put out to consultation and 40 representations were received. These raised the following matters:
- The Sports Pitches proposed may well adversely impact on the future viability of the North Warwickshire Recreation Centre which is run as a Charity.
  - The new roundabout will impact on the Centre and its users particularly in affecting the air quality.
  - All traffic going to the national highways will go through Tamworth.
  - Services are already under pressure.
  - There are already too many houses in the area which will affect wildlife populations and lead to significant loss of open land.
  - There will be more traffic in Alvecote and Shuttington as drivers head for Junction 11 on the M42. Also, through Birchmoor and Amington as drivers seek short-cuts.
  - Noise and air pollution from far more traffic.
  - Pennine Way is already too busy.
  - There are no footpaths along Robeys Lane.
  - All services are already under pressure.
  - What is to happen to Secondary Education provision.
  - There will no longer be a gap between the settlements as the proposals undermine its purpose and also communities lose their identity.
- 5.7 Many of these refer explicitly to concerns about Alvecote Wood. In summary, they say that the proposals fail to adequately recognise or value the significance of this irreplaceable Ancient Woodland, or to include the necessary steps to protect it.



## **6. Draft Heads of Terms for a Section 106 Agreement**

- 6.1 The consultation section above has not included requests for infrastructure provision. These will all be dealt with separately below in Section 10.

## **7. The Development Plan**

- 7.1 Members are aware that the Development Plan has changed since submission and some of the previous reports. For the avoidance of doubt the Development Plan for the purposes of determination of this application is the North Warwickshire Local Plan 2021.

- 7.2 The most important policies in that Plan to the determination are:

LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP4 (Strategic Gap), LP5 (Amount of Development), LP7 (Housing Development), LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP17(Green Infrastructure), LP22 (Open Spaces and Recreation Provision), LP23 (Transport Assessments), LP26 (Strategic Road Improvements), LP27 (Walking and Cycling), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management), LP37 (Housing Allocations) and H5 (Land west of Robeys Lane, adjacent Tamworth).

- 7.3 For the benefit of Members, the plan at Appendix 18 is taken from the Local Plan and it shows the extent of the H5 housing allocation and its relationship with the Strategic Gap as defined by Policy LP4.

## **8. Other Material Planning Considerations**

- 8.1 Similarly, a number of the material planning considerations relevant to this determination have changed since the original submission. The relevant considerations are now:

- i) The National Planning Policy Framework was revised in December 2023, and this will be referred to in subsequent reports – (“NPPF”)
- ii) National Planning Practice Guidance – (“NPPG”)
- iii) The Dordon Neighbourhood Plan was adopted in late 2023.
- iv) The Polesworth Neighbourhood Plan has now been published for consultation purposes.
- v) The Tamworth Local Plan 2006 – 2031
- vi) The Emerging Tamworth Local Plan – Issues and Options 2022.
- vii) A Local Transport Plan for Warwickshire LTP4
- viii)The DfE published its “Securing Developer Contributions for Education” in August 2023.
- ix) The Bio-Diversity Requirements (Exemptions) Regulations came into effect in early 2024.

- x) The Town and Country Planning (Consultation) (England) Direction was also revised in 2024.
- xi) The Council published its “Planning Obligations for Sport, Recreation and Open Space” in 2023.
- xii) The Council published its Playing Pitch Strategy in 2023
- xiii) The Council published its “Air Quality and Planning Guidance” in 2019
- xiv) The Council’s Affordable Housing SPD of 2008 and its Addendum of 2010
- xv) The North Warwickshire Landscape Character Assessment 2010

## **9. Observations**

### **a) The Principle of the Development**

- 9.1 Planning policy matters have moved on since the last substantive Board reports of 2020 in that the North Warwickshire Local Plan is now adopted and carries full weight as an up-to-date Local Plan. Practically the whole of the application site is within a strategic housing allocation defined by Policies LP37 and H5 of that Local Plan. This allocation is for a minimum of 1270 dwellings. Those parts of the site that are not included in the H5 allocation are the strip of land running along the eastern side of Robeys Lane; the land immediately to the south of Alvecote Wood and a quadrant of land in the south-east corner of the site extending east from Robeys Lane and north of the B5000 up to the Chiltern Road junction. The application site also includes land within the Tamworth Borough Council’s area in order to facilitate the new roundabout junction at Chiltern Road. As a consequence of this strategic allocation, there is substantial weight to be given to it in assessing the matter of principle.
- 9.2 Whilst the actual amount of the application site that is outside of the allocation is relatively small (c.10%), it is located in the Strategic Gap – a strategic spatial planning policy of the Local Plan. (As a matter of clarification, this does not apply to that part of the site within Tamworth). The purpose of this Gap is set out in Local Plan policy LP4. It is to “maintain the separate identity of Tamworth and Polesworth with Dordon...in order to prevent their coalescence”. It is thus necessary for the Board to establish whether the proposal satisfies the requirements of this policy in order to achieve this objective. If it finds that it does, then that will add significantly to supporting the proposal in principle. If not, then the Board will have to come to a planning judgement on where the planning balance lies between the respective strategic spatial planning policies – LP37 and LP4.
- 9.3 In assessing development proposals within the Gap, Policy LP4 says that they will not be permitted where they significantly adversely affect the distinctive separate characters of Tamworth and Polesworth with Dordon. In making this assessment consideration is to be given to any effects in terms of the physical and visual separation between these settlements. It is proposed to look at this assessment by looking at the two aspects of the works within the Strategic Gap – the additional landscaping and the road works.

- 9.4 It is considered that the proposal does maintain physical and visual separation in respect of the first of these factors, for the following reasons:
- i) The proposed landscaping along the east side of Robeys Lane and south of Alvecote Wood would provide a significant visual, spatial and physical buffer between the built development beyond to the west and the retained open agricultural land to the east.
  - ii) This buffer enhances the “containment” of the Gap along its western boundary and thus enhances the value of the open land between Polesworth and the proposed built development.
- 9.5 The proposal however will impact on the visual and physical separation between the settlements in respect of the physical works proposed. However, the proposal contains no buildings within that part of the Strategic Gap within the application site. It will thus remain open. The development that is proposed here is the new roundabout and the length of new link road. Whilst this is mainly surface development, its scale is significant and there would also be new street lighting and road signage. It will thus result in these engineering operations being plainly visible and being implemented along the B5000 closer to the M42 overbridge than at present. The visual and physical separation between the settlements will thus be reduced. This impact will be mitigated by the additional landscaping that is proposed between the link road, the B5000 and Robeys Lane, thus re-enforcing the landscape buffer referred to above in paragraph 9.3. However, there will still be some impact and it is considered that this should carry moderate weight.
- 9.6 In summary therefore, the overall proposal does not wholly satisfy the policy requirements of policy LP4. The issue is whether this is of sufficient weight to count against supporting the proposal in principle, or whether there are other material planning considerations which affect the final planning balance.
- 9.7 There is one such consideration – the reasons for the access arrangements at this location if the allocated housing site is to be delivered.
- 9.8 The highway requirements in order to gain access into the allocated site have been agreed by both the Warwickshire and Staffordshire Highway Authorities. From their point of view there is no alternative arrangement. The new roundabout is thus considered to be a necessity if the allocation is to be delivered in full. This has to be given substantial weight. Given this fixed highway requirement, the applicant has sought to minimise the impact on the visual and physical separation between the two settlements as is required by Policy LP4, through removing all built development from the portion of the site that is within the Strategic Gap and through extensive landscaping so as to mitigate that impact.
- 9.9 Substantial weight is thus given to the need for the highway requirements here and the consequential amendments made by the applicant in the latest plans that are now before the Board.

9.10 Returning therefore to the issue raised in para 9.6, the wording of Policy LP4 says that development proposals will not be permitted, “where they significantly adversely affect the distinctive separate characteristics of Tamworth and Polesworth with Dordon”. The highway requirements have been found to have a moderate adverse impact, thus not amounting to the significant level of harm mentioned in the policy. Additionally, the weight to be given to the delivery of a strategic residential allocation in the Local Plan is considered to outweigh that moderate adverse impact. In overall terms therefore it is considered that the proposal as now submitted, can be supported as a matter of principle.

#### **b) Policy H5**

9.11 The conclusion from above thus enables full consideration to now be given to the site-specific requirements of Policy H5 which are to be contained within a Master Plan for the site.

9.12 A Master Plan is to be submitted and agreed. This is the Parameters Plan as now submitted and described in section 3 above, along with how that could be translated into a prospective layout – Appendices 9 and 10. In overall terms, these are considered to be acceptable. They recognise the fixed highway requirements; include enhancement of the visual and physical eastern boundary of the site along Robeys Lane, contain substantial perimeter green infrastructure as well as more formal recreation provision, illustrate the central location for community facilities including a new primary school and enable the development to be served by public transport as well as including accessibility through the site for non-vehicular movement. They therefore provide an acceptable and suitable framework for later detailed consideration.

9.13 In terms of the actual requirements, then each will be looked at in turn.

9.14 The first is that the impact on the setting of the nearby Scheduled Ancient Monument at Alvecote Priory should be taken into account. This is located around 100 metres from the application site boundary to the north-east of the site. The overall impact of the proposal on heritage assets will be assessed later on in this report. However, for the purposes of looking at the Master Plan under Policy H5, this shows a significant landscape buffer being proposed between the Priory and the proposed developable area providing a distance of some 200 metres, thus enhancing the heritage assets’ present rural setting.

9.15 The next is that a mixture of house types is to be provided to include housing for the elderly, young people and to include opportunities for self-build. The Plan illustrates the location of the proposed extra care home and the 30% provision of on-site affordable housing would enable a wide range of tenure and thus housing sizes to be proposed at the reserved matters stages. The applicant has indicated that planning conditions could secure more specialised housing types as well as set out safeguarding the delivery of self-build plots.

- 9.16 The third is that health and education facilities are to be included. As seen above, the proposal includes provision of a two-form entry primary school. The scope of the community hub would enable health facilities if required. These matters will be developed in more detail below when infrastructure requirements through the Section 106 process are discussed. For the purposes of Policy H5, the proposals as illustrated by the two plans satisfy its requirements.
- 9.17 The fourth is that accessible public access is delivered linking with adjoining developments. The plans show around 34 hectares of new green infrastructure and for pedestrian and cycle connections to adjacent residential development. However, direct connection to the canal to the north is not possible due to intervening different land ownerships. Hence there is not full compliance with this requirement.
- 9.18 The final requirement is that there is a significantly landscaped buffer provided alongside the Robeys Lane boundary such that there is attention given to Alvecote Wood and to Alvecote Pools. In general terms the plans now before the Board fully fulfil this requirement – paragraphs 3.5 and 9.4. There will be more detailed discussion of these matters later in the report.
- 9.19 It is in all of these circumstances, that it is considered that the submitted Parameters Plan and the illustrative layout comprise an acceptable Master Plan for the development of the H5 allocation as expressed through this current application. The proposal thus accords with Policy H5.

### **c) Other Impacts**

- 9.20 It is now necessary to establish whether the current proposals would cause any significant harm, such as to weigh against the support in principle for the current application.

#### **i) Highway Impacts**

- 9.21 Local Plan policy LP29 (6) says that all developments should provide safe and suitable access for all users. The NPPF says that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be “severe” – paragraph 115.
- 9.22 The original application was submitted in 2018 and that was the base-line used by the respective Highway Authorities. At that time there were no subsequent objections from the Authorities and that was reported to the Board in October 2020 – see Appendix 1. That base-line has had to be updated due to the passage of time and new assessments have necessarily had to be undertaken in light of this and given the changes to the original proposal as now before the Board.

- 9.23 There are three Highway Authorities involved in this case – the Warwickshire and Staffordshire County Councils and National Highways. All have worked together in order to understand the impacts arising from the levels of traffic to be generated by this development and to establish whether their positions as at 2020 have altered. As a consequence, they have re-visited and agreed the modelling to be used, as well reviewing the particular junctions that had previously been the subject of detailed assessment. It is important to note that the Study Area for this re-assessment remains as that used in 2018 and that the Area includes the whole of Tamworth. Additionally, the modelling takes account of new completed developments, new commitments and any new allocations. Their consultation responses remain consistent and there is still no objection from any of the three Authorities, subject to conditions and to a number of off-site mitigation measures.
- 9.24 In reaching this position, the Authorities found there to be no material changes in the 2018 base-line in respect of the geography of the local highway network, accident data, pedestrian and cycle routes or in public transport provision (both bus and rail). In respect of updated traffic flows, the updated assessments have been based on 2023 survey data which has been agreed with the respective Highway Authorities. This shows that traffic flows have reduced by almost 20% - put down to the increase in working from home. It is as a consequence of this conclusion and the reduction in the scale of the proposal now submitted – around 12% less dwellings – that the three Highway Authorities retain their respective positions of there being no objections.
- 9.25 This overall position therefore carries substantial weight – in respect of both the proposed access arrangements into the site from the B5000 and the impact on the wider highway network, such that the terms of the policies referred to above can be satisfied.
- 9.26 The applicant is proposing a number of off-site mitigation measures which have not altered since the original consultation responses. These are the traffic signals at the new Robeys Lane junction onto the B5000, improvement works at the B5000/ Sandy Way/Pennine Way roundabout, the B5000/Mercian Way/Beyer Close roundabout and at the B5000/ western end of Chiltern Road junction. Additionally, the applicant would contribute to improvement works at the B5000/Bridge Street/Market junction in Polesworth – probably via the installation of traffic lights. Contributions towards public transport provision and infrastructure are also proposed. The respective Highway Authorities support these measures.
- 9.27 Notwithstanding the overall position set out above, there are a number of other highway matters to assess. Three of these were identified in the 2020 Board Report - the situation at Alvecote, the canal bridges in Polesworth and cycle/footpath connections to Polesworth School and to Birch Coppice. A fourth has now emerged – potential contributions towards the A5 improvements..

9.28 However without the final formal response from the County Council, it is not possible for officers to advise on these matters. As recorded above, a Supplementary Report may well have to be tabled to do so.

### **iii) Heritage Impacts**

9.29 Local Plan policy LP15 says that the quality, character, diversity and local distinctiveness of the Borough's historic environment will be conserved and enhanced. In order to do so, an assessment has to be made of the potential impact of the proposals on the significance of heritage assets that might be affected by the proposal. This is required by Section 16 of the NPPF. Whilst there are no assets on the site, the boundary of the Amington Green Conservation Area is around a kilometre to the west and there is a limited number of designated assets close-by. There is the Scheduled Ancient Monument Site at Alvecote Priory with its Listed Grade 2 Buildings - the Priory and Dovecote - around 100 metres to the north-east of the site boundary and the Grade 2 Pooley Hall Colliery War Memorial is some just over a kilometre to the east.

9.30 The Council is under a Statutory Duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. To do so, the impact of the proposal on the significance of the Area needs to be assessed. In this case the significance of the Amington Green Area lies in the retention of the historic core of the village particularly focussed on the Church. It is not considered that there would be any harm caused to this significance by the proposals due to the separation distances, the intervening topography and the amount of more modern built development recently completed between the two sites.

9.31 The Council is also under a statutory obligation to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The significance of the Alvecote Priory and its associated Dovecote lies in its historic interest as well as its architectural and community/religious associations with the early settlement of the area. Its open rural setting is part of this significance. There will be no direct harm caused by the proposed development on the fabric of the asset or its grounds. It is neither considered that its setting would be harmed as it is already located in a rural setting with significant tree cover and this would be preserved. The development proposals are some distance away and significant perimeter planting is proposed for the northern area of proposals. The rural setting will thus be enhanced.

9.32 The significance of the War Memorial lies in its community association and personal links with the former Colliery and the settlement of Polesworth. Its setting is already contained by hedgerows. There is not considered to be any harm caused to this significance as a consequence of the development due to separation distances and the intervening topography.

9.33 In respect of archaeological assets, then preliminary geo-physical surveys and trial trenching have revealed remnants of a Romano-British field system and possible industrial remains associated with the former Amington Colliery. These finds have archaeological significance as a source of data and potentially informing a better understanding of the local agricultural economy and mining industry. They are not matters which would prevent development from occurring. Additionally, over time without any development, natural processes and continuing agricultural activity are likely to lead to their degradation and incremental loss. Members will have seen that the County Archaeologist has objected requiring an evaluation of the whole of the site prior to determination. Given the finds from the initial survey and the scale of undertaking, such an evaluation is considered to be dis-proportionate. However, a reasonable way forward is for a phased programme of further archaeological work to be carried out prior to the development of each phase. That would inform subsequent reserved matters applications and would enable any impacts to be mitigated, either through preservation in-situ, or offset through a programme of archaeological recording. Such an approach can be conditioned within the grant of any planning permission.

9.34 In all of these circumstances therefore, it is considered that the overall purpose of Local Plan policy LP15 will be satisfied.

### **iii) Landscape Impacts**

9.35 Policy LP14 of the Local Plan says that new development should look to conserve, enhance and where appropriate restore landscape character so as to reflect that as described in the North Warwickshire Landscape Character Assessment of 2010. This aligns with policy LP1 which says that development must “integrate appropriately with the natural and historic environment”, and also with Policy LP30 which says that proposals should ensure that they are “well related to each other and harmonise with both the immediate and wider surroundings”. This is all reflected in the NPPF at paragraph 135 (c) which says that developments, amongst other things, should be “sympathetic to local character and history including the surrounding built environment and landscape setting”.

9.36 The application site is an allocated residential site within the up-to-date Development Plan, and thus there is a presumption that planning permission is to be granted. However, it is still necessary for the development proposal to show that it does not materially conflict with the objectives of the policies referred to above. If it does, then there is cause to review the Parameters Plan.

9.37 The substantial majority of the site is in the Tamworth Fringe Uplands Landscape Character Area defined by the 2010 Assessment. A small part – in the north-east corner - is in the Anker Valley Character Area. The former Area is described as being a “gently undulating and indistinct landform which is predominantly open arable land with little tree cover, but heavily influenced by the settlements of Tamworth and Polesworth with Dordon, the M42 Motorway and other busy



roads, with former mining activity leaving a number of largely reclaimed spoil heaps.” The landscape management strategies for this Area include the “delivery of robust green infrastructure to integrate the edge of any settlement expansion with the landscape” and to “maintain a broad landscape corridor to both sides of the M42 Motorway introducing small to medium sized blocks of woodland planting.” The key characteristics of the Anker Vally are described as being a “valley landform which is strongly undulating to the north but becoming more indistinct to the south with a predominantly intensively farmed arable landscape, but with pockets of pastoral land around settlements and close to the river. Peripheral settlements have an urbanising influence as do busy transport corridors – the M42, the A5 as well as the West Coast Main Line.” The Landscape Management Strategies for this Area include “appropriate landscape planting to integrate any settlement expansion within the landscape.”

9.38 As indicated in paragraph 9.28, the key consideration here is whether the proposal as expressed through the Parameters Plan can achieve the requirements of the relevant policies. In this respect, the existing application site benefits from a comparatively limited visual envelope. Its visibility in the wider landscape is restricted by rising landform to the east, the established built-up areas of Tamworth to the west and south and the landscaped boundaries along the B5000 and close to Alvecote Wood. As a consequence, the characteristics of the two wider Landscape Character Areas would not be directly affected. The determining factor is thus whether the Parameters Plan and indeed the illustrative layout, build on these existing “benefits”, so as to satisfy the appropriate landscape management strategies applicable to the two respective Landscape Character Areas described above. It is considered that they do, for the following reasons:

- i) A broad corridor of open land is retained on the west side of the motorway.
- ii) Around 46% of the application site would comprise green infrastructure.
- iii) Of particular relevance is that the eastern edge of the site would have a substantial landscaped “buffer” along its length extending from Alvecote Wood south to the B5000.
- iv) The landscape mitigation proposed around the new junction.
- v) The substantial perimeter corridors of green infrastructure around the whole site retaining separation from Alvecote and the Tamworth residential areas.
- vi) There is no development proposed on the highest part of the site.
- vii) A maximum building height of 12.5 metres.

9.39 In overall terms therefore it is considered that there would be no long-term unacceptable landscape harm, given the capacity of the landscape to absorb the changes proposed, together with the mitigation strategies incorporated into the proposed changes arising from the allocation. The proposal would thus satisfy the relevant Local Plan policies.

#### **iv) Soils and Agricultural Land Value**

9.40 Local Plan policy LP29(13) says that new development should not “degrade soil quality” and paragraph 180 of the NPPF says that planning decisions should “recognise the benefits of the best and most versatile land”. In this case there would be the loss of some 50 hectares of Grade 3a land (68% of the site) – there being no Grade 1 or 2 land – which is a material consideration of some weight. However, the site has already been allocated for residential development through the plan-making process and the adoption of such an allocation has already undertaken an assessment of the planning balance between the policy objectives set out above and the need to deliver a significant increase in housing numbers over the Local Plan period.

#### **v) Water Management**

9.41 Local Plan policy LP33 requires water runoff from new development to be no more than the natural greenfield runoff rates and developments should hold this water back on the development site through high quality sustainable drainage arrangements which should also reduce pollution and flood risk to nearby watercourses. The NPPF at paragraph 175 says that major developments should incorporate sustainable drainage systems and that these should take account of the advice from the lead local flood authority.

9.42 The application site is wholly within Flood Zone 1 which has a low probability of river flooding and has an existing very low surface water flood risk. The proposed drainage strategy is to discharge surface water to existing watercourses - the ones on the western and southern boundaries. This would be achieved through the management of that discharge via a series of sustainable drainage systems – notably the attenuation basins along the eastern boundary of the site to the west side of Robeys Lane as shown on the illustrative layout.

9.43 It is of substantial weight that the Lead Local Flood Authority has not objected to the proposals in principle requiring planning conditions to look into the overall strategy in far more detail at the reserved matters stages. It is thus considered that at this stage of the determination process, the objectives of the relevant Development Plan policies can be satisfied.

#### **vi) Contaminated Land**

9.44 Policy LP29 (9) says that development should avoid and address unacceptable impacts through amongst other things, contaminated land. The NPPF at paragraph 189 says that planning decisions should ensure that a site is “suitable for its proposed use taking account of ground conditions”.

9.45 The majority of the application site has been used for agricultural purposes since the 1880's with no significant land use change to the present day. The applicant has concluded that potential contamination is limited to isolated areas such as the Go-Kart track, the industrial and agricultural uses in the range of buildings at Woodhouse Farm as well as from small ponds that may be related to former

early mineral extraction. Whilst there are no known mine entries on the site or close-by, the site could be affected by past underground mining from seams between 160 and 280 metres deep. Overall, the applicant considers that the findings have a moderate to low risk to human health and a low risk to controlled water receptors. The main risks are the localised contaminated shallow soils which he concludes can be readily mitigated.

- 9.46 It is substantial weight that both the Environmental Health Officer and The Coal Authority have raised no objections or required alterations to the Parameters Plan. As such the proposal is considered to accord with the relevant Development Plan policies.

#### **vii) Ecology**

- 9.47 Local Plan policy LP16 says that the quality, character, diversity and local distinctiveness of the natural environment is to be protected and enhanced as appropriate, relative to the nature of the development proposed and net gains for bio-diversity should be sought where possible. The NPPF at paragraph 180 sets out objectives for conserving and enhancing the natural environment and in particular paragraph 186 (f) places a greater emphasis on enhancing bio-diversity in a measurable way. The Board is also aware of the new Regulations introduced in February this year which provide the approach to this objective. However, as this proposal was submitted prior to their introduction, there is no mandatory 10% nett gain required. The proposal nevertheless, still has to show a net bio-diversity gain, where possible, in order to accord with Policy LP16.
- 9.48 The application site is an allocated residential site within the up-to-date Development Plan, and thus there is a presumption that planning permission is to be granted. However, it is still necessary for the development proposal to show that it does not materially conflict with the objectives of the policies referred to above – in other words that there is a nett bio-diversity gain. If it does conflict, then there is cause to review the Parameters Plan.
- 9.49 There are no nationally designated sites at the site, but the Alvecote Pools SSSI is some 700 metres to the north. Additionally, there are a number of non-statutory designated sites close-by – the Local Wildlife Sites as Bettys Wood, Pooley Country Park Meadows, the Coventry Canal and Alvecote Priory Grounds. Alvecote Wood is also a Local Wildlife Site and has added value as an area of Ancient Woodland. The applicant considers that the proposals would have no impacts on the ecological significance of these sites provided that appropriate mitigation is out in place – a Construction Management Plan which sets out the measures to reduce dust and noise emissions as well as methods of work that take account of wildlife; the strengthening of boundaries between these sites and the development and establishing clear and defined pedestrian and cycle routes. The Parameters Plan has substantial perimeter green infrastructure, and the illustrative layout sets out how pedestrian routes could be worked through the development.

- 9.50 In respect of the fauna found on the site, the applicant updated his original surveys in 2018 as well as more recently in 2019, 2020 and 2023. There have been no international, national or locally designated sites identified in or around the application site since the original submission. The updated surveys show too, that has neither been a material change in respect of the site's flora and fauna – with no badger setts, some bat roosts and foraging routes remain and a single pond hosting Great Crested Newts. As a consequence of these limited results, there would be no significant impact locally on these populations, or on those of other protected and notable species, arising from the development. The appropriate Licences would be needed from Natural England and mitigation measures such as the tree planting and compensatory ponds being provided would be proportionate in this case.
- 9.51 The Parameters Plan clearly shows a substantial increase in tree and hedgerow habitats and the sustainable drainage systems that will be required, will together enhance the bio-diversity value of the present site such that the applicant calculates that there will be a nett gain of 16.43% in terms of habitat and 69% through new hedgerow units. This has been agreed by the County Ecologist.
- 9.52 Much of the “ecological” interest in this case, has focussed on the Ancient Woodland at Alvecote Wood and the adjoining Local Wildlife site at Bettys Wood. This was one of the main issues raised in the 2020 Board report. The overriding concern is about the potential impact on the bio-diversity value of these sites particularly from trespass – either human or by dogs and cats. Given the allocation and the need to retain Robeys Lane as a functioning highway through the site, attention has been given to how best to provide the appropriate protection. That has resulted in the substantial landscaped buffers between the Woods and the development as well as the location of the drainage systems to increase the width and nature of the intervening buffer. This whole area would need to be the subject of a detailed Management Plan which would include measures to ensure that human trespass is reduced – perhaps through boundary treatments and controlled access points – as well to ensure no trans-boundary ecological and animal impacts – such as ditches and dense shrub planting. The Warwickshire Wildlife Trust has been engaged with this issue and it is of substantial weight that there is no objection. It is also of comfort that the Woodland Trust's recommendations in respect of separation distances between Ancient Woodland and new development is exceeded in this case – well beyond the 15 metres as recommended by the NPPG and the “pre-cautionary” figure of 50 metres from the Woodland Trust. The approach to this matter matches that which was described in the 2020 Board report. Additionally, this approach is reflected the conditions set out below as well as in the draft Terms for the Section 106 Agreement – see below in paragraph 10.31.
- 9.53 There was reference in Section 8 to the 2024 Direction which updates earlier versions which were in force at the time of the submission of this application. The reason for this reference is that the 2024 version now includes development that might impact on Ancient Woodlands amongst those matters that may require referral to the Secretary of State. Members are advised that this does not affect this current application as the Direction contains no retrospective transitional arrangements.

9.54 It is in all of these circumstances that it is considered that the current proposals as set out in the Parameters Plan do accord with the relevant Local Plan policies.

#### **viii) Open Space and Recreation**

9.55 Local Plan policy LP22 says that new development proposals are expected to provide a range of new on-site and open space recreational provision such as parks and amenity spaces, sport or recreation facilities. It also says that these spaces should be properly maintained. This is reflected in the NPPF where at paragraph 102 it says that “access to a network of high-quality open spaces and opportunities for sport and recreation is important”. To this end the Council’s own Supplementary Planning Document on Planning Obligations for such provision is given substantial weight.

9.56 The application site is some 74 hectares in extent and the Parameters Plan demonstrates that a total of 34 hectares of this can be provided as “green infrastructure” – around 46%. When some of this is excluded so as to more align with the SPD, the total provision is 18 hectares (24%). The requirement for the site under the SPD is 13 hectares. The latest submission has removed land from the east of Robeys Lane and thus removed a substantial area of playing fields and pitches. There has however been a corresponding reduction in housing numbers. A smaller overall provision has thus been re-located to the southern part of the site between the B5000 and the Go-Kart track. This would be capable of providing one adult pitch, a youth pitch and a junior pitch. A further two junior pitches would be provided within the primary school making five in total. The requirement from the SPD is 4.2 pitches. Additionally, three play areas would be distributed throughout the whole site, each within the required minimum walking distances to proposed dwellings. The applicant is confirming whether a MUGA (a multi-use games area) can be accommodated within the scheme with its final position being determined through subsequent Reserved Matters applications.

9.57 It is of substantial weight that the Council’s Leisure Officer supports the proposals and that Sport England has not objected. As a consequence, the proposal fully accords with the relevant planning policies.

#### **ix) Noise, Vibration and Air Quality**

9.58 Local Plan policy LP29 (9) says that new development should “avoid and address unacceptable impacts upon neighbouring amenities through overlooking, noise, light, air quality or other pollution.” The NPPF at paragraph 180(e) says that planning decisions should “prevent new and existing development from contributing to or being put at unacceptable risk or being adversely affected by unacceptable levels of noise pollution”, and para 191 says that proposals “should mitigate and reduce to a minimum, potential adverse noise impacts”. Paragraph 192 says that decisions should contribute towards “compliance with relevant limits for pollutants.”

9.59 The applicant considers that the development would not cause “significant” air quality issues as all of the predicted indicators would be below the relevant national limits. However, mitigation measures will be appropriate – a Construction Management Plan, the provision of electric charging points at all

dwellings and the provision of easy walking and cycle routes to the school and community hub.

- 9.60 Similarly, with potential noise pollution, the applicant finds that there would be no significant adverse impacts. A detailed Construction Management Plan would be required as well as the need for good acoustic design and specification of sound insulation in the construction of the new houses. The updated plans remove housing provision on the east side of Robeys Lane – that closest to the M42 Motorway thus reducing the potential for noise pollution from that source and the curtailment of the HS2 Phase 2b project is also of some benefit.
- 9.61 It is of substantial weight that the Environmental Health Officer has not objected and thus there is considered to be compliance with the relevant Local Plan policies.

#### **x) Other Impacts**

- 9.62 There are some residual matters to draw attention to.
- 9.63 The Canal and River Trust raised concern about the capacity of the culvert under the canal to the north of the site as the watercourse that drains into this would take the surface water discharge from the development. This culvert is downstream of the development and outside of the control of the applicant. The advice in the NPPF is however that the applicant has to show that his drainage proposals are “self-contained”. That Assessment was undertaken at the time of the original proposal and was updated with the current re-submission which showed that the culvert does have the appropriate capacity. As recorded above, it is of substantial weight that the Lead Local Flood Authority has raised no objection to that re-submission. The matter thus satisfies the requirement of the NPPF.
- 9.64 The Trust also raised other matters relating to concerns with a number of its bridges both at Alvecote and in Polesworth. These matters were discussed in section (i) above as they are related to highway issues – i.e. increased traffic.

#### **xi) Conclusions**

- 9.65 As a consequence of the above paragraphs it is not considered that there are any identified unacceptable or significant harms caused, that would demonstrably require an alteration to the Parameters Plan as now submitted, or to the prospective layout for the development of this allocated site.

### **10. Infrastructure Delivery**

#### **i) Introduction**

- 10.1 Significant weight needs to be given in the assessment of this application to the provision of associated infrastructure. Members will be familiar with the requests from a number of Agencies and Bodies in this respect. In this case however, the size of the proposal means that the scale of these requests is substantial. This in turn is a matter of interest to the applicant as they can, in total, have an impact of

the overall viability of the proposal. This is why firstly, each of these requests has to be justified as meeting the statutory tests for such contributions and secondly, why an independent evaluation of their cumulative impact on development viability has had to be undertaken. As indicated earlier in this report, that evaluation has been undertaken by the District Valuer and notably, with the full engagement of the applicant.

- 10.2 The report will now review each of the individual requests to establish statutory compliance before looking cumulatively at their impact on viability and thus on the consequences of that impact. It should be noted that no “trigger” points are identified below as these need to be agreed between the various parties as part of on-going 106 discussions. At this stage, the Board is only recommended to agree the acceptability of the contributions as set out below.
- 10.3 In doing so, and one of the reasons for further discussion, is that it should be stressed that because of the geography of the site, the infrastructure requirements need to be equitably and proportionately considered across the Local Authority boundaries here. This will be apparent when the matters below are identified.
- 10.4 Additionally, Members will be aware that there is another strategic housing allocation in the Local Plan – namely site H4 being for a minimum of 1675 houses on the east side of Polesworth and Dordon. The contributions set out below for the current application should be proportionate with any future requests arising from the development of that H4 site, both in scale and also compatible in terms of how they are to be expended.
- 10.5 The content of Section 106 Agreements is the subject of statutory tests. These are that any obligations must be necessary to make the development acceptable in planning terms; they must be directly related to the development and finally they must be fairly and reasonably related in scale and kind. From these and from experience with other cases, Members will know that contributions and requests that might be suggested to rectify existing issues or matters that are outside of the control of the applicant, would not pass these tests.

## **ii) Education**

- 10.6 Apart from being the largest of the contributions requested, this is perhaps the most recognisable to the community as a whole and particularly to the new occupants of the proposed houses. The proposal includes the provision of a new 2 Form Entry Primary School on site.
- 10.7 The Warwickshire and Staffordshire County Education Authorities have issued a joint response agreeing a value for an Education contribution and how that is to be distributed locally. This has taken account of the current situation at the established schools in the locality of the application site, together with the fact that the new Primary School on the site of the former golf course to the west is now open, as well as through reference to updated Government guidance referred to in Section 8 above.

- 10.8 Existing primary school provision comprises the two schools in Stoneydelph and the new one on the former Tamworth golf course together with Birchwood in Dordon and the Nethersole School in Polesworth. Both Education Authorities agree that there is very limited capacity across the whole range of these schools. But the new Primary on the site of the former golf course adjacent to the current site has reduced the urgency for the provision of primary places – particularly in Tamworth. As a consequence, the provision of an on-site Primary School within the current application is fully supported as it would take the great proportion of primary aged pupils arising from the new residential development. It would thus add to additional primary capacity in the relevant catchments. The safeguarding of 2.2 hectares centrally located on the site is thus fully supported. The contribution sought is just over £16 million which would include provision for early years, SEN provision as well as establishment costs. Warwickshire County Council also is agreeable to the applicant delivering the new School, in lieu of this contribution.
- 10.9 Existing Secondary school provision comprises the Forte Landau Academy in Tamworth and the Polesworth School in Warwickshire. Both Education Authorities agree that the percentage of pupils attending Polesworth School, but resident in Tamworth has fallen in recent years from around 33% to just over 10%. The view taken by both Education Authorities is thus that Polesworth School should have capacity for some pupils arising from this development. Warwickshire has put forward two scenarios to achieve this – increasing the capacity at Polesworth or delivering a new School elsewhere. A contribution of around £8.75 million is sought for the first option, with a contribution of almost £12 million for the second. In both cases, there is still an on-going discussion with the County Council as to what should finally be included in these contributions – see paragraph 10.8 above.
- 10.10 In summary therefore, almost £25 million is requested as an Education contribution for a new Primary and expansion at Polesworth, with the alternative of just over £28 million for a new Primary and a contribution towards a new Secondary.
- 10.11 Warwickshire County Council is currently undertaking feasibility studies on the alternative Secondary options outlined here. Those studies include making provision for pupil numbers arising from the H4 allocation to the east of Dordon - a minimum of 1675 houses.
- 10.12 The contributions as set out in general terms within paragraph 10.10 are considered to meet all of the statutory tests identified above. They are necessary to make the development acceptable in planning terms, because education provision was identified in the Infrastructure Delivery Plan 2020 (IDP) which accompanied the Local Plan. This identified projects that are necessary with particular residential allocations in the Local Plan to ensure sustainable development. Here that Delivery Plan refers to the need for an on-site primary school and a secondary contribution for Polesworth School because of the shortfall in space that would result from increased pupil numbers generated by this current application. Additionally, the contribution would satisfy Local Plan Policies LP1 on sustainable development; LP21 on the provision of services and facilities and more particularly with Policy H5 which deals explicitly with this site.



It would also comply with the NPPF at paragraph 97 in general and paragraphs 99 and 100 in particular. It is also considered that the contributions are directly related to the development in that they have been calculated with reference to the up-to-date local evidence base in the locality in respect of current education provision. This has also reflected the fact that the site lies adjacent to another Education Authority area - namely Staffordshire – and that the contributions have been agreed by both Education Authorities. They also satisfy the final and third test as they have been calculated on the up-to-date Government Guidance on calculating pupil numbers in each Local Education Authority area. As such the contributions are supported in principle.

- 10.13 Notwithstanding this, there is some uncertainty here in respect of the actual delivery of the infrastructure related to Secondary provision – expansion at Polesworth School or a new School. However, the proposed “pupil yield” from this application will not be sufficient to justify a new School as the Education Authority indicates that expansion will meet that need. The contribution would be forwarded to the County Council for that purpose. If the County Council decides that a new School is needed – taking into account its feasibility studies of the existing Polesworth School and bearing in mind the H4 residential allocation – then the applicant is content that the contribution can be diverted to that alternative resolution.

### **iii) Health Facilities**

- 10.14 The provision of health facilities and services is of universal concern particularly when associated with large new residential developments. In this case, it is of substantial weight that the Coventry and Warwickshire Integrated Care Board (ICB) together with the Staffordshire and Stoke- on-Trent ICB have issued a joint response. Additionally, this response was provided after consultation with local Practices and with regard to the additional housing allocation known as H4 for the east side of Dordon.
- 10.15 The joint response says that there are two practices providing primary care medical services in the Coventry and Warwickshire ICB area – the linked centres at Polesworth and at Dordon. The ICB has identified that these practices are already over capacity with an estate comprising 12 clinical rooms and with a shortfall of one room which will increase to five by 2031. The ICB has identified that there is potential for improvement works at its centres. In respect of the Staffordshire and Stoke ICB, it has identified two nearby practices – the Mercian and Heathview medical centres. Here too there is likely to be a 36 room shortfall by 2035. As a consequence of these matters the Joint ICB’s have requested a commuted sum to support strategic investment in estate capacity. This amounts to £1,419,738. This would be used to target future adaptation/refurbishment/expansion and development of existing premises across both ICB’s. They have asked that it be provided upon commencement of development to ensure an early ICB response to the shortfalls. This would need to be discussed with the applicant.

- 10.16 Similarly here the contribution is considered to satisfy the relevant tests. A “health” contribution is referenced in the IDP and it would accord with Policies LP1, LP21 and H5 of the Local Plan. The corresponding NPPF paragraphs are at 97 and 100. It is soundly based on local evidence which is up-to-date, thoroughly researched through both ICB’s and with an agreed joint outcome. The calculation too has been based on appropriate best practice guidance on the delivery of new and extended health care facilities. It too can be supported in principle.
- 10.17 Members will be aware that this is a joint contribution for both ICB’s as a direct consequence of the current application. It is not a contribution to resolve an existing shortfall per se, although it will alleviate this capacity issue. It is also to be born in mind that patient numbers arising would be able to register in both ICB areas because of its location and that the Warwickshire ICB is aware to the H4 residential allocation and will respond when that consultation takes place. This current request for an ICB contribution will thus be enhanced when the H4 application is submitted. As a consequence, the ICB’s will direct the contribution currently sought as they see fit. This is matter for them as they are the Infrastructure Delivery provider, not the Local Planning Authority. From the Borough Council’s perspective, the contribution is policy compliant and proportionate.
- 10.18 Members should be aware that at the time of the initial consultation period, the George Eliot NHS Trust requested a financial contribution to assist the provision of its services. Since that time, there is now case-law which has established that contributions sought to close a funding gap that an Infrastructure provider may be experiencing, does not satisfy the Section 106 “tests” referred to in paragraph 10.5 above. Hence it should not be included in the Heads of Terms in this case.

#### **iv) Recreation and Open Space**

- 10.19 As indicated in Section 4, there are requests for recreation contributions from both NWBC officers and from the Tamworth Borough Council. The former requests £1,696,229 and the latter, £1,317,638.
- 10.20 Dealing first with the NWBC requests, then the total contribution referred to above can be divided into £1,485,853 for indoor provision and the balance for outdoor provision (artificial grass pitches). These figures exclude the proposals for the on-site provision of sports pitches and three play areas. The overall contribution is considered to satisfy the relevant tests. There is reference in the IDP to the need for the provision of Borough wide play areas; for the replacement/refurbishment of leisure facilities and there is reference to the leisure strategies mentioned in paragraph 8.1 above. It would also accord with Local Plan policies LP1, LP21, LP29 (4) and H5. Of note amongst these is LP29 (4), which seeks to promote healthier lifestyles for activity outside of homes and places of work. This is reflected in the NPPF at paragraphs 96 (c) and 97. It is also soundly based on the evidence available in the adopted documents and strategies set out in Section 8 above and has been calculated in line with the appropriate up-to-date Obligations Document, thus satisfying the third test concerning being fairly and reasonably related in scale and kind. Members will be aware that the bulk of the contribution is for indoor provision, but no such accommodation is proposed on site and neither are the additional artificial

pitches. The contribution would thus be for off-site provision. Members will be aware of the active proposals for proposed indoor provision at both Polesworth and Atherstone. Other Section 106 contributions have also been sought from other applicants in respect of these matters. These proposals are being advanced through the Council's Community and Environment Board. A detailed report is being taken to that Board on 20 August which recommends commencement of feasibility studies for new leisure centres at Polesworth and Atherstone; the commencement of a procurement process and to ringfence a reserve fund. As such it is considered that the contributions in this case can reasonably be expected to be directed towards the delivery of these projects which are now advancing. The same would apply to the additional pitch provision.

- 10.21 The request from Tamworth also relates to both indoor provision (£1,220,266) with the balance for artificial grass pitches. It is understood that progress on establishing firm proposals for the delivery of such infrastructure has not materially advanced since the submission of the application. As a consequence, it would appear not to satisfy the "tests". The contribution requested for provision in Tamworth would thus carry less weight than that for similar provision in North Warwickshire.

#### **v) Public Transport**

- 10.22 The Warwickshire County Council as Local Transport Authority has requested contributions to enhance existing services that run along the B5000 such that they access the development so as to provide a route within the development such that bus stops are more than 400 metres from a bus stop. The existing services regularly run along the B5000 with destinations to Tamworth, Polesworth, Atherstone and Nuneaton – centres with a range of services/facilities and other public transport connections. The contribution sought is for a total of £1,575,000 to be paid in annual instalments over five years either to assist in the cost of diverting existing services or to provide a new service into Tamworth.
- 10.23 This contribution satisfies the appropriate tests. There is reference in the IDP to bus service improvements and better infrastructure. It also assists in the outcomes of Local Plan policies LP1, LP23 and LP29 (5) as well as the Local Transport Plan for Warwickshire policies AT1, PT1 and PT2. It also accords with Section 9 of the NPPF. It is based on the evidence relating to the existing level of services and its amount has been calculated with reference to best practice elsewhere in Warwickshire.
- 11.24 In respect of the provision of new bus stops the County Council indicates that these should be carried out as part of the Section 38 Highway Works Agreement under the Highways Act. The locations would be agreed as part of the assessment of the planning applications for reserved matters.

## **vi) Highways Improvements**

- 10.25 The Warwickshire County Council as Highway Authority has requested a sum of £960,000 for improvements to the Bridge Street/B500 junction in the centre of Polesworth.
- 10.26 These works are required to mitigate potential adverse traffic impacts at this junction due to an increased number of movements arising from the development. It is thus a planning requirement having been identified in the applicant's Transport Assessment and verified by the County Council. It aligns with Local Plan policies LP1 and LP23 as well paragraph 115 of the NPPF by securing mitigation to avoid "severe" residual impacts. Its value is proportionate to the traffic modelling agreed by the County Council.
- 10.27 The Board may have to consider additional requests depending on the outcome of the Highway Authority's final response.

## **vii) Sustainable Travel Promotion**

- 10.28 The Warwickshire County Council as Highway Authority has asked for the provision and promotion of sustainable transport information for all new dwellings together with a contribution of £50 per dwelling to fund training and education for vulnerable road users. These would align with Local Plan policies LP23 and LP29 (2 and 6) as well as the NPPF at paragraphs 116 and 117 as well as being compatible with other schemes in Warwickshire. The former would be the subject of a planning condition and the latter would be by way of a £68,500 contribution.

## **viii) Libraries**

- 10.29 The Warwickshire County Council seeks a financial contribution to improve, enhance and extend library services where new development means an increase in patronage. The current request is for £27,798. This provision would assist in the planning outcomes set out in Local Plan policies LP1 and LP21 and there too is reference to such provision in the IDP. The value aligns with other schemes in Warwickshire.

## **ix) Affordable Housing**

- 10.30 As indicated in paragraph 3.12 above, notwithstanding the reduction in the number of houses proposed and the increase in the total value of the contributions requested above as a consequence of updated evidence, the applicant is retaining a 30% on-site provision of affordable housing. Local Plan policy LP9 sets out a 40% provision for a green field site such as this. The policy does enable proposals for less than this to be considered provided that that is supported by a viability appraisal. As recorded above, the District Valuer assessed the previous proposal and concluded that a 40% provision would in the terms of the policy, "threaten the delivery of the scheme". As a consequence, the developer proposed 30% on-site provision which the Valuer considered was a proportionate outcome. As already indicated, notwithstanding the reduction in numbers now proposed, the applicant has retained that commitment to 30% on-

site provision. Given the evidential background to this, it is considered that this figure can be supported. On this basis, the 30% would amount to 381 units.

10.31 The Policy also deals with a preferred tenure mix, but again does allow for flexibility based on up-to-date evidence. Members will be aware too that there have been an increasing variety of different delivery resolutions to affordable provision – including off-site contributions in lieu of on-site provision and the use of “gifted units” to the Council. Additionally, opportunities for “gifted serviced plots” and/or land set aside for self-build have been considered. In this case too there is a request from the Tamworth Borough Council to make some of the affordable provision available to its residents. At this stage it is significant that the 30% figure has been accepted by the applicant and this is sufficient for the Board to move forward with discussions on the form that this would take. If the Board supports this, then the scope of that provision is best left to further discussion between the parties. The final wording of the 106 would then be referred back to the Board.

#### **x) Other Section 106 Matters**

10.32 There are other matters that need to be included with the Section 106 Agreement. These are outlined below. As identified in paragraph 10.2 above, they do need to include trigger points, but these will need to be agreed through further discussion with the various parties.

- a) The safeguarding of land for the Extra Care Unit in the general location shown on the Parameters Plan.
- b) The Green Infrastructure to be identified in subsequent applications for reserved matters
- c) This to include the provision of three Play Areas comprising two Local Play Areas and one Neighbourhood Play Area.
- d) Strategic planting areas, including those to act as buffers to Alvecote Wood
- e) That phased delivery of green infrastructure so as to align with the relevant reserved matters applications.
- f) A Management Plan for this green infrastructure
- g) The safeguarding of land for the community hub and the uses as defined by the planning conditions in the general location as shown on the Parameters Plan.
- h) Provision of utility services and access to this hub.
- i) Submission of a marketing plan for the community hub.
- j) Implementation of the approved marketing plan for a period of two years.
- k) Safeguarding of the land for the sports pitches in the general location as shown on the Parameters Plan.
- l) Reserved matters approval for this provision will be sought with a specification for two adult sized grass pitches (not lit), served by a pavilion providing changing facilities.
- m) The construction of the sports pitches and the pavilion.
- n) The pitches and pavilion to be transferred to either a local community group or an on-site management company.
- o) It is also normal in an Agreement of this size, for the developer to make a monitoring contribution. In this case that would be separate payments to the Borough and County Councils.

## 11. Conclusion

- 11.1 There have been two substantial changes in the planning circumstances affecting this application since its submission. These are that the great majority of the site is now within a strategic housing allocation defined in an up-to-date Development Plan and then secondly, the reduction to the scope of the proposal, in order to explicitly recognise the “Strategic Gap” defined in that same Plan as a strategic spatial planning policy. Both of these changes now carry substantial weight in support of this proposal. To this, can be added the subsequent benefit of a significant improvement to the Council’s five-year housing land supply, if it is approved.
- 11.2 In order to deliver this housing allocation, the two relevant Highway Authorities have agreed that the only acceptable means of providing access into the site is off the B5000, the design of which has had to lead to land within the Strategic Gap having to be included solely for this purpose. The limited impact of this on the purposes of that Gap is considered to be far outweighed by the delivery of the housing allocation.
- 11.3 The proposal as a whole, is considered to satisfy the appropriate Local Plan policy – H5 – which sets out the parameters through which the site is to be planned. It also now includes significant elements that are designed to mitigate potential unacceptable impacts – just over half of the site being set aside for green infrastructure including a substantial buffer adjoining the Ancient Woodland at Alvecote Wood; the inclusion of a community centre together with a new primary school and sports pitches and off-site highway improvements.
- 11.4 A proposal of this size has led to the need for a substantial Section 106 Agreement. Significantly, the contributions sought have been found to satisfy the statutory tests for their inclusion. Additionally, the viability of the overall proposal has been objectively assessed by the District Valuer and the applicant has acknowledged his findings, in that the development does provide a 30% on-site provision of affordable housing, notwithstanding the cumulative value of the contributions identified for that Agreement. There is still work to do on the terms of this Agreement in respect of identifying a large number of trigger points for payments, the final nature and scope of the affordable housing mix and provision, and a continuing discussion on the outcome of the education element.
- 11.5 As has been noted, the final Highway Authority response it still awaited and the content of this will need to be assessed and reviewed in terms of planning conditions and potential additional Section 106 contributions as outlined in para 9.27. Officers are confident that the Highway Authority appears to have no objection in principle, as this prospect has never arisen during the whole course of dealing with this application – even with the initial larger housing numbers – such that a positive recommendation can still be made as set out below.

## **Recommendation**

That the Council is minded to **GRANT** planning permission for the amended proposals subject to:

- i) The Warwickshire County Council as Highway Authority not objecting in principle and that any detailed access matters it raises can be dealt with through amended plans and/or planning conditions.
- ii) The completion of a Section 106 Agreement to include the matters outlined in this report together with others that might be raised by the Warwickshire County Council and are found to satisfy the statutory tests.
- iii) That the final Heads of Terms of this Agreement be referred back to the Board following further discussion with the applicant and that
- iv) The following conditions be attached to the grant of planning permission together with others that might be recommended by the Warwickshire Highway Authority.
- v) That the final schedule of planning conditions be delegated to the Head of Development Control.

## **Draft Schedule of Conditions**

### **Standard Outline Conditions**

1. Details of the appearance, layout, scale and landscaping (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority and the development shall then be carried out in accordance with the details that have been approved.

#### **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004 and to prevent the accumulation of unimplemented planning permissions.

2. Application for the approval of first reserved matters application shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. Application for approval of all reserved matters shall be made to the Local Planning Authority not later than 15 years from the date of this permission.

#### **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004 and to prevent the accumulation of unimplemented planning permissions.

3. The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) application to be approved.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004 and to prevent the accumulation of unimplemented planning permissions.

**Defining Conditions**

4. The development hereby permitted shall not be carried out except in accordance with the following approved plans and documents:
  - a) The Site Location Plan numbered 6186/L/09F.
  - b) The Parameters Plan numbered 6186/L/12Z.
  - c).Access Plan numbers 15596/WIE/HGN/ZZ/DR/C/950106/P02; 950107/P03, 950101/P02, 950103/P02 and 950/102/P02. (To be updated if necessary, after WCC response.)

REASON

In order to define the extent and scope of this planning permission.

5. For the avoidance of doubt the development hereby permitted is for:
  - a) No more than 1270 dwellings within Use Class C3.
  - b) Residential accommodation for up to 100 units for the care of people and those in need of care within Use Classes C2/C3.
  - c) A primary school together with its playing fields within Use Class F1 (a).
  - d) A Community Hub comprising a combination of uses of up to 2250 square metres, within Use Classes E (a) to (f) inclusive; E(g)(i) and (ii), F2 (a) and (b) together with a drinking establishment and hot food takeaway.
  - e) 32.28 hectares of green infrastructure including 2.34 hectares of Sports pitches.

REASON

In order to define the extent and scope of this planning permission

6. The finished floor level of all of the dwellings hereby approved shall be set at least 600mm above the modelled 1 in 100 year (plus 22% for climate change) fluvial flood.

REASON

In the interests of reducing the risk of flooding.



## Pre-Reserved Matters Submission Conditions

7. The applications for each reserved matters application should be made in general accordance with the submitted Illustrative Master Plan numbered 6186/L/04Y unless a variation of this Master Plan is submitted to and approved in writing by the Local Planning Authority.

### REASON

In order to define the implementation of the permission.

8. Notwithstanding the details shown on plan number 6186/l/17, and prior to the submission of the first application for reserved matters, a detailed phasing plan shall be submitted to and approved in writing by the Local Planning Authority. This Plan shall include the phasing of:
  - i) Residential parcels of land;
  - ii) The Green Infrastructure including all open space and the sports pitches,
  - iii) Access arrangements,
  - iv) The Community Hub.

The development shall be carried out in accordance with the approved phasing plan unless a variation is first submitted to and approved in writing by the Local Planning Authority.

### REASON

In order to define the implementation of the permission.

9. Prior to the submission of the first reserved matters application, a Landscape Strategy for the whole of the application site based on the Parameters Plan as approved under Condition 4(b), together with an overarching management strategy for the landscaped areas within the site, shall be submitted to and agreed in writing by the Local Planning Authority. The Landscape Strategy as approved, shall establish the principles for landscaping to be incorporated into the layout for each of the phases or sub-phases of the development.

### REASON

In the interests of the visual amenities of the area and enhance the bio-diversity of the site.

10. No development shall take place on any phase or sub-phase of the development until a Landscape and Ecological Management Plan (LEMP) for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include:
  - a) a description and evaluation of the features to be managed, together with how they are co-ordinated with other phases of the development;

- b) ecological trends and constraints on site that might influence management, including the possible effects on other phases of the development;
- c) the aims, objectives and targets for the management, including mitigation and enhancement of species identified on site;
- d) descriptions of the management operations for achieving the aims and objectives,
- e) prescriptions for management actions,
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period),
- g) Details of the monitoring needed to measure the effectiveness of management,
- h) Details of each element of the monitoring programme,
- i) Details of the body(ies) or organisations(s) responsible for implementation and monitoring, along with their funding mechanism(s).
- j) Details of the ongoing mechanisms for monitoring and for identifying remedial measures to account for necessary changes in the work that monitoring shows that conservation aims and objectives of the LEMP are not being met.
- k) Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with bio-diversity net gain reconciliation calculated at each stage,
  - l) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery,
  - m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in that Plan shall then be implemented on each phase of the development of the site and it shall be adhered to at all times during the lifetime of the development.

#### REASON

In the interests of enhancing, protecting and monitoring the bio-diversity value of the site.

11. The Landscape and Ecological Management Plan to be submitted and approved in writing by the Local Planning Authority under Condition 10, shall explicitly include a Section with reference to the landscaping and public open space shown on the Parameters Plan approved under Condition 4 (b) in the vicinity of Alvecote Wood. This Section can be submitted as a separate submission but must be so prior to the submission of the first reserved matters application.

#### REASON

In the interests of protecting the bio-diversity value of this Ancient Woodland

12. No phase of development shall commence under any reserved matters until a detailed surface water drainage scheme for that phase, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details. The scheme shall include:
- Evidence in accordance with BRE365 guidance that infiltration testing has been undertaken to clarify whether or not an infiltration type drainage strategy is appropriate;
  - Evidence, where infiltration is not feasible, to show that the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus a 40% allowance for climate change) critical rain storm, is limited to the QBar Greenfield runoff rate for the site in line with the Flood Risk Assessment and Drainage Strategy.
  - Drawings and plans illustrating the proposed surface water drainage scheme.
  - Feature specific drawings and cross sections of all proposed features such as infiltration structures, attenuation features and outfall structures in line with “The SUDS Manual”, CIRIA Report C753,
  - Detailed network level calculations demonstrating the performance of the proposed system,
  - Plans and external levels plans detailing the exceedance and overland flow routeing on site.

#### REASON

In order to reduce the risk of flooding and to improve and protect water supply

13. A Written Scheme of Archaeological Investigation shall be submitted to and approved in writing by the Local Planning Authority prior to submission of the reserved matters application for each phase or sub-phase of the development. This shall include a detailed programme of archaeological works. An Evaluation Report shall then be submitted for approval with the subsequent application for reserved matters for that phase or sub-phase. The reserved matters application shall evidence how the proposed development has been informed by that Report and include any mitigation measures that are proportionate to the conclusions of that Report. The development shall then only proceed in full accordance with the mitigation measures as may have been approved.

#### REASON

In the interests of understanding the heritage value of the site.

14. Prior to the submission of any reserved matters application for each phase or sub-phase of the development, a Contaminated Land Investigation and Risk Assessment for that part of the site covered by that application, shall be submitted to and approved in writing by the Local Planning Authority. The submission shall identify and assess the nature and extent of any contamination on the land, whether it originates on the site or not. This shall include a survey of the extent, scale and nature of any contamination and an assessment of the potential risks to human health, property, adjoining land, ground and surface waters as well as ecological systems.

REASON

In the interests of reducing the risk of pollution.

15. Where the Assessment as submitted under Condition 14, identifies unacceptable levels of contamination or risks, a detailed remediation scheme to bring the land to a condition suitable for the intended use by removing unacceptable risks to human health, property, adjoining land, ground and surface waters as well as ecological systems, shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall also identify any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency emergency action. The scheme as approved shall then be implemented in full in accordance with an approved timetable.

REASON

In the interests of reducing the risk of pollution.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified under condition 14, it must be reported immediately in writing to the Local Planning Authority and all work shall cease on site. An investigation and risk assessment must be undertaken in accordance with Condition 14 and where remediation is necessary, a remediation strategy must be prepared in accordance with condition 15. The Assessment and the Strategy shall be submitted to the Local Planning Authority in writing. Work shall then only commence following written approval of any Remediation Strategy.

REASON

In the interests of reducing the risk of pollution.

17. Prior to the submission of the first reserved matters application, a Design Code covering the whole of the development shall be submitted to and approved in writing by the Local Planning Authority. The Design Code should clearly and concisely set out the principles for:
- Block layouts and massing; building frontages and set-backs;
  - The street hierarchy and design (including materials, the typical arrangement of street trees, cycle and pedestrian surfaces and cross sections showing the relationship with adjacent buildings and spaces),
  - Supporting local cycling and pedestrian routes to connect to the community hub and to the Primary School,
  - Parking solutions
  - Building types
  - Block Densities and Building Heights
  - Function and design of open spaces and landscaping as may have been approved under Condition 9.
  - Boundary treatments
  - Lighting
  - Any Landmark Buildings, structures, vistas and key corners within the site.

All subsequent applications for approval of reserved matters shall demonstrate that its proposed development is in conformity with the approved design code.

#### REASON

In the interests of the visual amenities of the area and to contribute towards “place-making”.

#### **c) Reserved Matters Applications**

18. The reserved matters application for each phase or sub-phase of the development shall include a detailed foul water drainage scheme for the development included in that application.

#### REASON

In the interests of reducing the risks of flooding and pollution.

19. The reserved matters application for each phase or sub-phase of the development shall include a Construction Environmental Management Plan (CEMP) for the development included in that application. This shall include:
- a) The parking of vehicles for site operatives and visitors.
  - b) The routing for vehicles accessing the site associated with the construction of the development and signage to identify the route.
  - c) The manoeuvring of vehicles within the site.
  - d) Loading and unloading of plant and materials used in the construction of the development, including top-soil.

- e) The location of the site compounds.
- f) Storage of plant and materials.
- g) The erection and maintenance of security hoarding fencing.
- h) Wheel washing facilities.
- i) Measures to control the emission of dust and dirt during construction.
- j) Measures to control and mitigate disturbance from noise.
- k) A scheme for the recycling/disposal of waste resulting from the construction works.
- l) Any on-site lighting as required during construction.
- m) Measures to protect existing trees and hedgerows proposed for retention.
- n) Delivery, demolition and construction working hours.
- o) The means by which the terms of the CEMP will be monitored including details of the procedure for reporting and resolving complaints as well as the details of the person or persons to contact in such circumstances.

The approved CEMP shall be adhered to at all times throughout the construction period of each phase of the development as approved under Condition 8.

#### REASON

In the interests of reducing potential harm to residential amenity and in the interests of highway safety.

20. The reserved matters application for each phase or sub-phase of the development shall include a Validation and Verification Report providing details of the data that has been collected to demonstrate that any remediation Scheme as approved under Condition 15 has been fully completed and any longer-term monitoring arrangements have been put in place, to the written satisfaction of the Local Planning Authority.

#### REASON

In the interests of reducing the risk of pollution.

21. The reserved matters application for each phase or sub-phase of the development shall include details of the design of any public open space within the site covered by that application. The submission shall include details of the layout, surfaces, landscaping boundary treatments, furniture and play equipment together with a timetable for implementation. The design shall also demonstrate conformity with the Design Code and Landscape Strategy as approved under Conditions 19 and 11. The public open space shall only be laid out and made available in accordance with the scheme as approved in writing by the Local Planning Authority.

#### REASON

In the interests of the visual amenities of the area and to ensure the well-being of future occupants.

22. The reserved matters application for each phase or sub-phase of the development shall include details of finished site and ground floor levels in relation to the existing site levels and adjoining land and also of the proposed grading and mounding of land areas, with cross sections to show the relationship with adjoining landform, within the site covered by the application. The development shall only proceed in accordance with the details as are approved in writing by the Local Planning Authority.

REASON

In the interests of the visual amenities of the area.

23. The reserved matters application for each phase or sub-phase of the development shall include details for the storage of household refuse and waste within the curtilage of the dwellings approved under this permission, for the site covered by the application. The development shall only proceed in accordance with the details as are approved in writing by the Local Planning Authority.

REASON

In the interests of sustainable development.

24. The reserved matters application for each phase or sub-phase of the development shall include details for the provision of vehicle electric charging points within the curtilage of the dwellings hereby approved under this permission, together with any communal or public car parking areas, for the site covered by the application. The development shall only proceed in accordance with the details as are approved in writing by the Local Planning Authority.

REASON

In the interests of sustainable development.

25. The reserved matters application for the phase or sub-phase of the development that adjoins the existing karting track shall include a Noise Impact Assessment undertaken in accordance with BS 7445:2003. The Assessment shall inform the specifications required for the noise attenuation measures to be included within the design of all of the new dwellings that might be affected in that phase or sub-phase, the subject of the reserved matters application.

REASON

In order to avoid significant adverse noise impacts on health and the quality of life of future occupants.

26. Prior to commencement of development on each phase or sub-phase, a badger survey will be submitted to and approved in writing by the Local Planning Authority. The badger survey will identify the potential of any new setts, and where required, propose suitable mitigation for that particular phase, including a timetable for implementation. The development shall be carried out in accordance with the approved details.

REASON

In the interests of this protected species.



**General Development Applications**

**(5/g) Application No: PAP/2018/0755**

**Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,**

**Outline application - Demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) & (g) (i) and (ii), F.2 (a) & (b), drinking establishment and hot food takeaway uses, a primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for**

**Hallam Land Management Ltd**

**1. Introduction**

- 1.1 The receipt of this application was first reported to the Board in February 2019. It resolved that progress reports should be brought to the Board and that representatives of the Board should if appropriate, meet the applicant and also representatives from the Tamworth Borough Council. A progress report was tabled in October 2020. That full report is attached as Appendix A and it contains the initial 2019 report as an Appendix.
- 1.2 As a reminder to Members, whilst the great majority of the application site is within North Warwickshire, there is a portion of the site within the administrative area of Tamworth Borough Council. This is land to the south of the B5000 at Chiltern Road, and it is included in order to accommodate the proposed vehicular access into the site. An appropriate application was therefore also submitted to that Council. Additionally, as the whole of the extensive western boundary of the site directly adjoins the administrative boundary with Tamworth, that Council has been formally consulted on the substantive application submitted to this Council. The reference to Tamworth in paragraph 1.1 above is as a consequence of these factors.
- 1.3 A general location plan is attached at Appendix B.
- 1.4 The current proposed layout for the site is at Appendix C
- 1.5 In accordance with the Board resolution, a further meeting has recently been held with representatives of the Board and the applicant. A note of this is attached at Appendix D

5g/162

5j/259

## **2. Observations**

- 2.1 During the course of dealing with this application, a number of issues have arisen and the purpose of the recent meeting was to enable further discussion on these matters.
- 2.2 This report will not expand on the note of that meeting as it is clear that further work has been agreed as set out in the Note. One of the outcomes of the meeting was to arrange a site visit in advance of a determination report being presented to the Board, such that Members could better understand the characteristics of the site and thus be able to assess the issues raised in the note through that understanding.

## **3. Recommendations**

- a) That further meetings are arranged as appropriate with the applicant and representatives of the Board
- b) That at an appropriate time, a meeting be arranged with officers and Members of the Tamworth Borough Council and
- c) That a site visit be arranged for the Board Members.

5g/163

5j/260

## APPENDIX A

### General Development Applications

(#) Application No: PAP/2018/0755

Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,

Outline application - Demolition of all existing buildings and construction of up to 1540 dwellings (including a 100 bed unit extra care home) a community hub (up to 2,250m<sup>2</sup> of gross floorspace for use class A1-A5, B1a-B1b, D1 and D2) a two form entry primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play areas, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for

Hallam Land Management Ltd

#### Introduction

The receipt of this application was reported to the Board many months ago and notwithstanding the lapse of time, there has been considerable progress made in understanding the various impacts of the proposal from the perspective of a number of consultation bodies. They have all had to be considered by the applicant and by officers in order to provide Members with a comprehensive view.

The previous report - at Appendix A - referred to a number of procedural matters in its Introduction and because of the scale of the proposal and its potential impacts beyond the Borough, the Board agreed to the recommendation therein that progress reports should be brought back to the Board and that there be ongoing consultation with the Tamworth Borough Council.

The substantive delay since that initial report has been due to gathering together the various consultation responses in order to try and ensure that those from neighbouring Agencies and Authorities were in agreement and because of the delays in progressing the Examination into the emerging Local Plan. For instance, in respect of the former reason, it is important that associated infrastructure and highway impacts are co-ordinated between the respective Authorities. In respect of the second, Members will know that the majority of the application site is one that is allocated for residential development in that emerging Plan. Officers now consider that it is opportune to bring Members up to date and so to outline in general terms where progress has been made and where there are still differences to resolve.

The Observations section of the previous report highlighted a number of key matters and thus it is proposed to follow that outline for this current report.

#### Changes in Material Planning Considerations

Before doing so Members should be aware that there have been changes to some of the material planning considerations that affect this proposal.

5g/164

5j/261

The National Planning Policy Framework – (the "NPPF") - was updated in February 2019. The final determination report will therefore outline the weight that is to be given to this when the application is referred to the Board for a decision.

The Council's emerging Local Plan was submitted in March 2018 and the Examination in Public took place in the Autumn of 2018 and the Spring of 2019. The Inspector requested significant additional evidence and information as a consequence of his assessment of the overall soundness of the draft Plan. In the main this focussed on the clarity needed to deliver major transport infrastructure enhancements to the A5 in order to provide the extra capacity needed to accommodate the growth being proposed in the draft Plan. That additional evidence and information has now been submitted and is the subject of further public consultation. It is anticipated that a further round of Hearings will take place in October with Main Modifications published soon afterwards. If this is the case, then the policies in that Plan as it may be modified, will carry greater weight than at the time of Submission of the draft Plan.

There has been no further change in the status of the adopted Tamworth Local Plan.

The phased residential development on the former Tamworth golf course immediately to the west of the application continues.

Phase 2B of the HS2 railway line remains as a material planning consideration.

#### **Observations**

##### **a) The Allocation – H 13**

The land to the west of Robeys Lane remains as a proposed housing allocation in the emerging Local Plan as identified as site H13 for 1270 dwellings. This proposal was debated at the recent Examination Hearings and proposed Main Modifications to the Plan are anticipated at the end of the year. At the present time the allocation remains as a material planning consideration.

##### **b) The Meaningful Gap**

The Meaningful Gap already carries full weight as it is identified in the Core Strategy of 2014 – Policy NW19. The Emerging Plan sought to define the Gap geographically and this was the subject of discussion at the Examination Hearings. The outcome of those Hearings in respect of the extent of the Gap is still awaited. At present the land within the application site on the east side of Robeys Lane is within the Gap as identified in the emerging Plan.

##### **c) Highway Impacts**

There are three highway authorities involved in this application – the Warwickshire and Staffordshire County Councils and Highways England. The three Authorities have worked together in order to understand the impacts arising from the levels of traffic to be generated by the development. As a consequence, they have agreed the modelling to be used as well as the particular existing traffic junctions that would be put under pressure. Their consultation responses are thus consistent and neither objects to the application subject to conditions and a number of off-site mitigation measures. There is no objection from the two County Authorities to the two proposed access points into the

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site from the B5000 or to the illustrative layout put forward in the Master Plan. Staffordshire has agreed that junction enhancements at the two roundabouts to the west of the site on the B5000 in Tamworth are needed in order to provide easier access into the routes leading south on to the A5. Warwickshire has requested contributions towards traffic signalisation at the B5000/Market Street/Bridge Street junction in Polesworth as well as requesting better cycle and pedestrian links to the Polesworth Schools and to the Birch Coppice Estate. Additional bus stops on the B5000 and enabling bus route extensions through the new development site are also fully supported by both County Highway Authorities.

Highways England has not objected and neither has it requested any off-site enhancements

Notwithstanding this agreement between the three highway authorities, Officers have taken up three matters with the Warwickshire County Council. These are:

- The first is a series of issues to do with the northern end of Robey's Lane and its continuation over the canal and rail bridges through Alvecote. Both Warwickshire and Staffordshire County Councils agree that additional traffic arising from the development is most unlikely to use this route as the greater "desire" route is into Tamworth and /or to the A5 and the M42 – in other words to the south. They therefore both consider that the existing traffic lights here at the bridges will be adequate to control increased flows and that through monitoring, the timing of those lights may have to be extended in order to act as a deterrent. Clearly the opportunity for physical road improvements here is virtually non-existent and thus the traffic light control is the only measure that is being suggested to mitigate additional traffic – in other words it can be used to deliberately add in significant delay. Officers are currently discussing this in more detail with the County Council. The reason for this is to establish whether the modelling undertaken has under-estimated the amount of traffic that will want to travel north from the application site to the A453, to Junction 11 of the M42 and thus to the M1. Additionally, the new employment site at Junction 11 should be factored into that modelling.
- Secondly, there is concern about the three canal bridges in Polesworth – at the Tamworth Road, Grendon Road and Market Street. These are narrow and have noticeable vertical alignments. They presently act as "pinch-points". However, there is very little if any room for their widening or re-alignment. Moreover, they are all non-designated local heritage assets. Officers are in discussion with the County Council as to how to deal with these features.
- Finally, officers are looking to the County Council to give greater clarity to its request for footpath and cycleway improvements in order to provide sustainable and safer routes to local schools as well as to similar links to the residential development now underway on the site of the former Tamworth golf course.

Officers will provide more information on these three matters when the case is reported for determination.

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**d) Schools and Health Facilities**

The Warwickshire and Staffordshire County Councils acting as the Local Education Authorities have agreed a Statement of Common Ground in respect of assessing the education requirements arising from this substantial residential development. In short, they agree that the provision of a two-form entry primary school with early years provision, in the first phase of the development at the southern end of the application site and delivered by the developer would be supported, in lieu of primary school contributions. Members will be aware that a primary school was also included in first phases of the former Tamworth golf course site which is located closer to the northern portion of the current application site. In respect of Secondary and post-16 provision, the contributions would be directed primarily to the Warwickshire County Council for improvements at Polesworth School with sufficient monitoring written into any Agreement such that contributions could be redirected to Staffordshire secondary schools.

Officers will be meeting County Council representatives in order to ensure that the early provision of the Primary School in the first phase, if the application is approved, is fully resourced.

Similarly, the Warwickshire North and the South Staffs CCG's have agreed a level of contribution which they will then be used to enhance and improve existing facilities. The George Eliot NHS Trust has also requested a contribution. No other NHS Trust has done so. It is understood that the lack of response from other Trusts follows a similar pattern for residential planning applications in Tamworth.

**e) Recreation/ Open Space**

Members will have seen from the illustrative Master Plan – Appendix B - that there is a substantial amount of recreational, play areas, amenity areas, woodlands and allotments all included in the overall proposal. Indeed, this amounts to just over 50% of the total application site. This now includes additional land that has been added since the original submission in order to accord with the Council's adopted guidelines and requirements. All parties agreed that this provision should be made on-site rather than there being contributions to enhance existing provision. Sport England does not object given the compliance with the Council's overall published strategy.

There will however need to be a contribution to indoor sports provision. In this regard a figure has been agreed in line with the Council's adopted Guidelines. However, the Tamworth Borough Council has also requested a contribution as it considers that some of the "indoor" provision may be better used in the town. Officers are presently reviewing the position, both to seek a solution and in order to ensure that there is no double-counting in the respective contribution requests.

**f) Affordable Housing**

Similarly, in respect of affordable housing provision, there has been a request from the Tamworth Borough Council that any new housing approved here should in the main, accommodate affordable housing needs arising from Tamworth's local requirements. Further discussion between relevant officers continues. However, the overall provision of affordable housing for the whole site is yet to be determined. Relevant Development

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Plan policy will require 40% provision, but the applicant has indicated at submission that this could not be achieved. He submitted a Viability Appraisal with the application but this was in the knowledge that this would need revision, as he did not know the final level of contributions that would be sought either in a Section 106 Planning Agreement, or the costs involved with off-site highway improvements under Agreements made under the Highways Act. That initial Appraisal is being reviewed and once updated and submitted, it will be referred to the District Valuer ("DV") for scrutiny. Members will be aware that because of the scale of this proposal and the length of its "build-out" period, the DV will be requested to review the applicant's appraisal with monitoring reviews in place to assess values at appropriate phases in the course of completing the development.

The issue of affordable provision also needs to be seen in the context of the recent Government proposals for "First Homes" which has been out for consultation in the last few months. This widens the range of such provision. As yet, as explained above, the applicant has not put forward an affordable housing "package" and once known, this will be subject to further discussion with relevant officers both here and in Tamworth.

#### **g) Alvecote Wood**

There has been a significant amount of concern expressed about the impact of the proposals on the Ancient Woodlands of Alvecote and Betty's Wood just beyond the eastern edge of the application site. The Wood fronts Robeys Lane. The overriding concern here is about the potential impact on the bio-diversity value of these designated assets from trespass – either human or by dogs and cats. Officers have been involved with the owner of the Woods, the applicant and the Warwickshire Wildlife Trust in order to establish what can be done in the event of a grant of planning permission. Because of the scale of the overall proposal there would be "space" within the application site to provide a substantial landscaped buffer zone on the west side of Robey's Lane. This buffer of around 90 metres (including Robeys Lane) is shown on the Master Plan at Appendix B and would be in excess of national guidance. This particular area could be the subject of a planting and management plan agreed with the respective Wildlife Agencies in order to ensure that there is no trans-boundary ecological impact and that appropriate natural barriers are included so as to restrict trespass.

#### **h) Wider Context**

Given the two substantial housing allocations in the Emerging Local Plan in this part of the Borough - H13 as here for 1270 dwellings and H7 on the east side of Polesworth and Dordon for 2000 dwellings – Members are reminded of the Infrastructure Delivery Plan that runs alongside the Emerging Plan. This has been prepared in partnership with a wide number of Agencies in order to establish the starting point for considering levels of new infrastructure necessary to deliver all of the proposals in the Local Plan. It was submitted to the Secretary of State with the Emerging Local Plan. In this way, there is a co-ordinated approach to overall infrastructure delivery. As such the various matters raised above are all in-line with that Delivery Plan and they do not prejudice the level or scope of provision for the remaining allocated site H7.

#### **Recommendation**

That the report be noted and a that further report be referred to the Board to outline progress on the matters raised prior to determination.

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## APPENDIX A

### General Development Applications

(#) Application No: PAP/2018/0755

Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,

Outline application - Demolition of all existing buildings and construction of up to 1540 dwellings (including a 100 bed unit extra care home) a community hub (up to 2,250m<sup>2</sup> of gross floorspace for use class A1-A5, B1a-B1b, D1 and D2) a two form entry primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play areas, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for

Hallam Land Management Ltd

#### Introduction

Members have been familiar with this proposal for a little while now given the residential allocation of the majority of the site in the Submitted Local Plan; the presentations given to Members, the community consultation events and the submission of an earlier application for 500 dwellings on one part of the current site.

This report therefore formally records receipt of the application and provides a description of the site and surroundings as well as a summary of the proposals. It will also outline the relevant parts of the Development Plan together with other material planning considerations.

Before doing so, there are a number of procedural matters that need to be set out.

Firstly, part of the site is within the administrative area of Tamworth Borough Council in order to accommodate the proposed vehicular access into the site – the land south of the B5000 at Chiltern Road. An appropriate planning application has been submitted to that Authority. Additionally that Council has been formally consulted on the substantive application submitted to this Council. There will therefore have to be coordination between the two Authorities in respect of procedures and timetabling. Members will be kept informed as matters progress.

Secondly, this application has been submitted during the Examination in Public for the Council's Submitted Local Plan for North Warwickshire. That Examination is continuing and is anticipated to be finished prior to the determination of this application. Members are aware that the weight to be given to this emerging Plan will be strengthened as it continues its course. The Inspector's findings may therefore become a material planning consideration in the determination of the application.

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Thirdly, this application is accompanied by an Environmental Statement. This is available to view on the Council's website. It contains the applicant's supporting documentation as well as identifying impacts – adverse as well as beneficial – such that mitigation measures can be recommended where appropriate. This is a substantial document and Members are invited to study this in order to better understand the applicant's case.

Fourthly, the scale of the proposal and its location means that both the Warwickshire County Council and the Staffordshire County Council will have significant interests in the proposal. This will extend from them acting as Highway Authorities, as well as to their role as Education and Public Health Authorities. It is anticipated that there will be co-ordinated and agreed positions in respect of their assessments of the proposal and their potential requests for the delivery of appropriate infrastructure.

Fifthly, this leads to the position, that should the proposal be supported, to a significant role for the content of a Section 106 Agreement in order to deliver appropriate co-ordinated infrastructure.

Sixthly, officers will be asking the applicant whether the current outstanding application for 500 dwellings is now to be withdrawn.

Finally, because of the matters raised above, it is likely that progress reports may need to be brought to the Board in advance of a full determination report.

#### **The Site**

This is 96 hectares of mainly arable land sited north of the B5000 Tamworth Road, east of the former Tamworth Golf Course and west of the M42 Motorway. It extends north to the Alvecote Marina. Robey's Lane divides the site into two main parcels. Roughly one third is to the east and this comprises agricultural land within three fields, the largest of which abuts the B5000. The remaining two-thirds is to the west where the site is predominantly agricultural land, but it also includes the Daytona Go-Kart track as well as the house and range of buildings at Woodhouse Farm. The house known as Priory Farm to the immediate east of the go kart track is excluded from the site. The site does include land south of the B5000 around the junction of Chiltern Road with the B5000.

The site is gently undulating with the highest points being at its southern end – e.g. the go kart track with a level of 110m AOD. It then has a slight drop in the centre of the site before rising again to 100m AOD in its north western corner.

The site as a whole is open in character with the large fields, little hedgerow cover and a small number of trees. There are however stronger hedgerows bounding Robey's Lane along its southern section and along the B5000 northern frontage. There are tree belts along the B5000, around Priory Farm, along a water course bounding the western edge of the site and towards the northern edge of the site approaching the Alvecote Marina.

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To the west of the site was the site of the former Tamworth golf course but this is now being residentially developed in a series of phases amounting to 1100 houses. A primary school and a community centre are also to be provided. The more established residential areas of Tamworth are then to the immediate west. To the south of the B5000 is the residential area of Stonydelph in Tamworth which extends up to Chiltern Road. Beyond are the North Warwickshire Recreation Ground and a small collection of houses between the B5000 and the line of the former Tamworth Road, before the B5000 passes over the M42.

To the east of the site is open agricultural land up to the M42 and beyond, this extends up to the western edge of Polesworth. To the immediate east of Robey's Lane towards the northern half of the site is Alvecote Wood which a designated Ancient Woodland.

To the north are the Alvecote Marina; the west coast main railway line, the Coventry Canal, the Alvecote Pools SSSI, Alvecote Priory and the village of Alvecote.

The nearest local centre to the site is Stonydelph – 1.1km – which contains a range of facilities including a retail convenience store, a doctor's surgery, a fish and chip as well as a community hall. There are two existing primary schools here – Stonydelph and Three Peaks (1.4 and 1.6km distant). The closest Secondary Schools are at the Landau Forte Academy in Amington and at Polesworth School – both around 2.2 kilometres distant. There is also a surgery a Dordon and both Polesworth and Dordon have a range of local services and facilities.

In respect of public transport provision, Arriva's 65 bus service operates hourly along the B5000 linking Tamworth and Nuneaton. There is a bus stop at the Recreation Ground referred to above. Tamworth has a train station with national and regional connections.

For convenience, the application site is illustrated at Appendix A.

#### **The Proposals**

In overall terms the application seeks outline planning permission for up to 1450 dwellings plus a range of associated facilities and green/open space infrastructure. All matters except for access arrangements are to be reserved for further consideration.

The applicant refers to two phases – phase one being that part of the site to the east of Robey's Lane and the second being the larger part of the site to the west. An illustrative Masterplan provides the framework for the two phases. The majority of the development – some 1300 of the units – would be to the west of Robey's Lane in Phase Two. This would include the extra care home and the community hub. That possible uses within the hub could include a mix of uses – retail, financial services, café/restaurants, takeaways, a nursery and places of worship. To the east of Robey's Lane and in the first phase would be the balance of the houses, 150, the primary school and its playing field and a number of other open space uses – playing fields, allotments, children's play areas and structural landscaping.

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In terms of the housing provision then a mix of housing is proposed: 2% being one bedroomed, 20% with two bedrooms, 42% with three, 24% with four and 6% being five bedroom properties. The balance is taken up with the extra care facility. An overall 20% affordable provision is being proposed – excluding the care home number. The applicant has submitted a Viability report to justify this level of provision.

There are two vehicular accesses proposed into the site – both off the B5000. The principal access takes the form of a new four-arm roundabout junction providing access to and from the B5000 and linking with Chiltern Road. The second access onto the B5000 is through a signalised 'T' junction where Robey's Lane meets the B5000. It would continue a short distance north and then divert to the north of Priory Farm such that it serves the southern half of the Phase Two development. It would connect with the access from the new roundabout running through Phase One to meet about half way along Robey's Lane. The existing section of Robey's Lane between the two link points would become a pedestrian/cycle way. North of this the existing Robey's Lane would remain in order to provide access to Alvecote and the north. There would be opportunities for pedestrian and cycle connections towards the west into the residential developments under construction on the former golf course site.

The illustrative Masterplan is included at Appendix B.

In preparing the application, the applicant has undertaken a range of community consultations. There have been three joint presentations to Members of both Councils. The two central issues raised were traffic impacts and infrastructure provision. Additionally the applicants have undertaken two public consultations- one in Polesworth and the second in Tamworth. The main issues raised were the matter of principle; traffic impacts, infrastructure provision, the impact on the Meaningful Gap between Tamworth, Polesworth and Dordon, the mix of housing, schools and recreational facilities.

As indicated above the applicant has submitted an Environmental Statement. It is not proposed to itemise all of the chapters in that document. However he has prepared a Planning Statement in which there are summaries of these chapters. The relevant part of that Statement is attached at Appendix C. It also provides a useful summary of the applicant's case – note that the Appendices to the Statement are not attached. Members are advised to review the main Environmental Statement in order to better understand the applicant's full case.

#### **Background**

There are outstanding outline planning applications for up to 500 dwellings with associated infrastructure lodged with the Council and the Tamworth Borough Council, on the Phase One land. Access is proposed from the B5000 incorporating the same roundabout access as described above.

Planning permission for the residential redevelopment of the former Tamworth golf course by up to 1100 houses was granted in 2016 by the Tamworth Borough Council. Reserved matters are now are now being dealt with such that over 725 of these have now been approved in detail and work is well underway on the initial phases. The Section 106 Agreement accompanying the outline for this development requires the

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early provision of a primary school and the arrangements for the delivery of the community centre through Tamworth Borough Council.

The Go-Kart track referred to above is a lawful use.

Buildings at Woodhouse Farm benefit from planning permissions for commercial uses. The small triangle of land between the southern end of the site and the B5000 beyond the existing karting track has the benefit of a planning permission for new commercial buildings.

#### **The Development Plan**

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW11 (Renewable Energy), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon), NW21 (Transport) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 – HSG3 (Housing Outside of Development Boundaries), HSG 4 (Densities), ENV4 (Trees and Hedgerows), ENV9 (Air Quality), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation) and ENV16 (Listed Buildings)

#### **Other Material Planning Considerations**

The National Planning Policy Framework 2018 – (the "NPPF")

The Submitted Local Plan for North Warwickshire 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP5 (Meaningful Gap), LP6 (Amount of Development), LP7 (Housing Development), LP8 (Windfall Allowance), LP9 (Affordable Housing Provision), LP14 (Natural Environment), LP25 (Historic Environment), LP16 (Nature Conservation), LP17 (Green Infrastructure), LP24 (Recreational Provision), LP25 (Transport), LP28 (Strategic Road Improvements), LP29 (Walking and Cycling), LP31 (Development Considerations), LP32 (Built Form), LP35 (Water Management), LP36 (Parking), LP37 (Renewable Energy), LP38 (Information and Communication Technologies) and LP39 (Housing Allocations)

The Affordable Housing SPD 2008

Affordable Housing Addendum 2010

Strategic Housing Land Availability 2016

Coventry and Warwickshire Joint Green Belt Study 2016

North Warwickshire Level 1 Strategic Flood Risk Assessment (2008 and 2013 update)

Landscape Character Assessment 2010

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North Warwickshire Archaeological Assessment 2010

North Warwickshire Playing Pitch Strategy 2017

North Warwickshire Open Space, Sport and Recreation SPD 2017

Assessment of the Meaningful Gap 2018

North Warwickshire Greenspace Strategy 2017

**Observations**

Clearly a proposal of this scale raises a whole raft of issues both detailed and otherwise. In order to assist Members, the following broad headings will need to be explored during the course of dealing with the application and ultimately in its determination.

The principle of supporting the proposal or not is the crucial issue. On the one side of the balance is the fact that the site is not recognised by the settlement hierarchy in the adopted Core Strategy. On the other hand the greater part of the site is however identified as a housing site in the Submitted Local Plan – Site H13. That Plan is currently at Examination in Public and the weight to be given to it will increase as it progresses through that Examination. However the final balance will also be influenced by other factors. Firstly, Members will know that through the Daw Mill appeal, the development boundaries of the Core Strategy were found to be “out-of-date” and thus the terms of the NPPF come into the balance whereby sustainable development should be approved unless there is significant demonstrable harm. Secondly the matters of the Council’s housing land supply will need to be considered.

The second broad area to consider will be the impact of the development on the Meaningful Gap. This is introduced in the Core Strategy at Policy NW19, which explains its planning purpose. Its geographic definition however is identified in the Submitted Local Plan and is the subject of a number of representations, to be discussed in the continuing Examination. Part of the application site – the whole of phase One - is in this identified area.

The principle of the main access location into the development is also an issue. This is because the primary access proposed – the roundabout at Chiltern Road – leads to development within the Meaningful Gap – 150 houses and the primary school. The issue here is whether this arrangement is the only means of access available to facilitate and implement the whole development, or whether alternatives can be found to do the same, without requiring development within the Meaningful Gap.

Highway impacts over the whole of the local and wider highway network will be a major issue. That network will include access into the centres of Tamworth as well as through Polesworth and Dordon. There are also concerns about routes through Stonydelph to the A5 and Junction 10 of the M42; those through Amington in Tamworth and also through the closest North Warwickshire villages of Alvecote and Shuttington.

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The affordable housing provision is below the Core Strategy requirement of 40% and the equivalent in the Submitted Plan – also 40%. Clearly this will need to be examined to see if the viability report is sufficiently robust to evidence the lower provision.

Additionally the implementation and management of the care home will need to be resolved.

The scale of the proposal will require an understanding of the impacts on existing services – particularly Schools and health facilities but also on the emergency services and established recreation facilities. The advice and guidance of the appropriate infrastructure Agencies will thus need to be coordinated and understood.

Other impacts will need to be evaluated such as whether there would be harm to heritage and ecological interests. The latter will be a significant issue given the presence of Alvecote Wood which adjoins the site and the Alvecote Pools SSSI.

There is a substantial amount of open space and green infrastructure included in the proposals. The Board will need to understand and to have confidence that, should the development be supported, this would be enabled not only in full, but that it is maintained in perpetuity as the development matures.

Consideration of all of these issues has led the applicant to submit his Illustrative Master Plan for the development. Members too will need to understand how this has been arrived at and whether it does adequately mitigate adverse impacts and lead to sustainable development.

**Recommendation**

That the receipt of the application be noted and that officers, in collaboration with colleagues in the Tamworth Borough Council be requested to provide progress reports and that if appropriate, the applicant be invited to meet representatives of the Board and Tamworth Members as the application proceeds

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**BACKGROUND PAPERS**

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2018/0755

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	21/12/18

*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

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APPENDIX C

Planning Statement  
Hillam Land Management Ltd  
Land to the East of Tamworth Golf Course

**FREETHS**

5. PLANNING HISTORY AND COMMUNITY CONSULTATION

Planning History

- 5.1. In May 2017 the Applicant submitted a planning application (PAP/2017/0257) to NWBC for 500 dwellings with associated green infrastructure, sustainable drainage and vehicular access. This comprised land to the east of Robey's Lane only (Phase 1). A duplicate application was also submitted to TBC for the reasons set out in Section 3. Both applications remain undetermined.
- 5.2. Prior to the submission of PAP/2017/0257, a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 was sought in April 2016 and provided by the LPA in May 2016 confirming that an EIA was required for the Phase 1 application.
- 5.3. Scoping Opinions for the ES this application were sought and provided in September 2017 and March 2018 under the 2017 Regulations.
- 5.4. Although not related to the site itself, it is relevant to reference the permission at the Former Tamworth Golf Course. This was granted outline permission (ref :0088/2015) in January 2016 by the neighbouring planning authority, Tamworth Borough Council, for the demolition of clubhouse and construction of up to 1,100 dwellings, primary school, local community centre, parking, green infrastructure comprising community woodland, extension to local nature reserve, formal and informal open spaces, footpaths, cycleways, water areas (including a sustainable urban drainage system), landscaping and vehicular access.
- 5.5. Subsequent reserved matters approval has been granted, initially for 218 dwellings (reference: 0136/2016), a further 254 dwellings (reference: 0400/2016) and in June 2018 for 252 dwellings (0129/2018), meaning a total of 724 dwellings have been approved in detail at the time of writing.
- 5.6. The Section 106 Agreement that was completed with the outline planning permission on the golf course site details the delivery of key infrastructure associated with the permission. Of particular note is the requirement for the provision of the primary school which is due to be provided within 24 months of commencement or before the commencement of the 250<sup>th</sup> dwelling. The local centre delivery is set out in Schedule 9 of the Agreement and confirms that once remediation has been undertaken and within a period of 5 years of the commencement date, the owner

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will transfer the land to Tamworth Borough Council. The Borough Council is then obligated to provide the local centre within a period of 5 years.

**Community Consultation**

- 5.7. In preparing this planning application the Applicant has engaged with a range of stakeholders in formulating the proposals and has undertaken a series of meetings and consultation events.

Presentation to Local Ward Members

- 5.8. Presentations to the elected local ward councillors of both NWBC and TBC were undertaken on 5 and 26 March 2018, with a further 'update' presentation on 8 October 2018. The presentations explained the key elements of the scheme, the policy background and strategy for infrastructure. There was then an opportunity for members to have question and answer sessions with the Development Team. The presentations were well attended with member representatives from both Councils together with lead officers from both LPA's.
- 5.9. The key issues raised at both presentations and from members of both Councils were traffic, both in terms of scope of assessment and impact, and infrastructure provision.
- 5.10. The Development Team explained that the scope of the Transport Assessment had been derived from discussions with the two local highway authorities, Warwickshire County Council and Staffordshire County Council, together with Highways England.
- 5.11. Strong concern was expressed by Tamworth members in particular that the scope of the junctions to be assessed did not extend sufficiently west and that key junctions were not being assessed. Post the presentation and through officers, the Applicant was supplied with alternative junctions that Tamworth members considered should form part of the assessment. The submitted TA appraises each of these additional junctions but found that the impact would be so limited that they did not warrant further modelling assessment.
- 5.12. In respect of traffic impact the TA has identified that improvement works will be required at both the Pennine Way/Sandy and Glascoate Rd/Mercian Way junctions. This mitigation will ensure that the development has an acceptable traffic impact.
- 5.13. The delivery of infrastructure, specifically relating to education and health is recognised to be a key issue for a development of the size proposed. A clear strategy

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In respect of primary school provision has been established with delivery of a new school on site. The scheme will also make a financial contribution towards secondary school places derived from the development. Whilst members wanted more information on the specific schools that would potentially accommodate new pupils, the local education authorities are undertaking work on how to accommodate children from all emerging NWLP development and so are currently unable to be specific on this. This issue will therefore be resolved during the course of the application and any Section 106 Agreement will need to be clear on where any contribution will be spent.

- 5.14. It was explained to members that two forms of 'Health' contributions have been requested from the Primary Trust and the George Eliot Trust. Similarly to the education contribution, at present the health authorities have not determined the exact location of where the Primary Trust contribution would be allocated. This will again be determined during the course of the application.

Public Consultation Events

Tamworth Bowls Club – 20 March 2018 4-8pm  
Tithe Barn, Polesworth – 21 March 2018 4-8pm

- 5.15. Public consultation events were arranged to exhibit the development proposals, explain the content and rationale of the scheme and to take questions from members of the public.

- 5.16. The above events were advertised through the following methods:

- Approx 2220 leaflets hand delivered to local residents' addresses. The industrial estate to the east of Sandy Way were not individually leafleted due to the potential difficulty of delivering to such addresses, though notices were erected.
- Advertisement in Tamworth Herald and Nuneaton News & on Tamworth Herald online
- Posters displayed at the following venues: Polesworth Memorial Hall, Polesworth Co-op, Polesworth Sports and Social Club, Polesworth Library, Polesworth Baptist Church, G&J Chesters Newsagents, Dordon Village Hall and Polesworth Parish Council
- An email was sent to all North Warwickshire and Tamworth Ward Councillors

- An email was sent to the parish councils of Polesworth, Dordon and Shutlington and Alvecot.

5.17. A plan showing the area of local residents consulted, together with a copy of the newspaper advertisement, the poster and the email/letter sent to ward councillors and the parish council is contained within **Appendix A**.

Summary of Comments

5.18. A total of 130 people attended the two events, with 71 attending the exhibition in Tamworth and 59 the event in Polesworth. A total of 17 feedback sheets were either deposited at the event or provided through the comments facility hosted on the website of FPCR Environment and Design Ltd. These are provided at **Appendix B**.

The main comments received were as follows:

- **Principle of Housing** - From the feedback sheets only 5 out of 17 respondents supported the principle of housing. Many of the visitors to the event explained that it wasn't the housing per se which was objectionable but the absence of infrastructure to sustain it.
- **Traffic** - the largest concern regarding the scheme is traffic. Residents are concerned that the large scale of the scheme will inevitably exacerbate existing problems with the B5000 and Pennine Way in particular, with other impacts on the A5 and the M42 junction. Several suggestions of having direct access onto M42.
- **Infrastructure** - the provision of schools, doctors, shops, dentists, leisure facilities were all identified by residents as being critical to any housing scheme. There remains significant concern that the existing facilities are unable to cope with the additional housing planned on this site and other sites.
- **Meaningful Gap** - as with the 'Phase 1' application there was concern expressed regarding building in the proposed Meaningful Gap. Some residents acknowledged the improvement in setting the built development further west, but they commented that this does not overcome the principle of eroding the space between Tamworth and Polesworth.
- **Mix of Housing** - residents expressed a desire for affordable housing and housing suitable for first time buyers and the elderly. Bungalows are

desirable and generally people felt 2/3 bedroom properties were most required.

- **Primary school** – most respondents to the feedback forms and verbal feedback supported the provision of a primary school on the site.
- **Open Space/Sports Facilities** - Some support, though others felt that the provision was insufficient or that it should be provided elsewhere such as Polesworth.

5.19. The principal objections were traffic impact and infrastructure. The suggestion of a direct junction off the M42 is not supported by Highways England and is not a realistic alternative. The 'response' to the issues concerning traffic and infrastructure are set out in the Planning Appraisal section of this statement, where all of the other issues raised are also addressed.

**6. PLANNING POLICY**

6.1. The Development Plan comprises the North Warwickshire Core Strategy (2014) and the Local Plan (2006). The new Development Plan was initially being created on a two tier system with the Site Allocations and Development Management Policies forming part of the Plan. However, NWBC announced that the new Local Plan will be merged into a single document to take account of greater development requirements. The new Local Plan was submitted to the Secretary of State for examination in March 2018. However, at present the Development Plan for the determination of planning applications will remain to be the Core Strategy and 2006 Local Plan.

6.2. This section identifies the key local and national planning policy and also the emerging policy from the Draft Local Plan. Appendix 4.1 of the ES contains a summary of all of the relevant policies within the North Warwickshire Core Strategy (2014), the North Warwickshire Local Plan (2006), and the Submission Draft North Warwickshire Local Plan (2017). Section 8 of this Statement appraises how the proposed development performs against the relevant local and national planning policy and other material considerations. Below are listed the main policies, both local and national, which are relevant to the proposed development.

Core Strategy (2014)

6.3. The relevant policies of the Core Strategy are as follows:

- Policy NW1 – Sustainable Development
- Policy NW2 – Settlement Hierarchy
- Policy NW4 – Housing Development
- Policy NW5 – Split of Housing Numbers Policy
- Policy NW6 – Affordable Housing
- Policy NW10 – Development Considerations
- Policy NW11 – Renewable Energy Efficiency
- Policy NW12 – Quality of Development
- Policy NW13 – Natural Environment
- Policy NW14 – Historic Environment
- Policy NW15 – Nature Conservation
- Policy NW16 – Green Infrastructure
- Policy NW19 – Polesworth and Dordon
- Policy NW21 – Transport
- Policy NW22 – Infrastructure

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Local Plan (2006)

6.4. Appendix B of the adopted Core Strategy explains that many of the policies of the Local Plan are replaced by the Core Strategy. However, a number of Saved Local Plan policies survive. The relevant policies are as follows:

- Policy HS3G – Housing Outside of Development Boundaries
- Policy HSG4 – Densities
- Policy ENV4 – Trees and Hedgerows
- Policy ENV9 – Air Quality
- Policy ENV12 – Urban Design
- Policy ENV13 – Building Design
- Policy ENV14 – Access Design
- Policy ENV15 – Heritage Conservation, Enhancement and Interpretation
- Policy ENV16 – Listed Buildings, Non Listed Buildings of Local Historic Value and Sites of Archaeological Importance

National Planning Policy Framework (NPPF - 2018)

6.5. A key material consideration in the determination of the application is the NPPF. The NPPF was revised in 2018 and it is against this latest version that the application is appraised. The main relevant policies, by reference to their paragraph numbers are listed below:

- Paragraph 8 – Achieving Sustainable Development
- Paragraph 11 – Presumption in Favour of Sustainable Development
- Paragraph 59, 64, & 73 – Delivering a Sufficient Supply of Homes
- Paragraphs 91-92, & 94-95 – Promoting Healthy and Safe Communities
- Paragraphs 102-103 & 108-111 – Promoting Sustainable Transport
- Paragraphs 117-118 & 122-123 – Making Effective Use of Land
- Paragraphs 124, 127 & 128 – Achieving Well-Designed Places
- Paragraphs 148, 150, 155, 163 and 165 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.
- Paragraphs 170, 175, 178, 180 and 181 – Conserving and Enhancing the Natural Environment
- Paragraphs 189-190, 192 and 196 – Conserving and Enhancing the Historic Environment

Emerging North Warwickshire Local Plan (2017)

- 6.6. The NWLP will replace the Core Strategy, incorporating some amendments and will include site allocations and development management policies to provide a new Local Plan for the period up to 2033. The NWLP was submitted for examination in March 2018 and at the time of writing the initial strategic hearing sessions are envisaged for July 2018, although this is not confirmed and may be subject to change.
- 6.7. Paragraph 46 of the NPPF sets out the weight that should be given to relevant policies in emerging plans. The relevant policies are as follows:
- Policy LP1 – Sustainable Development
  - Policy LP2 – Settlement Hierarchy
  - Policy LP5 – Meaningful Gap
  - Policy LP6 – Amount of Development
  - Policy LP7 – Housing Development
  - Policy LP8 – Windfall Allowance
  - Policy LP9 – Affordable Housing Provision
  - Policy LP14 – Natural Environment
  - Policy LP15 – Historic Environment
  - Policy LP16 – Nature Conservation
  - Policy LP17 – Green Infrastructure
  - Policy LP24 – Recreational Provision
  - Policy LP25 – Transport Assessment
  - Policy LP26 – Strategic Road Improvements
  - Policy LP29 – Walking and Cycling
  - Policy LP31 – Development Considerations
  - Policy LP32 – Built Form
  - Policy LP35 – Water Management
  - Policy LP36 – Parking
  - Policy LP37 – Renewable Energy and Energy Efficiency
  - Policy LP38 – Information and Communication Technologies
  - Policy LP39 – Housing Allocations
- 6.8. In some instances policies are largely carried forward from those included within the adopted core strategy. However, altered policies in relation to housing requirement,



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distribution, strategic policies (such as the MG) and allocations have been not been subject to examination and therefore at the time of writing should be afforded limited weight.

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**7. FIVE YEAR HOUSING SUPPLY**

Introduction

- 7.1. The latest five year housing land supply report ("FYHLSR") is for the period up to 31 March 2018 and concludes that NWBC had a housing supply of 4.8 years.
- 7.2. Prior to the publication of the above figure in June 2018, an Inspector for a recent appeal (3189554) for 70 dwellings at a site in Anstley the decision of which is attached as Appendix C did not deem it necessary to come to a conclusion on housing land supply<sup>1</sup>. The principal reason for this is the Secretary of State decision in March 2018 at land at Daw Mill Colliery, Daw Mill Lane, Arley (Appeal ref: 3149827). In this decision the SoS determined that Policy NW2 of the Core Strategy which relates to settlement hierarchy is out of date, in agreement with the conclusions of the Appeal Inspector<sup>2</sup>. On this basis the Anstley Inspector came to the conclusion that as NW2 is out of date, the tilted balance of Paragraph 11 of the NPPF is in any event engaged. This position equally applies to this application.
- 7.3. Notwithstanding the above position, the LPA has now confirmed they are unable to demonstrate a five year housing supply.

<sup>1</sup> Paragraph 14  
<sup>2</sup> Paragraph 27/RR376

**8. PLANNING APPRAISAL**

- 8.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for establishing whether the principle of development is acceptable is therefore the adopted Core Strategy and the Saved Policies of the Local Plan.

**The Principle**

- 8.2. Policy NW2 of the Core Strategy sets out the settlement hierarchy and the site falls within category 5, 'outside of the above settlements' (referring to the named settlements of the policy). The site therefore sits in open countryside and only permits development either necessary for agriculture, forestry or other uses that require a rural location or small scale affordable housing. The application scheme meets none of these requirements and so there is a conflict with Policy NW2 of the Core Strategy. Equally Saved Policy HSG3 of the Local Plan deals with housing outside settlement boundaries and has similar restrictions to Policy NW2 on types of permitted development. The proposal is therefore contrary to Policy HSG3.
- 8.3. Paragraph 11 of the NPPF, specifically footnote 7, confirms that relevant policies for the supply of housing should not be considered up-to-date if the LPA is unable to demonstrate a five year housing supply.
- 8.4. As demonstrated in section 7 the LPA is unable to provide a five year housing supply and furthermore Policy NW2 has been deemed out of date by the Secretary of State. The LPA's housing supply policies should not be considered up-to-date and accordingly the presumption in favour of sustainable development and the 'tilted balance' is engaged.
- 8.5. The most pertinent Development Plan policies which directly affect housing supply in this case are policies NW2, NW4 and NW5 of the Core Strategy and Saved policy HSG3 of the Local Plan.
- 8.6. Policies NW2 and NW5 direct and distribute development around the borough based on the settlement hierarchy and are underpinned by sustainability credentials. The Inspector in the 2017 Ansley appeal decision, applied moderate weight to these policies. Whilst this is noted, it is submitted that the emerging Local Plan is catering for a higher number of dwellings and is introducing an alternative tier into the

settlement hierarchy through Policy LP2 with category 2 being 'settlements adjoining the outer boundary of the Borough'. The emerging NWLP has not been subject to examination and therefore new policies not brought forward from the Core Strategy should only be capable of limited weight. However, in accordance with the thrust of the SoS decision (Appeal decision 3149827), it is considered that both NW2 and NW5 should be given limited weight.

- 8.7. A similar logic applies to Policy NW4 which defines the overall housing requirement. This again should only limited weight, given that the emerging Local Plan is a) committing to a higher OAN figure and accommodating requirement from the CWHMA and b) that NWBC has undertaken to accommodate 3,790 dwellings from the GBSBCHMA, albeit subject to infrastructure testing. In short the housing requirement figure is set to change by a highly significant and challenging amount.
- 8.8. Policy HSG3 dates from the Local Plan (2006) and relates to development needs prior to the Core Strategy or the original NPPF(2012). Whilst the purpose of the policy, to protect countryside, clearly retains some value given, its age it should be afforded very limited weight.
- 8.9. In applying the above judgements on the weight that should be afforded to the local plan policies, it is clear that the extent of the shortfall of housing supply is significant. Whilst the LPA are in the process of coming forward with a new Local Plan, it is still to be examined and therefore the 'remedy' is some way off coming to fruition.

The Meaningful Gap

- 8.10. Policy NW19 relates to the MG. The portion of the site to the east of Robey's Lane is contained within the MG and this is proposed for approx 240 dwellings, a primary school, and a range of green infrastructure.
- 8.11. The MG policy is different to the policies appraised above which explicitly deal with housing supply in terms of quantum and distribution or are directly restrictive. The MG policy states that any development to the west of Polesworth and Dordon must respect the separate identities of Polesworth, Dordon and Tamworth and must maintain a meaningful gap between them. The policy does not seek to define the extent of the gap and any area of search to which development may be acceptable. Indeed the Inspector's report for the Core Strategy<sup>7</sup> advises that the policy enables

<sup>7</sup> Issue 2 Page 5 Para 21.

flexibility and the exploration of options through the Site Allocations DPD (albeit, that this will be now replaced by the emerging NWLP). The policy also identifies that the broad location of growth will be to the south and east of the settlements (Polesworth and Dordon).

- 8.12. The purpose of Policy NW19 is relatively simple in that it directs the area of growth to the south and east of Polesworth and Dordon, seeks to protect the identities of Polesworth, Dordon and Tamworth and maintain a meaningful gap between these settlements. It is considered that the absence of a five year housing supply should significantly reduce the weight given to this policy in the decision making process.
- 8.13. In addition, the emerging Local Plan seeks to propose 1270 dwellings on part of the application site, to the west of Robey's Lane land, adjoining Tamworth's administrative boundary. There has therefore been a shift in the broad location of housing in this particular area, with the emerging Local Plan acknowledging that land to the south and east of Polesworth is no longer the sole focus of significant development.
- 8.14. The emerging NWLP contains Policy LP5 which effectively would replace Policy NW19 and this i) proposes a defined MG as set out on the Proposal Map ; ii) repeats the requirement of NW19 that any development must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a MG between them and ii) requires that all new development within this gap should be small in scale and not intrude visually into the gap or physically reduce the size of the gap. In summary the differences therefore are that the MG is defined, the emphasis on significant development to the south and east of Polesworth and Dordon is removed and a requirement for any development within the gap to be 'small' is introduced.
- 8.15. The definition of the area forming the proposed MG had been established prior to the consultation on the Draft Local Plan which began in November 2016. The MG was first subject to a consultation between 29 January to 12 March 2015. This proposed a MG based on an exercise which divided land which conceivably could be considered within the Gap into 'Areas' and identified which areas were and were not proposed to form part of the Gap. The consultation made it clear that the MG would be given weight as policy from the decision at Committee to consult on its scope (January 2015). Based on this original consultation the land subject to this application was in land covered by Areas 3, 4 and 5 and all were proposed to form

part of the MG. An objection was submitted against the proposed MG on the following principle grounds:

- There is no justification for a specific Meaningful Gap Policy
  - The adoption of the Meaningful Gap Assessment as policy compromises the emerging Site Allocations process and undermines the emerging Local Plan.
  - Notwithstanding the principle objection and without prejudice, the methodology of the Assessment is significantly flawed. Substantial and overriding weight is given to landscape considerations without the required evidence in the form of a full landscape assessment.
  - Consequently the landscape and overall conclusions of the Assessment are also flawed and it is recommended that Areas 3 and 4 are removed from the proposed Meaningful Gap.
- 8.16. A copy of the objection, together with the accompanying Landscape Appraisal from FPCR is provided at Appendix D.
- 8.17. Following NWBC's consideration of the consultation responses, they published a new report in August 2015 which omitted Areas 4 and 5 from the MG. The area to the east of Robey's Lane, Phase 1, which forms part of Area 3, remained in the MG. It is the August 2015 definition of the MG on which the emerging NWBC and Policy LP5 is based. This was carried forward to the submission draft consultation which was supplemented by a further evidence document entitled "Assessment of the Value of the Meaningful Gap (January 2016)."
- 8.18. Firstly, the weight that should be given to the definition of the MG under Policy LP5 is very limited. The policy is subject to a number of strong objections and the consultation on which it was based was flawed for two key reasons. Firstly, the MG boundary was formed in advance of identifying any potential sites for development to meet the Plan's housing requirement. Such an assessment should have been undertaken in parallel with potential identification of sites. Secondly it was heavily reliant on landscape judgements which were not reached with the benefit of appropriate landscape evidence. This was clearly an issue of concern for the Inspector in the appeal decision (3135495) in November 2016 concerning Land to the East of the M42 (Junction 10), of which the Meaningful Gap was a principal issue. The Inspector is critical of the Council's evidence base for the Meaningful Gap judgements, commenting that there is a lack of 'qualitative assessment of how the

*character of the area would change or how it would be perceived from any locally important viewpoints". A copy of this appeal decision is contained in Appendix E.*

- 8.19. The Submission Draft Local Plan consultation that ran from November 2017 to January 2018 was extended to March 2018 to allow supplementary documents to be considered, including the Assessment of the Value of the Meaningful Gap. However, this document continues to fail to assess the credentials of the MG objectively and in an evidenced based manner. A copy of the Applicant's objection to the MG Policy is contained in Appendix F.
- 8.20. The evidence behind defining Area 4 (Phase 2) land west of Robey's Lane) within the MG was clearly flawed and was quickly rectified, however Area 3, including the portion of the application site to the east of Robey's Lane (Phase 1) remains in the MG.
- 8.21. Chapter 10 of the ES and the accompanying Landscape and Visual Impact Assessment (LVIA), deals with the issue of the MG in detail. The first important point of note is that this application is significantly different to application PAP/2017/0257, in that the extent of the residential development has been pulled further west to align with the existing settlement pattern of Stoneydelph to the south. The residential area east of Robey's Lane accounts for just 6.7ha of a total of 30ha in this portion of the site. The illustrative masterplan demonstrates a logical relationship with existing built development and provides a variety of open space between the residential element of the scheme and the eastern boundary.
- 8.22. In summary the development of this site would be observed as a component of the built up area of Tamworth and there would remain an ample distance between the proposed development and the built up areas of Polesworth and Dordon to protect identities of settlements and maintain a MG
- 8.23. There are a number of features that would help maintain a MG. Firstly, the M42 acts as a definitive physical barrier which separates the settlements of Tamworth and Polesworth. Further major infrastructure is planned on the east of the M42 with the planned route of HS2. The HS2 infrastructure will also act as a deterrent/barrier from development creep from the east.

<sup>1</sup> Paragraph 26 - 3136495

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8.24. The illustrative masterplan demonstrates that a significant area of structural planting is proposed along the eastern and northern eastern boundaries of the site and this will join up to Alvecot Wood. This will form a comprehensive and sensitive landscaped edge to the development. This coupled with the additional buffer of the playing pitches and the alignment with built development to the south will further reduce any perception of settlement identities being threatened. The LVIA confirms that the Meaningful Gap is not a landscape quality designation and yet landscape value appears at the heart of the reason why the site is proposed to be included in the Meaningful Gap. The LVIA comments that: *"The site is not subject to any landscape designation contains no significant or rare landscape features and displays no marked sense of scenic quality. It is not particularly tranquil, performs no public recreational function, and has no known cultural associations."*

8.25. The overall conclusion within the ES on landscape effects is that the development in the longer term will have a **Moderate/Minor Adverse** impact on landscape character and this is not deemed to be 'significant'. In this context and having regard for the wider conclusions of the LVIA, it is considered that landscape character should not be a legitimate reason for inclusion of the site within the MG and furthermore development of the site poses no unacceptable harm to either landscape or the concept of a MG. It is therefore submitted that compliance is achieved with Policy NW19 of the Core Strategy.

Summary of the Principle of Development

8.26. It is accepted that the site sits outside of settlement boundaries and therefore there is conflict with Policy NW2 of the Core Strategy and Policy H5Q3 of the Local Plan. However, these policies are out of date both by the virtue of the wider development needs emerging through the NWLP and the constraints that these policies would place on this and the absence of a five year housing supply. They therefore should be attributed limited weight. Whilst on a site of this size, there is inevitably some harm caused to the open countryside, we submit that this is significantly outweighed by the number of benefits that the scheme will generate.

8.27. In addition we submit that Policy NW19 should also be given reduced weight in the planning balance by reason of the absence of a five year housing supply, but notwithstanding this, we submit that the application site should not be within any

<sup>1</sup> Para 10.4.75 - LVIA Appendix 10.1 of ES



defined MG and the scheme poses no harm to its objectives of respecting settlement identity and retaining a MG.

8.28. A key part of the pre-application consultation process was explaining why the development site is required to be extended beyond that proposed for allocation, to include land east of Robey's Lane (Phase 1). There are a number of reasons why this is necessary and these are set out below:

- The Phase 1 land is required to deliver the most appropriate vehicular access and to ensure early deliver of housing and infrastructure on the site.
- The emerging NWLP site allocation proposes access via the FTGC. This involves third party land, the detailed residential layouts for the FTGC make no provision for a major access to be taken through their site and there are a range of ecological and ground level constraints.
- Alternative access points onto B5000 either technically constrained in relation to proximity to Robey's Lane junction or if utilising Robey's Lane significantly changes the character of the southern part of this lane through the size of roundabout required.
- Fundamentally the Highway Authority requires two access points and two entirely separate access points could not be achieved with the extent of the allocation as proposed.
- The go kart business remains in operation and is a later Phase of development. In practice a developer will not want to commence development adjacent to an existing noisey use and the development needs to be phased to accommodate this.
- Without the principal access being east of Robey's Lane, as proposed, there is a significant risk that development will be delayed and will not achieve the number of dwellings required in the Plan period.

**Sustainability**

8.29. It has been established that the presumption in favour of sustainable development against the 'tilted balance' in favour of development in paragraph 14 of the Framework is engaged. This next section of the Planning Appraisal looks at the sustainability of the site in relation to its location and access to services. It is recognised that sustainability for the purposes of the paragraph 14 definition takes a much wider scope and this is summarised in the 'Planning Balance'.

- 8.30. The site is considered to be within a sustainable location, situated on the edge of an urban area of Tamworth. The key components to determine whether a site is sustainable in location terms is access to a wide range of services and facilities by methods of public transport, walking and cycling.
- 8.31. Firstly, the scheme proposes a wide range of facilities and services as part of the proposed development. A community hub will be delivered that can accommodate retail, a food/drink offer, together with other community uses and is proposed in the heart of the development. The scheme will also provide a two-form entry primary school and it is envisaged that this will be delivered after the first 150 dwellings.
- 8.32. It is acknowledged that delivery of service and facilities will take time, albeit that the primary school is identified for early delivery and in the interim future residents may need to rely on existing facilities.
- 8.33. The ES contains a local facilities plan for both Tamworth and Polesworth respectively. It is anticipated that for local services the main focus of direction for future residents is likely to be the Stoneydolph area and in time, the local centre approved as part of the FTGC development.
- 8.34. The Stoneydolph local centre is approximately 0.65 miles from the application site and offers a range of local shops and facilities, including a convenience store, which service day to day needs. The distance is above the desirable distance of 400m to local facilities but nonetheless is within a distance that is convenient for pedestrians to access the local centre from the site. Chiltern Drive joins up to a dedicated pedestrian and cycle route which runs to the south of the local centre and provides an attractive walking/cycling environment to access facilities.
- 8.35. In respect of education facilities, the nearest primary schools are Stoneydolph Primary School and Three Peaks Primary School at 1.4km and 1.7km respectively from the site. At these distances, walking is still realistic, in the case of the Stoneydolph Primary School in particular. Beyond the first few years of the development it is evident that children will attend the proposed on-site primary school and so convenient and safe walking and cycling routes to the school will be secured in the long term.
- 8.36. With regards to secondary education it is commonplace to travel greater distances to access schools. However, the facilities plans and the TA record that there are two secondary schools within 2.2km of the site. Walking, cycling and public transport are

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alternatives to the private car in accessing these schools and therefore these are sustainably accessible.

8.37. Access to public transport is very convenient with bus stops outside of the site's southern boundary on Tamworth Road. The No 65 operated by Arriva provides two buses an hour into Tamworth and from the Polesworth Sports Ground stop (opposite the site) journey times are 20 minutes. In addition Tamworth train station is a strategic location, providing regular journeys to London Euston, Birmingham, Nottingham, Derby and Stafford. This provides genuine sustainable transport choices for people seeking to access employment.

8.38. It has been demonstrated that the development site is within an accessible location for a range of services and facilities. The provision of facilities and services will increase as the development progresses in line with the submitted Phasing Plan. The proposal therefore accords with the sustainability objectives of Policy NW10 of the Core Strategy and the NPPF.

**Layout/Masterplanning**

8.39. The indicative masterplan provides the framework for the development of the site and is based on a green infrastructure led scheme which will create a highly attractive environment.

8.40. The residential element of the scheme is provided over 40.6ha and would represent a net density of circa 38 dwellings per hectare. This density is considered to strike the appropriate balance between the character of the site on the edge of an urban area and making the best use of land. The density must also be assessed in the context that the residential development will sit within a site that provides 50ha of green infrastructure. The masterplan layout is based on an irregular grid pattern structure that provides legibility but variety, and allows integration of both open space within the residential heart of the scheme but also on the periphery of the built environment. The children's play space sits centrally within the masterplan, sited within a large area of open space and accessible to all residents.

8.41. In respect of dwelling types, it is intended to provide a range of 1-5 bed dwellings with an indicative mix as follows:

- 1 bed – 25 (1.5%)
- 2 bed – 300 (19.5%)
- 3 bed – 650 (42%)

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- 4 bed – 370 (24%)
- 5 bed – 95 (6%)
- Extra Care – 100 (6%)
- Total: 1540

- 8.42. The above mix, whilst being indicative and therefore flexible and capable of change, embraces the requirement to provide a genuine mix of housing which will help meet the housing requirement of the area.
- 8.43. The Design and Access Statement details the evolution of the design and the placemaking objectives in detail. Drawings and diagrams are provided demonstrating street hierarchies and patterns of development, together with key design principles for the different types of streets envisaged. In short the D&A Statement provides a well thought out framework that will enable the delivery of a characterful development.
- 8.44. The D&A Statement also confirms that the scheme will largely be two-storey dwellings, with some limited use of two and a half storeys and a maximum residential building height of 10.5m (apart from the extra care home which will be 12m).
- 8.45. The green infrastructure provides a variety of different forms of open space including a zone for new woodland and structural planting on the eastern boundary of the site, providing a buffer to Alvecot Wood. Formal playing pitches, including a pavilion for changing facilities is proposed to the east of Robey's Lane and children's play equipment is distributed throughout the layout. Green infrastructure penetrates throughout the layout which will help deliver an attractive living environment.
- 8.46. In summary it is submitted that the indicative site layout and masterplanning principles of the development demonstrate that a high quality and varied scheme can be delivered on this site. The scheme will provide a diverse range of housing types and sizes and the development will successfully integrate with the extensive green infrastructure proposed on the site. Accordingly the proposal is considered to meet the relevant criteria of Policy NW10 and NW12 of the Core Strategy and Policy ENV12 of the adopted Local Plan.

**Access and Traffic Generation**

- 8.47. It is proposed to access the site from Tamworth Road (B5000), utilising two separate junctions. The principal access is proposed on the Site Access Design drawing CIV15596/06/001/A05. This shows a four arm roundabout positioned to link up the B5000 and Chiltern Road to the south, entering into the Phase 1 portion of site, east of Robey's Lane. The carriageway width of the site access will be 6.75m and will include 3m wide footway/cycleways either side of the carriageway.
- 8.48. The second access point is shown on drawing CIV15596/06/001/A02 and is a signalised junction between the B5000 and Robey's Lane. This involves accommodating a footway/cycleway for a short section of Robey's Lane before it turns west into the site, north of Priory Farm.
- 8.49. A third access is proposed to link Phase 1 and Phase 2 of the site together, across Robey's Lane and this is shown on drawing WIE/15569/06/017/A01
- 8.50. The Transport and Access Chapter of the ES (chapter 5) and the accompanying Transport Assessment (TA) set out in detail the traffic impact of the development. The scope of this has been agreed with Warwickshire County Council, Staffordshire County Council and Highways England. The TA utilises the Paramics Model used in the preparation of the emerging NWLP and an extended assessment has been agreed for junctions beyond the scope of Paramics, within Staffordshire.
- 8.51. The TA identifies that there will need to be works undertaken at two junctions to improve their capacity. These are the Pennine Way/Sandy Lane junction and the Glascoate Road/Merican Way roundabout (also identified for improvement in the Strategic Transport Assessment), both of which are to the west of the development site within Tamworth. A junction improvement for Pennine Way/Sandy Lane has been prepared and is proposed in the TA<sup>4</sup>. With respect to Glascoate Rd/Merican Way, a committed scheme for improvement from WCC is shown in the TA<sup>5</sup> and it is envisaged that a proportionate financial contribution will be provided to assist with delivery of this.
- 8.52. Once mitigation has been delivered the ES Chapter concludes a **Negligible** impact. The proposal does not create any severe transport impacts and therefore in

<sup>4</sup> Appendix L  
<sup>5</sup> Appendix M

accordance with Paragraph 109 of the NPPF the proposal is acceptable in transport terms.

**Noise**

- 8.53. ES Chapter 6 assesses the noise impacts of the development analysing the road traffic noise, construction noise, plant noise from the proposal on existing receptors and further analysing noise from existing sources to new residents from the scheme.
- 8.54. The overall conclusions of the ES chapter is that the noise effects from traffic generation for existing residents will be **Minor Adverse** at worst for nearby dwellings in the short term, reducing to **Negligible** in the long term.
- 8.55. In respect of noise from construction the impact is considered to be at worst **Minor Adverse** and by its nature such impact will be temporary. In terms of impacts on residents of the proposed dwellings, the scheme has been assessed with regards to traffic noise (including the M42) and the go-kart track, which is envisaged as a later phase of development. Noise from both sources will be mitigated as an inherent part of the layout and design of the scheme and consequently a suitable environment will be provided for future residents. The significance of the effect of noise is considered to be **Negligible**.

**Ecology**

- 8.56. The site does not form part of any International, National or Locally designated ecological sites. To the north of the site is Alvecotle Pools Site of Specific Scientific Interest (SSSI) which is considered of National value. Alvecotle Wood, which is adjacent to the site boundary and FTGC local wildlife site are of County level value. The ecological assessments undertakes a comprehensive overview of the impact on designated sites, habitats and flora, arboricultural features and protected species.
- 8.57. No direct impacts to the features of interest of the SSSI are predicted as a consequence of the application and equally it is considered unlikely that the features of value within the SSSI will be affected by construction noise. The residual impact on Alvecotle Wood is concluded as **Negligible** in the ES given the sensitive site design including the buffering from development and the complementary extension of woodland as part of the masterplan.
- 8.58. In terms of protected species the residual impacts are listed for each species and against each potential effect. Impacts on Badgers, Great Crested Newts and Bats

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are largely assessed as Negligible, though there are instances with both species of Minor Beneficial impacts through the creation of new habitat.

8.59. In respect of breeding birds the impact is considered to be Minor Adverse for arable farmland birds.

8.60. In summary no significant impacts are predicted to occur to designated sites, habitats and flora, arboricultural features or protected species. Indeed there are predicted to be some local minor benefits. The scheme is considered to comply with the requirements of Policy NW15 of the Core Strategy, Policy ENV4 of the adopted Local Plan and Paragraph 175 of the NPPF.

**Air Quality**

8.61. The impact of the scheme on Air Quality has been assessed as part of the ES (Chapter 8). The chapter sets out the UK Air Quality Objectives and Pollutants and undertakes an assessment based on the proposed development and other committed development (including FTGC).

8.62. The assessment appraises a range of existing and proposed receptor locations against a number of scenarios and the results conclude that subject to suitable mitigation, the residual impacts of both the construction and operational phase would be Negligible and therefore not significant.

**Heritage**

8.63. There are no designated heritage assets within the site or immediately adjacent to it. Polesworth conservation area is located approximately 900m to the east of the site. There is an scheduled ancient monument, Alvecotte Priory and dovecote, to the north of the site. The heritage chapter assesses a range of designated and non-designated heritage assets within its study area.

8.64. No heritage assets are recorded on the site and potential for unrecorded assets is considered to be at most low. No adverse impact on the setting of any surrounding heritage assets has been identified and in all cases the site is substantively screened by topography, woodland or buildings. The only potential effect identified as 'significant' with the development is the potential for truncation or removal of unrecorded archaeological features. However, a geo-physical survey has been undertaken and the archaeological potential is considered to be low. Further evaluation phases may comprise field-walking and/or trial trenching and appropriate

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mitigation could be put in place in the unlikely event of finding any interest of value. This could be secured by an appropriately worded condition.

- 8.65. The residual impact of the construction phase is considered to be **Negligible** which is not significant in terms of EIA regulations. No operational impacts have been identified with the proposed development.
- 8.66. The proposed scheme complies with the requirements of Policy NW14 of the Core Strategy, Policies ENV15 and ENV16 of the adopted Local Plan and the relevant paragraphs of the Historic Environment chapter of the NPPF.

**Landscape and Visual Impact**

- 8.67. The impact on landscape has already been covered in part in the assessment of the Meaningful Gap. In brief Chapter 10 of the ES analyses the impact of the development on the landscape character and a range of visual receptors.
- 8.68. At the operational stage of development, following completion, at all levels bar the site and its immediate context the impact is assessed **Minor Adverse or Negligible** at completion, reducing to **Negligible** by Year 15 as the benefits of the green infrastructure prosper.
- 8.69. At site level, the 'on completion' stage of the scheme would result in a **Moderate Adverse** landscape effect. However such effects would reduce in the longer term and the residual landscape effects would lessen to **Moderate-Minor Adverse**. This is not considered significant in EIA terms.
- 8.70. From a visual perspective, very few receptors of high sensitivity would be affected. Marked adverse effects would be limited to visual receptors that are localised to the site and whilst there would be a level of change and effect for these localised receptors (which vary between 'High' and 'Low' at the operational stage), this is moderated by the existing presence and visibility of built and urban features that are often discernible within the context of the site. The ES assesses each visual receptor in turn and this is not repeated here.
- 8.71. For all visual receptors, it is judged that the level of adverse effects would lessen in the longer term on account of the scheme's perimeter landscape framework that would filter and 'soften' views of the built form and assist in assimilating the proposed development into the landscape. In conclusion, it is assessed that the proposed development would not result in any unacceptable long-term landscape and visual

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effects. The proposal is therefore considered to comply with the aims of Policy NW13 of the Core Strategy.

**Flooding and Drainage**

- 8.72. The site is located wholly in Flood Zone 1 (the area of least flood risk) and hence mitigation is not considered necessary. A Sustainable Drainage Statement has been produced to support the planning application at this location. This details the proposed surface water drainage strategy for the site.
- 8.73. It is proposed that surface water runoff from the site is limited to the greenfield runoff rate. This approach seeks to mimic the site's natural drainage regime, minimising the impact on the wider catchment. Water will be attenuated at the site prior to discharge using sustainable urban drainage systems, with storage provided up to the 1 in 100 year plus climate change event. A 40% climate change allowance is to be provided at the site. Limiting runoff from the site, and accommodating it on-site up to the aforementioned event, provides betterment over the current drainage regime.
- 8.74. During the construction phase the impact on the water environment is considered **Negligible**. In the operational phase the proposed development will remain in Flood Zone 1, hence the impact on flood flows is considered to be **negligible**. The surface water drainage strategy proposed will limit runoff at the site to the greenfield rate, and provide attenuation up to the 1 in 100 year plus climate change event. This will have a **minor beneficial** impact by reducing runoff to the surrounding area and providing water quality improvements. The scheme complies with the requirements of Policy NW10 of the Core Strategy and Paragraphs 155 and 163 of the NPPF.
- Geology and Contamination**
- 8.75. The geology and contamination chapter is supported by a Geo-Environmental Desk Study. The chapter confirms that following implementation of the mitigation measures, the risk to construction workers from contamination is **Negligible**. Equally the risk to the underlying Secondary A Aquifer and nearby surface water receptors is considered to be **Negligible**.
- 8.76. During the operational phase of development the chapter concludes that following the incorporation of appropriate gas protection measures into building design the risk of gas build-up following gas migration into buildings will render the risk

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**Negligible.** Where present, impermeable surfaces and use of capping material will reduce the likelihood of exposure to soil-borne contamination by future on-site residents and the risk from such contamination is therefore considered **Negligible**.

- 8.77. The integration of a suitable surface water drainage scheme will reduce the risk to the Secondary A Aquifer and nearby surface waters and the risk from contamination is considered **Negligible**. In conclusion, it is clear from the assessment that there is no significant impact from contamination as a consequence of the development and the proposal complies with Policy NW10 of the Core Strategy.

**Best and Most Versatile Agricultural Land**

- 8.78. Paragraph 170 of the NPPF requires that LPAs take into account the economic and other benefits of the best and most versatile agricultural land.
- 8.79. Chapter 15 of the ES analyses this issue and identifies the agricultural land at the site is predominantly of subgrade 3a quality (72%), with 20% at grade 3b and 8% non-agricultural. The scheme would result in the loss of 68ha of best and most versatile (BMV) land and this is judged as a **Moderate Adverse** impact, which is classed as significant. It should be noted that Grade 3a land is judged as markedly less significant than Grades 1 and 2, of which the site contains neither of these classifications. There is no mitigation for such a loss, i.e. once its lost it cannot be replaced, but this must be understood in its wider context.
- 8.80. Appendix 15.2 of the ES assesses agricultural land on a wider scale across the district. Land across the Borough, surveyed by the former Ministry of Agriculture, Fisheries, and Food (MAFF), was shown to have a similar composition of land grades to the application site with 66% classified as BMV land. In summary therefore it is considered unlikely that an area of land similar to the size proposed for development could be identified that does not include BMV land. On this basis and having regard to the significant positive impact that this development would have on housing supply, it is concluded that the impact on BMV land is acceptable.
- Amenity**
- 8.81. The application is submitted in outline and so a detailed appraisal of amenity impacts for future residents is not possible at this stage. However, it is clear from the masterplan that the scheme would create a landscape led development which would meet the needs of future residents.

8.82. The D&A details how a high quality designed scheme will be delivered which integrates open space into the housing layout providing an attractive living environment. In summary the scheme provides the framework to ensure that future residents will have a high degree of amenity.

**9. AFFORDABLE HOUSING STATEMENT**

- 9.1. The current policy requirement for affordable housing is defined by Policy NW6 of the Core Strategy which states that on greenfield sites provision of 40% shall be provided subject to viability. The policy explains a target affordable housing tenure mix of 85% affordable rent and 15% suitable intermediate tenure should be provided wherever practicable. The Affordable Housing SPD (2008, updated in 2015) provides more detailed guidance.
- 9.2. The emerging policy (LP9) in the draft Local Plan takes the same approach in terms of requirement (40%) but confirms that compliance with the policy can be achieved through either on-site provision or a financial contribution. The policy contains the same mechanism for challenging provision on viability grounds. The supporting text also introduces that a minimum of 20% of the affordable housing element will be delivered through starter homes.
- 9.3. The application is supported by a comprehensive viability appraisal which examines the viability of providing the policy required 40% of affordable housing. This returns a negative residual land value and is therefore not viable. The viability report concludes that affordable housing of 20% is viable and therefore this level of affordable housing is proposed as part of the application. This amounts to 308 affordable units. As a comparison the adjoining FTGC site also secured 20% affordable housing as part of its planning permission.
- 9.4. Initial discussions have been held with NWBC's Housing Strategy Department on the mix of affordable units and this is likely to follow the tenure split required by policy. In respect of size of units, it is understood that highest demand is for smaller units of two bedrooms or under and this is where the majority of provision will be concentrated. There will however be a mix of provision across 1-4 bedroom sized dwellings.
- 9.5. The exact composition of the affordable housing will be subject to discussion with officers during the application once there is greater certainty on agreement of the principles of the viability appraisal.

10. OPEN SPACE STATEMENT

- 10.1. The ES contains a chapter on open space (chapter 16). The Green Space Strategy (2017) ("GSS"), Playing Pitch Strategy ("PPS") and Planning Obligations for Open Space, Sport and Recreation SPD ("OSSR SPD") have been reviewed in detail as part of this assessment, together with the corresponding evidence reports for Tamworth Borough Council.
- 10.2. This statement summarises the policy requirements and the open space and playing pitches proposed as part of the development. It also briefly deals with the potential requirement for a leisure contribution.
- 10.3. The ES at table 16.5 details the open space requirements by typology identified in the GSS, based on 1700 dwellings, the quantum tested in the ES. The application itself is for a maximum quantum of 1540 dwellings and so the requirement will be less than stated in the ES.
- 10.4. Of a total site area of 96ha, the parameters plan demonstrates that a total of 50ha will be provided as 'green infrastructure'. Some of this area includes items excluded from the SPD definition and when SUDS (2.5ha), zones for structural planting (13.1ha), existing vegetation (4.5ha) and footway and cycleways (1.7ha) are removed this figure, this reduces to 28.2ha. A sport pitches provision of 3.9ha, subject to assessment below, reduces the total to 24.3ha of open space under the SPD definition. This amounts to 25% of the site, which in isolation far exceeds the typical 14% of the site being given over to open space as set in the OSSR SPD.
- 10.5. The proposed scheme provides a variety of the different typologies of open space identified in GSS. In regards to natural and semi-natural green space and amenity space the masterplan provides 13.3ha and 9.5ha respectively. This is significantly in excess of the requirement of the OSSR SPD, which based upon the population of a 1540 dwelling scheme equates to 6.62ha for natural and semi-natural green space and 2.2ha of amenity green space.
- 10.6. The proposed development includes provision for two Neighbourhood Equipped Areas of Play ("NEAP") and two Local Equipped Areas of Play ("LEAP") as part of the scheme. Figure 16.2 of the ES shows that the proposed position of these play areas will be within the required 400m walking distance from any proposed dwelling for a LEAP and within 1000m for a NEAP, as prescribed by the GSS. The southern

NEAP will also include facilities for older children in the form of multi use games area (MUGA).

- 10.7. The masterplan provides 0.5ha for allotments (including a community orchard). This is below the quantum required on a simple application of the SPD formula, which for 1540 dwellings is 0.73ha. However, the GSS identifies that the borough has an over-supply of allotments at present and therefore any additional demand is likely to be catered for in existing supply.
- 10.8. The only typology of open space identified within the GSS not provided on site is Parks and Gardens. However, the requirements of the SPD are not meant to be prescriptive so that each site has to provide the exact proportion of each different typology of open space. Further, to the north east of the site is Pookey Country Park which would fall within this category. Whilst pedestrian access is limited from the site, it nevertheless provides a local facility for residents of the development.
- 10.9. In respect of playing pitches, the PPS identifies that an additional 18 sports pitches (football, cricket, rugby and hockey) will be required to cater for development projected up to 2031. If you apply the requirement derived from the projected population of this proposed development, based on 1540 dwellings, this equates to a need for four sports pitches.
- 10.10. The masterplan proposes a total of seven pitches, comprising one adult football pitch, two mini soccer pitches (U8/U10) and two smaller mini soccer pitches (U7/U8) to the south of the NEAP and allotments. In addition two further mini soccer pitches (1 x U7/U8 and 1 x U8/U10) are proposed within the primary school site. A changing room facility will be provided as part of a pavilion.
- 10.11. The scheme therefore again out performs requirement. Should the LPA require a different mix of playing pitches, as currently the proposal is football orientated, this potentially could be accommodated.
- 10.12. One area that the scope of the ES chapter does not address was the leisure provision. The Leisure Facilities Strategy (2017) identifies requirement up to 2031 and amongst other matters highlights that a replacement of Polesworth Sports Centre is likely to be required, together with increased swimming pool capacity and fitness stations.

- 10.13. The OSSR SPD<sup>4</sup> undertakes an assessment of the proposed allocated sites in the emerging NWLP and how these could contribute to leisure provision. Part of the application site is identified in the form of 'Land to the West of Robey's Lane' and based on a proposed allocation of 1191 dwellings, then a calculation of £1,344,214 is derived based on meeting need for swimming pools, sports halls, fitness studios gyms and indoor bowls. The proposed allocation has increased to 1270 dwellings and the application proposes 1540 dwellings, so taking the latter (application) figure this would increase the contribution to £1,738,110. However, the SPD exercise in calculating how leisure facilities should be provided is a strategic overview looking at the borough as a whole. Whilst the Applicant is amenable in principle to paying a contribution towards such matters, this will need to be demonstrated to pass the CIL regulations and be considered within the spectrum of the viability case.
- 10.14. Overall it has been demonstrated that the proposed scheme delivers a high quality green infrastructure which will both create an attractive environment and provide significant opportunity for recreation and amenity enhancement. The scheme is therefore considered to comply with, and indeed exceed, the requirements of Policy NW16 of the Local Plan and the OSSR SPD.

<sup>4</sup> Figure 9 P33

**11. SECTION 106 OBLIGATIONS (HEADS OF TERMS)**

- 11.1. It is anticipated that the following items will be required to be secured through a Section 106 Agreement:
- 11.2. **Affordable Housing** – the application as submitted proposes 20% affordable housing (306 dwellings) and is supported by a viability appraisal. Although discussions have commenced with the Council's housing officer, these will continue through the course of the application and the mix of tenure, type of dwellings and the trigger points for delivery will be secured through the Agreement.
- 11.3. **Education** – Based on the requirements of Warwickshire County Council the development would derive the following requirement for education places.
- Early years Education – 34 places
  - Primary Education – 233 places
  - Secondary Education – 167 places
  - Sixth Form Education – 33 places.
- 11.4. This is based on 1540 dwellings and so the final figures will be less based on the fact that no education facilities will be derived from the extra care home and a reduction should also be applied for the smaller sized dwellings.
- 11.5. A primary school is proposed on the eastern portion of the site and this will be a two-form entry school with capacity for 420 pupils. Discussions with the LPAs and local education authorities (LEAs) have indicated that this will be required as an early phase of the development and therefore, subject to confirmation of the funding mechanism, it is proposed to be delivered at 150 dwellings. It is understood that existing primary schools in Tamworth have capacity to absorb school places from this development for the first 150 dwellings. For early years provision discussions will be undertaken to ascertain whether the LEAs would require this as part of the proposed primary school, located elsewhere on the site (the scheme includes provision for unspecified D1 uses) or an off-site contribution.
- 11.6. With respect to the delivery of the primary school it is proposed that this will be on the basis of a contribution per place derived from the development. The phasing mechanisms for such payments will be negotiated with the LPA and LEAs.



- 11.7. Secondary school places will be created via a financial contribution. The Applicant has discussed with the LEAs the potential options for where additional capacity will be created to serve this development. A wider exercise to incorporate other Local Plan sites is being undertaken and so the LEAs have been unable to specify which schools may be expanded at this stage. However, it is envisaged that contributions will be directed to both Polesworth and Tamworth schools.
- 11.8. The financial contribution will therefore be calculated using WCC standard cost of place per education category. The trigger points for delivery will be negotiated with the LPAs and LEAs.
- 11.9. **Health** – Discussions with the George Eliot Trust and NHS England in respect of Primary Trust provision have derived that contributions will be required of £887,785.36 and £334,216.96 respectively (based on 1540 dwellings). The Applicant has sought information from NHS England (through North Staffordshire NHS) as to where any contribution for the Primary Trust will be directed. At this stage NS NHS are unable to confirm whether the monies will be used to extend existing facilities or contribute to a new facility, or its location. However, this will be resolved during the course of the application. The trigger points for payment will be subject to negotiation.
- 11.10. **Maintenance of Public Open Space** – The maintenance of all public open space within the scheme is proposed to be covered by a Management Company. The Section 106 will provide the details of this. The trigger points and provision of open space on the site is proposed to be secured by planning condition.
- 11.11. **Off Site Highway Works/Contributions** – There are two main junction improvements proposed as part of the application. These are Pennine Way/Sandy and Glascoate Rd/Mercian Way. The requirement for these junction improvements could potentially be secured by condition and their trigger points will be discussed with the local highway authorities. However, in the case of the Glascoate Rd/Mercian Way objection, the proposal is for this to be a contribution and so accordingly it will form part of the S.106.
- 11.12. **Travel Plan** – the requirements of the travel plan will be secured through the S.106.
- 11.13. **Other Contributions** – during the Phase 1 application contributions were requested from the Police and WCC Rights of Way. Assuming such contributions are again requested these will be considered on their merits based on evidence. As identified

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In section 10, it is also anticipated that a leisure contribution will be sought by NWBC and the details of this will be subject to further discussion.

- 11.14. Importantly all contributions/requests will need to be demonstrated to be compliant with Regulations 122 and 123 of Community Infrastructure Regulations (as amended) and are subject to viability.

**12. PLANNING BALANCE**

- 12.1. It has been established that the policies governing housing supply are out of date and the LPA is unable to demonstrate a five year housing supply. Accordingly the proposal falls to be determined against the 'tilted balance' within Paragraph 11 of the NPPF which states that where policies are out of date, permission should be granted unless there are any adverse impacts of doing so which would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies indicate development should be restricted.
- 12.2. There are a number of significant economic, social and environmental benefits associated with the scheme, which are set out below in their respective categories, recognising that they are not mutually exclusive.
- 12.3. **Economic Benefits**
- The construction of the scheme is anticipated to cost circa £215 million and will generate approximately 1850 full time construction jobs. In addition the House Builders Federation report (2015) estimates that for every 1 direct job created, the development supports 0.5 indirect jobs in the supply chain.
  - 'Operational Phase' jobs will also be created through the provision of businesses/services in the community hub and at the primary school. At the mix of uses are flexible at this stage it is difficult to quantify this benefit.
  - The new additional spending capacity to the local economy from future residents
  - New Homes Bonus
- 12.4. **Social Benefits**
- Delivery of 1540 dwellings, including provision of 20% affordable housing. The scheme will deliver a wide housing mix including elderly accommodation that will seek to address housing need both in the borough and beyond. This should be afforded substantial weight in the balance in both contributing to five year supply and continued supply in the emerging Plan period including assisting in meeting the 'aspirational' targets of the emerging Local Plan.

- Provision of a new primary school on the site which will have a capacity significantly in excess of the child places created by the development and thus will have wider benefits to the existing community.
- Framework for the provision of a high quality built environment that will provide a highly attractive living experience for future residents
- 50ha of green infrastructure which will provide a range of facilities for the enjoyment of both future residents and neighbouring existing residents including children's play facilities, sports pitches, allotments and other recreational open space.

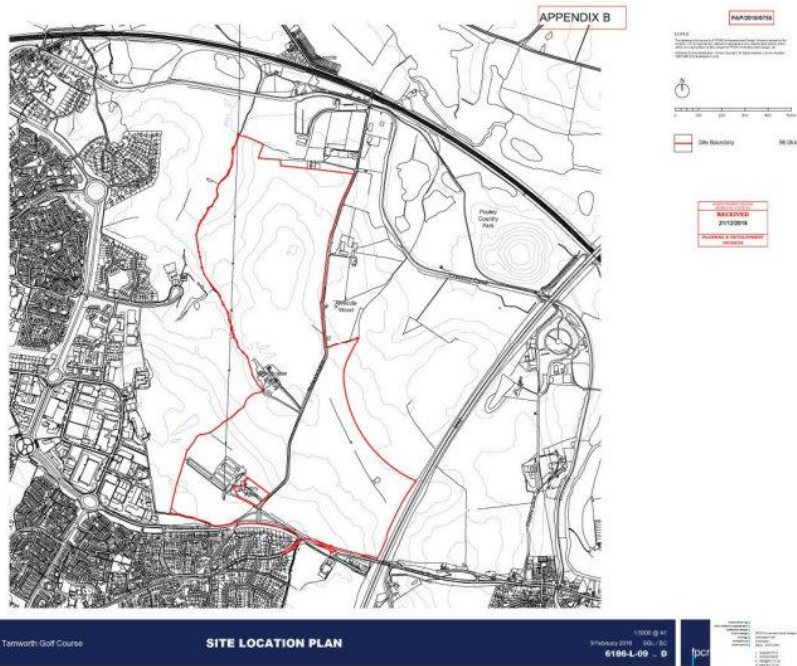
**Environmental Benefits**

- The site is located within a sustainable location with walking and cycling opportunities and access to a strong public transport service.
  - The ecological chapter of the ES has identified some net benefits from the scheme, at a local level, in respect of trees, hedgerows and some protected species.
  - 50ha of green infrastructure, with the provision of an extensive woodland to adjoin Alvecot Wood is considered in particular to be a benefit.
- 12.5. In respect of adverse impacts, it is recognised that an intrusion into the countryside of this scale will bring about a level of harm. However, it is considered that this harm is very limited on the basis of the landscape features of the site, that the development would not erode any objectively assessed meaningful gap, and through the mitigating design features of the scheme including the high proportion of green infrastructure.
- 12.6. The development results in the loss of approx 68ha of BMV land and this is an 'adverse' impact. Although the ES identifies this as 'significant' this must be understood in the context of the fact the agricultural land profile across the borough is very similar to that of the application site. Accordingly, to achieve the level of housing required by the emerging NWLP some loss of BMV land is inevitable. This point is demonstrated by the proposed allocation of 66ha (69%) of the site which includes a high proportion of the BMV land.

13. CONCLUSION

- 13.1. The proposed development is contrary to Policy NW2 of the Core Strategy and Policy HSG3 of the adopted Local Plan. However, these housing policies are considered out of date and the LPA is unable to demonstrate a five year housing supply. The presumption in favour of sustainable development against the tilted balance of Paragraph 11 of the NPPF is therefore engaged.
- 13.2. The scheme would make a significant contribution towards housing supply, both in the immediate five years and beyond this, assisting in delivering the requirements of the emerging Local Plan.
- 13.3. The part of the site to the east of Robey's Lane is proposed as MG in the emerging NWLP but this is not justified by the LPA. Notwithstanding this the scheme has evolved from the Phase 1 submission to limit the extent of residential incursion to the east, so that it aligns with existing settlement pattern of Stonydelph to the south. The submitted scheme would still maintain a MG and the Landscape chapter of the ES and the supplementary LVIA explains that the landscape character of the site is not of any significant value and cannot justify the inclusion of part of the site within the MG.
- 13.4. The ES which accompanies this application has identified a single residual 'significant' adverse impact through the loss of BMV land, which is unable to be mitigated. However, to achieve the LPA's housing requirement the loss of some BMV land is necessary and this is not considered to outweigh the beneficial impacts of the application, either in isolation or combined with the loss of open countryside.
- 13.5. On the contrary it is concluded that the benefits of the scheme far outweigh any adverse impacts and on this basis, and in accordance with paragraph 11 of the NPPF it is recommended that planning permission be granted for the development.





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## APPENDIX D

PAP/2018/0755

**Land to the east of the former Tamworth Golf Course, north of Tamworth Road (the B5000) and west of M42, Alvecote**

**Minute of a Meeting held on Friday 16<sup>th</sup> June 2023 at 1300 hours in the Council Offices at Atherstone**

**Present:**

Members: Councillors Dirveiks, Humphries, Reilly, Ridley, Parsons, Phillips and Simpson

For the Applicant (Hallam Land Management): Messrs Bassett, Burton, Gowlett, Hill and McFarlane

NWBC Officers: D Barratt and J Brown

**1. Introduction**

- 1.1 A briefing note had been circulated to all attendees prior to the meeting. This provided background information on the proposed development as well as identifying a number of matters for discussion. This is attached at Appendix A.
- 1.2 The meeting was chaired by Councillor Simpson – the Chairman of the Planning and Development Board
- 1.3 Following introductions, the applicant provided a short outline of Hallam's background as a promoter of strategic sites, including sites larger than its current interest here. Officers then gave a short outline of the background contained in Appendix A.
- 1.4 The Chairman opened the discussion and followed the order of the Briefing Note as an agenda.

**2. The Strategic Gap**

- 2.1 Three questions were raised in the briefing note – what is proposed in the strategic gap? Why is this, and how does this “fit” with Local Plan Policy LP4?
- 2.2 In response to the first question, the applicant referred to the indicative layout that had been circulated and explained that the overall proposal was for up to 1540 dwellings with 240 (16%) being shown in the Gap on the east side of Robeys Lane. Additionally, 40% of the overall green infrastructure proposed in the development would be located in the Gap. This would include open amenity space, tree planted areas extending around the site's perimeter and extending north as a buffer to Alvecote Wood, as well as playing fields. A 2-Form Entry Primary School was also proposed here.

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- 2.3 In respect of the second question, then the applicant referred back to the initial identification of the site as an allocation in the planning process. Vehicular access was to be gained via the site of the former Tamworth golf course to the west which had been granted planning permissions for residential redevelopment by that Council. However, those permissions did not enable access points and the ground levels of the topography of the land prohibited such provision. As a consequence, the applicant had agreed with both the Staffordshire and Warwickshire County Councils as Highway Authorities (SCC and WCC), that two access points were necessary and that both should be from the B5000. The location of these was determined by highway considerations. Hence the proposal includes improvements to the Robeys Lane junction as well as a new roundabout on the B5000 which would include Chiltern Avenue to the south of the B5000. The applicant stressed that these arrangements were requirements of both SCC and WCC and that there were no other alternatives that would meet their approval. Given that the main access into the allocated site needed to be off the B5000 at Chiltern Avenue, it was inevitable that there would be an incursion into the Strategic Gap. The proposed layout therefore had been designed so as to limit the impact of any development here. This is reflected in the eastern limit of built development which aligns with that south of the B5000.
- 2.4 The applicant then outlined his arguments for compliance with Policy LP4. Attention was drawn to the actual wording of the Policy as it did not preclude new development from occurring. The key criteria were whether development would retain the physical and visual separation between the settlements so as to prevent their coalescence. The applicant considered that the indicative layout does so, given the highway requirements.
- 2.5 Members raised a number of questions.
- 2.6 The proposal in part of the Gap would be a "hard sell" to the local community because once it is breached there would be further pressure to release even more for development. Could the figure of 240 be reduced?
- 2.7 The applicant responded by saying that in order to actually enable the delivery of the allocated land, then access had to be where it is now proposed. That together with a link road into the allocation would be significant investment and thus some new development was needed to retain viability. However, recognising the sensitivity of the importance of the Gap to the local community, the layout shows a substantial green edge within this part of the proposal. An earlier proposal had looked at 500 houses here and so there had been some movement to reduce numbers. Additionally, Robeys Lane by itself is not suitable to act as a distributor road catering for a development of the size as allocated - its width, the bends, the hedgerows and visibility etc. A new road is thus necessary. It was considered more beneficial to retain the Lane in large part as a cycle/pedestrian way in the overall development. The new road enables this. Also, the new School would be appropriate in the earlier stages of the development of the allocated site. Access to it would be directly off the distributor road under the proposal and its own playing fields could adjoin other recreational facilities in order to increase the amount of open space in this area.

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2.8 In light of this, Members asked if more of the built development could not be located elsewhere on the allocated land where there was already open space identified in the indicative layout. One Member identified the large area just to the west of Robeys Lane in the north-east corner of the site.

2.9 In response, the applicant drew attention to the change in levels at the western boundary of the site adjoining the former golf course site; the higher ridge levels in the north-eastern area of the site which was why this had been left "open", and the north/south pylon line that runs through the site. WPD would not divert this. Additionally, visually it would be beneficial to retain some open land between the development on the former golf course and the allocated land.

2.10 In summarising this discussion, the Chairmen acknowledged the WCC/SCC access requirement; the need to access the land the subject of the allocation, and the physical constraints over that land. The main issue from his perspective was compliance with Policy LP4. In particular he drew attention to the wording and the emphasis on "visual" and "physical" separation. Officers also drew attention to the wording in para 7.28 of the Reasoned Justification to the Policy LP4 which provides a "test" for assessment of this separation. In the current scenario, this meant that someone travelling along the B5000, should have a clear sense of having left one settlement, travelling through an undeveloped area and then entering the second settlement.

2.11 It was agreed that it would be beneficial if the applicant could provide some visual representation of this "test".

### **3.Highway Impacts**

3.1 The Briefing Note asked what off-site highway requirements had been asked for by the Highway Authorities and then identified three particular issues.

3.2 In response, the applicant identified four off-site highway improvements – the proposals at Chiltern Avenue, improvements on the B5000 at Sandy Way and Mercian Way in Tamworth, signalisation of the Bridge Street and Market Street junction in the centre of Polesworth and potential improvements to the canal bridges in Polesworth.

3.3 Members asked about access to the main highway network – ie. the A5 and the Motorways. They were sceptical about the modelling undertaken and agreed by the two County Councils, as that suggested a greater proportion of traffic generated by this development would travel west along the B5000 and then use the connections south to the A5.

3.4 Additionally, they asked whether the modelling included contingencies for the closure of the M42 and thus traffic diverting through Polesworth, for the delays in getting improvements to the A5 and what were the arrangements to prevent traffic travelling north through Alvecote and on to Shuttington.

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3.5 Members agreed that improvements to the canal bridges would not be welcome on highway and heritage grounds. The applicant agreed that WCC had no costed schemes for such works or that these improvements would be feasible.

3.6 It was agreed that the applicant would provide further background information and responses to the queries raised in paras 3.3 and 3.4 above.

#### **4. Section 106 – Schools**

4.1 The applicant pointed out that a Primary School is proposed on site. This was agreed by WCC/SCC and would have ready access within the first phase of the development.

4.2 The level of education contributions sought by the two Local Education Authorities was £16 million. This had been used in the applicant's viability appraisal. It had been calculated using SCC pupil ratio formulae but agreed by WCC. In summary this would be a primary contribution to SCC for Tamworth school, provision of the 2FE primary school and the Secondary element going to WCC for the Polesworth School.

4.3 Members were particularly concerned about the ability of the Polesworth School to expand given its "contained" site and traffic issues.

4.4 It was agreed that officers would contact WCC Education in order to provide more detail on the purpose of the secondary contribution.

#### **5. Section 106 – Health**

5.1 The applicant explained that they had included contributions amounting to £1.45 million for health provision. No details had been provided from the various Agencies about how this would be spent. This was not unusual given their experience on other developments throughout the country.

5.2 In response to a Member question, the applicant confirmed that there was space reserved in the indicative layout and the application description for a community hub and that this could provide an opportunity for onsite provision, if the Agencies were able to facilitate this.

5.3 It was agreed that officers would try and get more detail from the Agencies involved.

#### **6. Recreation and Open Space**

6.1 The applicant pointed out that some 25% of the overall site was set aside for open space (as defined in the SPD) including recreation provision – in excess of the Council's SPD on provision which recommends 14%. Additionally, there was an off-site contribution sought for indoor provision of £1.76 million.

6.2 Members raised an issue about accessibility to the Pooley Country Park – a major recreation/green asset close to the site. The applicant explained that there was no direct pedestrian access from the site due to intervening third party land ownerships. There was however access from the canal to the north.

6.3 The applicant would look to see what else might be done

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6.4 The applicant explained the "buffer" to the west of Alvecote Wood being an area of Ancient Woodland – this ranged from 80 metres to 285 metres which is well in excess of the Woodland Trust's recommended minimum distance of 15 metres. Conditions could be looked at to further consider boundary treatment plus the provision of sign posting and Notice Boards.

#### **7. Affordable Housing**

7.1 By way of background, officers outlined the policy position here being 40% on-site provision for greenfield sites. However, a Viability Appraisal had been prepared by the applicant in light of the scale of the proposal, the total sum of the contributions that was being sought through Section 106 and the current change in house values and building costs. This had been investigated by the District Valuer (DV) following substantial engagement with the applicant. The DV's report had concluded that 30% on-site provision would be proportionate and that there should be reviews of the Appraisal as the development proceeds, given its long-time span for implementation. The 30% figure has been agreed with the applicant, but there were concerns about the uncertainty of outcome from a review. An alternative would be that the applicant would be prepared to agree a higher % figure, after the completion of say 1000 dwellings.

7.2 The meeting was also reminded that Tamworth Borough Council (TBC) had requested involvement in securing nominations for its residents to be housed in the on-site provision in the development. This would need a greater involvement with TBC and this Council's housing officers.

7.3 Officers also requested that there should be flexibility in the type of on-site provision within the 30% overall figure.

7.4 Members said they wanted to keep an open mind as to on-site provision. Whilst this was appropriate and should be made, the alternative of an equivalent off-site contribution in lieu for a proportion of the 30% could be considered. This would assist the Council to secure/deliver its own housing needs throughout the Borough which were not currently being met – particularly OAP housing and that for younger people. As such, Members asked whether the applicant would consider this as an option in principle.

7.5 The applicant agreed in principle to look at off-site contributions as part of the overall package alongside on-site provision. They could also look at transferring stock on the site to the Council. The care home proposed for the site, would be included in the on-site proportion of affordable housing.

7.6 It was agreed that there needed to be involvement with the Council's Housing Officers to look at what provision the Council would like to see on site and also how the request from TBC might be followed through.

#### **8. Bio-Diversity Nett Gain**

8.1 The applicant was satisfied that the proposal would meet the 10% nett gain figure which would be introduced later this year. There were no off-site contributions being considered, as everything would be on-site. This however did not include dedicated nature reserves, per se, but

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there would be areas of green infrastructure where ecological enhancement would be concentrated.

#### **9. Other Matters**

9.1 A number of other matters were raised during the meeting.

9.2 Firstly, the community hub proposed would amount to a size equivalent to accommodate a number of shops.

9.3 There would be no bus terminus on the site, but the layout would enable a circular bus route throughout the development.

9.4 The meeting discussed the practicalities of locating the school in the first phase and close to the main distributor road. The main issue was to avoid traffic/parking congestion at certain times of the day and to enable a safe environment for the children. Whilst the applicant stressed that this was an outline planning application, he did agree to look at this in more detail so as to not to create the above issues arising further down the reserved matters stages of the planning process.

9.5 Members highlighted the need to provide clear guidance on the design and appearance of all new dwellings. They also asked about density.

9.6 The applicant responded by saying that they had prepared a Design and Access Statement which covers the street hierarchy and potential design criteria for different characteristics of the whole site, including density. Density would be fairly standard throughout the site, not being higher in one area and lower in another.

9.7 Officers agreed that Design Codes could be conditioned as part of any planning permission.

9.8 The applicants confirmed that the Parameters Plan which would be conditioned, would also add more certainty as there may well be two or three different house builders on the site.

9.9 A question was asked about how many developers would be expected to develop the site. The applicant expected this to be 2 or 3, each of whom could be expected to build at a rate of 50 a year.

#### **10. Policy H5**

10.1 It was agreed that the matters within H5 had been discussed, but that the applicant needed in its Master Plan to give some clarity on the impact on the Ancient Monument.

#### **11. Next Steps**

11.1 It was agreed that a further meeting would be arranged after several of the actions identified above had been completed. These are set out below.

11.2 The Chairman asked that the Board should also visit the site prior to that meeting.

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11.3 The Chairman stressed the need for the applicant to re-engage with the local community prior to the determination report being brought to the Board.

11.4 The meeting with TBC would be arranged when appropriate.

11.5 The meeting closed at around 1500 hours.

**Actions for the Applicant**

1. To review and reconsider the content and amount of the development proposed in the Strategic Gap given the need to "minimise its impact" on the Gap, so as to reinforce the visual and physical separation of Polesworth and Tamworth. Visual imagery would be helpful here.
2. To respond to the highway concerns raised at paras 3.3 and 3.4 above.
3. To look at how pedestrian and cycle access into the Pooley Country Park might be enhanced.
4. To consider how the 30% affordable housing provision might be implemented, if an off-site financial contribution was agreed in lieu of part of that provision.
5. To see how Design and Appearance can best be dealt with at outline stage – perhaps via planning conditions.
6. To re-engage with the local community through revised consultation based on the outcomes of this meeting.

**Actions for Officers**

1. To request greater detail and certainty from WCC on its Education request through any 106 Agreement.
2. To request greater detail and certainty from the Health Agencies on their Health provision requests through any 106 Agreement.
3. To arrange an early meeting between the applicant and the Housing Officer in respect of on-site provision and how the TBC request might be dealt with.

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**PAP/2018/0755**

**Proposed Residential Development at Robeys Lane, Alvecote**

**FRIDAY 28<sup>th</sup> July at 1500 in the NWBC offices**

Present:

Councillors Humphries, Phillips, Reilly, Ridley, Parsons and Simpson

D Barratt, A Coates and J Brown – NWBC Officers

C Gowlett, N Hill, LP, P Burton, D McFarlane and M Bassett representing Hallam Land Management (HLM).

Minutes:

1. Councillor Simpson welcomed everyone and indicated that the meeting has been arranged to follow-up the previous one held on 16 June 2023. That had concluded with a number of actions to be followed through by the applicant and the Council.
2. Councillor Simpson reiterated the views expressed about affordable housing provision as set out at the last meeting. AC confirmed that we would meet with the applicant to discuss the off-site contribution in more detail and particularly as to how that might translate into both the future Planning Board report and in any Section 106 Agreement. There was a broad welcome for the extra care provision on site and it was advised that contact with WCC would be important at the earliest opportunity. AC outlined the Council's preferred providers and that it would be helpful to understand the timing of the provision. AC then left the meeting.
3. HLM outlined how they had progressed the proposal following the matters raised at the last meeting.
4. MB circulated a number of photographs depicting views up and down the B5000 from a number of vantage points. It was pointed out that these showed the "screening" of the site on both sides of the road because of the substantial green corridor effect of the vegetation either side.
5. The most sensitive "break" in this corridor as a consequence of the proposal would be at the Chiltern Road roundabout. Its position was fixed. A number of CGI's were then circulated showing existing views at this location - to the west, east and into the site. These were supplemented by the same views with the roundabout added and the inclusion of the nearest proposed housing.
6. MB then outlined that they had made further changes to the illustrative layout for discussion. These showed the re-location of the school and its playing fields to the west of the new road and the relocation of some 80 houses from here to the far north-west corner of the site. A further option would be to increase the open land closer to the B5000 and further remove houses. This Option B would have 140 houses on the east side of the distributor road – a 40% reduction on that shown at the previous meeting.
7. HLM reiterated the need to pay for the distributor road infrastructure.
8. The overall density of the whole site would be 35dph.
9. Members still expressed concerns about new development in the Gap and the perception that this gave to the public/community. There was concern that this would pre-empt later

development right up to the M42. Given the H4 allocation in Dordon there was concern about the overall cumulative loss of open land in the locality. The Gap thus becomes even more strategic and needs to be protected.

10. MB expressed the view that playing fields would act as a strong barrier to future development “creep” as its loss would have to be agreed by Sports England. They could also be protected within the 106.
11. HLM then outlined their past public consultation arrangements – two meetings with Members of both Councils, two public events/exhibitions – one in TBC and one in NWBC together with a further joint presentation to Members of both Councils. The main concerns raised were traffic and infrastructure delivery.
12. The resubmission of Option B or any other amendment would lead to further re-consultation but focussed on Polesworth and Dordon because of the main spatial planning policy issue.
13. MS asked about Design Codes wishing to see them approved as early as possible. MB referred to the D and A Statement. Codes could be conditioned.
14. MS asked about the maintenance of the open space. This would transfer to a national estate company in order to provide the 35-year longevity.
15. NWBC updated on health infrastructure with the CCG’s looking as if they would agree to on-site provision being safeguarded in the community hub. This however needed to be confirmed – maximum floor area and the length of time over which that space is safeguarded.
16. NWBC had also followed up on Education infrastructure and further meetings were to be sought as WCC Education and the Academy Trust had given little forethought to provision for this site and for the H4 one in respect of impacts on Polesworth School.
17. The arrangements for the joint Member meeting with TBC were then discussed – that being arranged for the 1<sup>st</sup> August in Tamworth.
18. The meeting closed at around 1630.



**PAP/2018/0755**

**Proposed Residential development on Land at Robey's Lane, Alvecote**

**Meeting between Tamworth and North Warwickshire BC Members**

**Tuesday 1 August 2023 at 1800 – Tamworth Town Hall**

Present: 11 Members of the Tamworth BC Planning Committee and Cllr Clements as Chair

Cllr's Phillips, Reilly, Ridley and Parsons from NWBC

G Baker-Adams and R Powell – TBC Planning Officers

J Brown – NWBC Planning Officer

Mark Bassett, Paul Burton, Chris Gowlett, Nick Hill, David McFarlane and one other representing Hallam Land Management (HLM)

1. After Introductions, Cllr Reilly from NWBC explained that the planning application submitted by Hallam on land at Robey's Lane raises common interests and issues between the two Councils in view of the location of the site. The NWBC Planning Board had thus resolved that it wished to hear the comments from Tamworth so that they could be added into the final planning assessment when the case comes before the Board for determination. The meeting thus offered the opportunity to share these common issues.
2. JB then described the location of the site and described the proposals. All of the technical matters had been resolved as far as the various statutory Agencies and Bodies were concerned; the infrastructure requests from the relevant Agencies had been received and the applicant had undertaken a full Viability Appraisal which had been assessed by the District Valuer. Officers were thus looking to report the case to the NWBC Planning Board before the end of the year. This meeting with TBC had been requested by the NWBC Planning Board because of the size and location of the proposal and because there were shared planning considerations. NWBC thus saw this as an opportunity to hear TBC's comments on them. The agenda had identified three main areas – highway impacts; infrastructure contributions and affordable housing.
3. GBA outlined the position in respect of that part of the proposal within its area – the roundabout at Chiltern Road.
4. MB outlined the applicant's position particularly identifying the existing 106 "package".
5. The Chair then opened the meeting to a question-and-answer session.
6. The note below identifies the matters raised by TBC Members together with the responses from the relevant party.
7. Highway Impacts
  - Concerns about the geographic extent of the traffic modelling undertaken – HLM responded by saying that the scope had been agreed with NH, WCC and SCC.

- What commitments/ allocations were included in the scoping of that modelling? – HLM confirmed that all relevant Local Plan sites had been included as it was the same model as used for the Local Plan.
- Was J10 included? – HLM confirmed that this was the case.
- How up to date is it? – HLM said that the model covers the whole of the Local Plan period and that was pre-covid.
- How has the traffic distribution from the site been assessed – only 12% to go eastward? - HLM said that this was based on census data and agreed with NH, WCC and SCC.
- Were up to date trip rates included? – HLM confirmed this saying that the nationally recognised TRIC's database was used.
- Is the mitigation proposed in the TBC area adequate? – HLM said that the mitigation had been agreed by the three Highway Authorities.
- The distance between the new roundabout and the signals at Robey's Lane is too short – HLM again confirmed that the relevant Highway Authorities were satisfied.
- What impact will there be because of the inclusion of the school in the first phases of the development? – HLM said that school places would be filled on a phased basis with the impact being considered as part of the overall assessment.
- How is the traffic going north through Alvecote and Shuttington to be mitigated? – A very low % of traffic is anticipated to travel north, however HLM do agree to a planning condition that would keep this under review.
- Construction traffic will be a real problem – HLM confirmed that this would be dealt with through a Construction Management Plan.

8. Infrastructure Contributions.

- More information needed to ensure that there was medical provision on site – HLM confirmed that floor space could be conditioned or contained in a S106 Agreement subject to seeing the evidence to support the figure. NWBC confirmed that there were ongoing discussions with the ICB.
- Concerns about access to Polesworth School – NWBC confirmed that officers were in discussion with WCC officers.
- TBC Members confirmed that there was space in Tamworth Secondary Schools
- In which phase would the primary school be in? – NWBC and HLM said that this was a matter for WCC, but it could be within an early phase.
- There will be equipped play areas on site.

9. There were no comments or questions on affordable housing provision on site.

10. Officers concluded that the application reporting process would be coordinated with probably TBC going first.

11. TBC Members resolved that they wanted to visit the site.

12. The Chair closed the meeting at around 1915.

**PAP/2018/0755**

**Proposed Residential Development at Robeys Lane, Alvecote**

**FRIDAY 3 November 2023 at 1300 via TEAMS**

Present:

Councillors Dirveiks, Phillips, Ridley, Parsons and Simpson

J.Brown – NWBC Officer

C Gowlett, P Burton, M. Bassett and A Robinson representing Hallam Land Management (HLM).

1. MB introduced a further revision to the overall layout following consideration of the comments made at previous meetings.
2. This showed a plan with no development on the east side of Robeys Lane – just the access road into the allocated land.
3. The planting south of Alvecote Wood had been retained and there would be additional planting alongside Robeys Lane. This would be retained as a pedestrian/cycle way.
4. The Primary School with its playing fields would be moved into the allocated land next door to the community hub.
5. There would no longer be sports pitch provision east of Robeys Lane – an off-site S106 contribution would be required.
6. There would be some 1230 houses, plus the 100-bed care home.
7. Members acknowledged that this latest scheme had responded positively to the concerns they had made on earlier drafts.
8. HLM would submit this as a formal amendment and update the supporting documentation.
9. NWBC would re-consult and refer the amendment to Board for information in December.
10. The meeting ended at 1330.

**PAP/2018/0755**

**Robeys Lane, Alvecote**

**Site Visit – 21 July 2023 at 1430**

Present: Cllrs Phillips, Ridley and Simpson together with J Brown

1. Members met on the old Tamworth Road outside the Recreation Ground.
2. They were shown plans of the proposed layout and walked down to the B5000 bridge over the M42. Here they looked both ways along the B5000 so as to see the significant hedgerow/vegetation cover along its boundaries as well as those on the west side of the M42.
3. Members walked some way towards Robeys Lane, crossing the road to a former gated access into the fields to the north.
4. Here they could see practically over the whole of that part of the application site that lies to the east of Robeys Lane.
5. They noted the extensive views to Shuttington and to the Pooley Country Park
6. The location of Alvecote Wood was noted along with the highest part of the application site itself. The line of Robeys Lane was also noted.
7. The levels were also pointed out with the slope running from west to east.
8. Members then went to the site of the access into the site at Chiltern Road. Here they saw the location of the new roundabout, the residential properties in Chiltern Road and the approximate land take for the roundabout noting the hedgerow/vegetation that would be lost.
9. Members then returned to the Old Tamworth Road and drove up Robeys Lane.

## General Development Applications

(6/b) Application No: PAP/2018/0755

Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,

Outline application - Demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) & (g) (i) and (ii), F.2 (a) & (b), drinking establishment and hot food takeaway uses, a primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for

## Hallam Land Management

### 1. Introduction

- 1.1 The receipt of this application was first reported to the Board in February 2019. It resolved that progress reports should be brought to the Board and that representatives of the Board should if appropriate, meet the applicant and also representatives from the Tamworth Borough Council. A progress report was tabled in October 2020 and a second report was tabled in July 2023. These meetings subsequently took place. As a consequence, amended plans have been received and it is the purpose of this current report to introduce these to the Board. The same revisions and supporting documentation have similarly been forwarded to the Tamworth.
- 1.2 Re-consultation has commenced on the new plans and a full determination report will be brought to the Board in due course. It is not proposed to attach the previous reports to this current report, as that determination report will include all relevant matters.
- 1.3 As a reminder to Members, whilst the great majority of the application site is within North Warwickshire, there is a portion of the site within the administrative area of Tamworth Borough Council. This is land to the south of the B5000 at Chiltern Road, and it is included in order to accommodate the proposed vehicular access into the site. An appropriate application was therefore also submitted to that Council. Additionally, as the whole of the extensive western boundary of the site directly adjoins the administrative boundary with Tamworth, that Council has been formally consulted on the substantive application submitted to this Council. The references to Tamworth Borough Council in paragraph 1.1 are a consequence of these factors.
- 1.4 The general location plan is attached at Appendix A.

6b/13

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## **2. The Amended Proposals**

- 2.1 The most substantial change to the original proposal is the omission of land to the east of Robey's Lane, except for the construction of the new roundabout on the B5000 and the link road north from there to cross Robey's Lane. This results in a smaller site – by some 22 hectares - and also to a reduction in the number of houses proposed. This is now 1370 rather than the original 1540. The 100-room extra care home remains within the new proposal, and it is included in the 1370 figure. The original application site is at Appendix B and the current site is at Appendix C.
- 2.2 As a consequence of this change, Members are referred to Appendix D which is the latest Parameters Plan and to Appendix E which is an illustrative layout. A potential phasing plan is at Appendix F. Attention is drawn to the relocation of the school onto the western side of Robeys Lane as well as the relocation of the sports pitches to the south of the site. A substantial structural planting buffer is proposed to the immediate south of Alvecote Wood, and this would extend alongside the eastern side of Robeys Lane. Members are reminded that the layout and phasing plans are for illustration only and they are plans not to be determined - unlike the Parameters Plan.
- 2.3 The principal means of access into the site remains as the proposed four arm roundabout off the B5000 at Chiltern Road. It will now facilitate a much shorter road link to access the development area west of Robey's Lane – see the link on Appendices D and E between points 1 and 3b. The second access onto the B5000 at the existing Robeys Lane junction remains at point 2 on Appendices D and E. This gives access into the southern part of the site but also enables there to be an "emergency" link between points 3a and 3b on the same two Appendices. The main road into the site is thus a continuation of the link road from point 3b, rather than using Robeys Lane north of here. The length of Robeys Lane between points 3b and 4 of the Appendices will become "non-vehicular" enabling a pedestrian and cycle route. It will however continue to provide vehicular access north of point 4 towards Alvecote.
- 2.4 A more detailed plan of the two new junctions onto the B5000 is at Appendix G and this is also the subject of the application submitted to the Tamworth Borough Council.
- 2.5 The proposals also include off-site highway alterations on the B5000 west of the site, all in Tamworth – at the Glascote Road/Sandy Way junction, the Mercian Way/Glascote Road roundabout and at the Chiltern Road junction – see Appendices H, I and J.

6b/14

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2.6 The submission of the original application was accompanied by an Environmental Statement. This is available to view on the Council's website. It contains the applicant's supporting documentation as well as identifying impacts – adverse as well as beneficial – such that mitigation measures can be recommended where appropriate. However, this Statement has had to be updated given the time that has elapsed since its receipt and also to accommodate the changes to the overall proposal as now submitted at Appendices D, E and F. The updates are available to view on the Council's website. In order to assist Members, an updated Non-Technical Summary has also been prepared by the applicant and this is at Appendix K.

2.7 Re-consultation is now underway on these revisions and updated documentation as outlined above.

2.8 It has also been necessary to formally advertise the updated Environmental Statement.

### **3. Development Plan**

3.1 There have also been changes to the Development Plan since the original submission. The North Warwickshire Local Plan was adopted in September 2021. It replaces the Core Strategy and Saved Policies which have been referred to in previous reports. This Local Plan is now the Development Plan for the determination of this application. There is no adopted Neighbourhood Plan covering the application site.

### **4. Other Material Planning Considerations**

4.1 The National Planning Policy Framework was revised in December 2023, and this will be referred to in subsequent reports.

4.2 The Dordon Neighbourhood Plan was adopted in late 2024.

4.3 There are other updates that Members should be aware of:

- i) The DfE published its Securing Developer Contributions for Education in August 2023.
- ii) The Bio-Diversity Requirements (Exemptions) Regulations came into effect in early 2024.
- iii) The Town and Country Planning (Consultation) (England) Direction was also revised in 2024.
- iv) The Council published its Planning Obligations for Sport, Recreation and Open Space in 2023.
- v) The Council published its Air Quality and Planning Guidance in 2019.

6b/15

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## **5. Observations**

5.1 As indicated above, this report is just to introduce the latest revisions to this proposal for the Board so that Members can review the associated documentation prior to a full determination report following receipt of the re-consultation process.

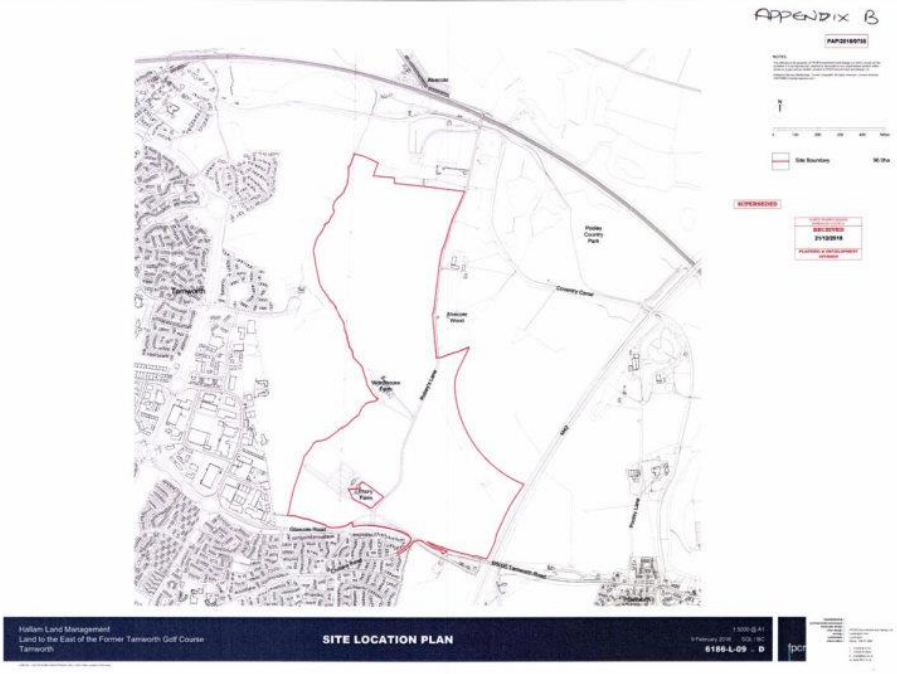
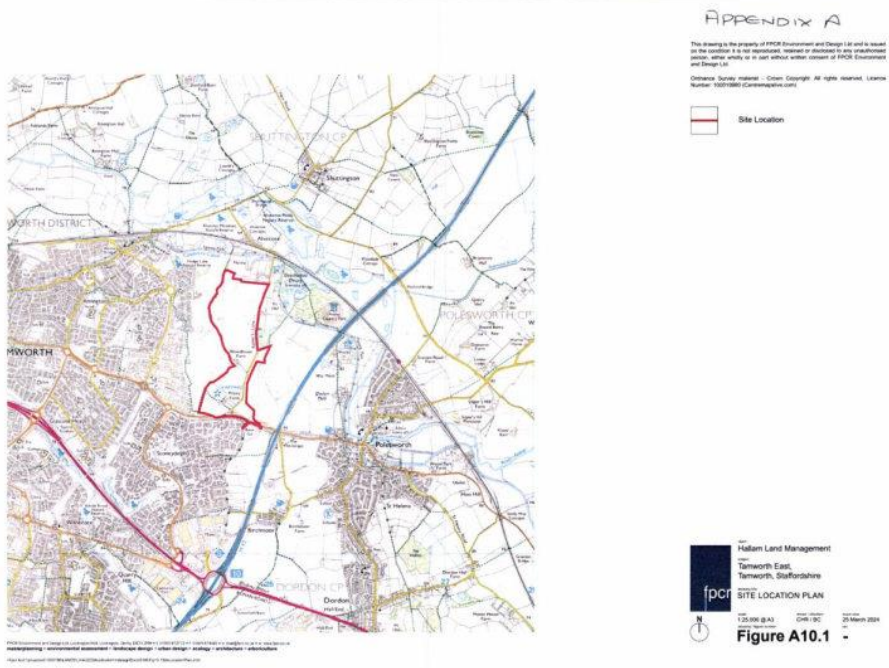
### **Recommendation**

That the report be noted.

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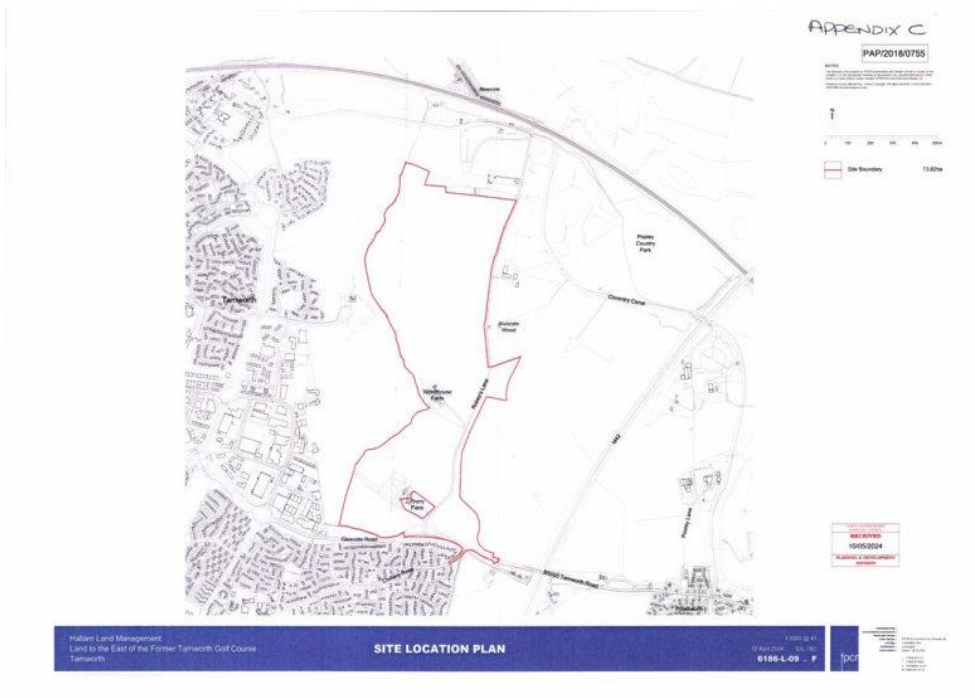
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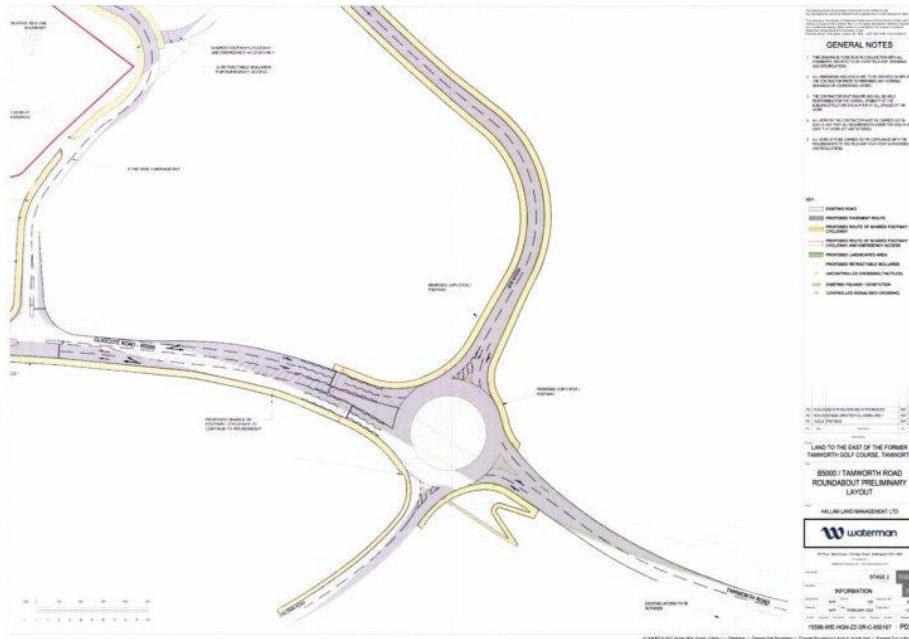


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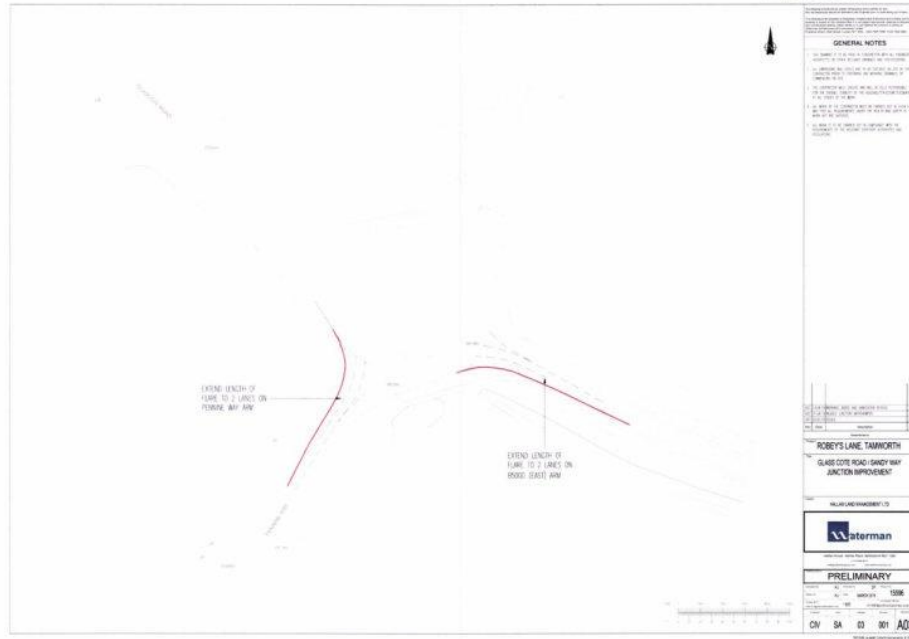
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APPENDIX G



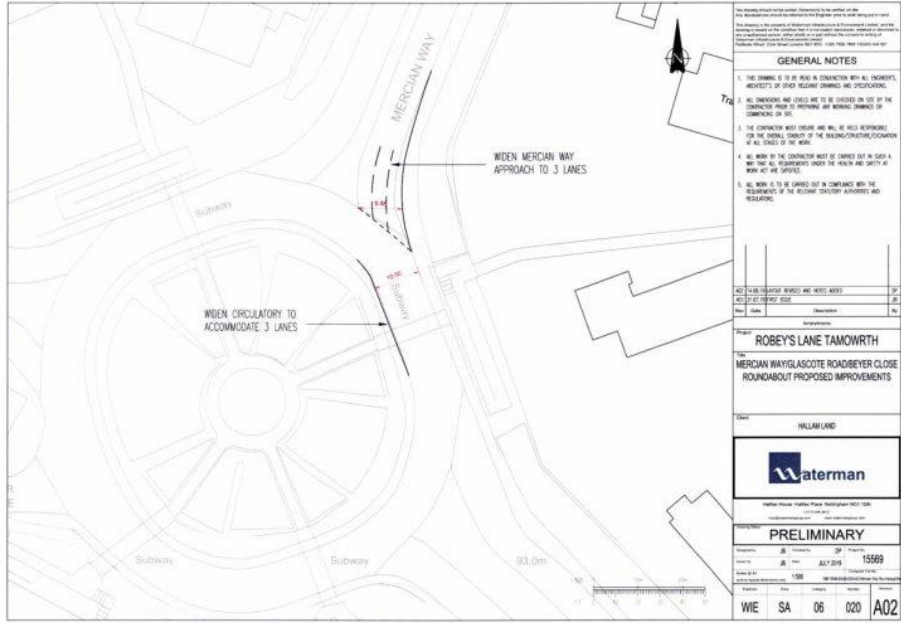
APPENDIX H



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APPENDIX I



**GENERAL NOTES**

1. THE DRAWING IS TO BE READ IN CONNECTION WITH ALL SPECIFICATIONS, INSTRUCTIONS AND CONDITIONS OF CONTRACT DRAWING AND SPECIFICATIONS.
2. ALL DIMENSIONS AND LEVELS ARE TO BE GIVEN IN USE OF THE CONTRACTOR UNLESS OTHERWISE SPECIFIED. DIMENSIONS OF CONCRETE OR S.I.
3. THE CONTRACTOR MUST INSURE AND WILL BE HELD RESPONSIBLE FOR THE CORRECT CONSTRUCTION OF THE BALANCE/CONTRACT/COVENANT AT ALL STAGES OF THE WORK.
4. ALL WORK BY THE CONTRACTOR MUST BE CARRIED OUT IN ACCORDANCE WITH ALL RELEVANT REGULATIONS UNDER THE HIGHWAY AND SAFETY ACT 1997 AND THE SAFETY.
5. ALL WORK IS TO BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF THE RELEVANT STATUTORY INSTRUMENTS AND REGULATIONS.

NO.	DATE	DESCRIPTION	BY
1	15/06/2018	ISSUED FOR TENDER	SP
2	15/06/2018	ISSUED FOR TENDER	SP
3	15/06/2018	ISSUED FOR TENDER	SP

**ROBEY'S LANE TAMWORTH**  
MERCIAN WAY GLASCOTE ROAD BEYER CLOSE ROUNDABOUT PROPOSED IMPROVEMENTS

Client: HULLAM LAND

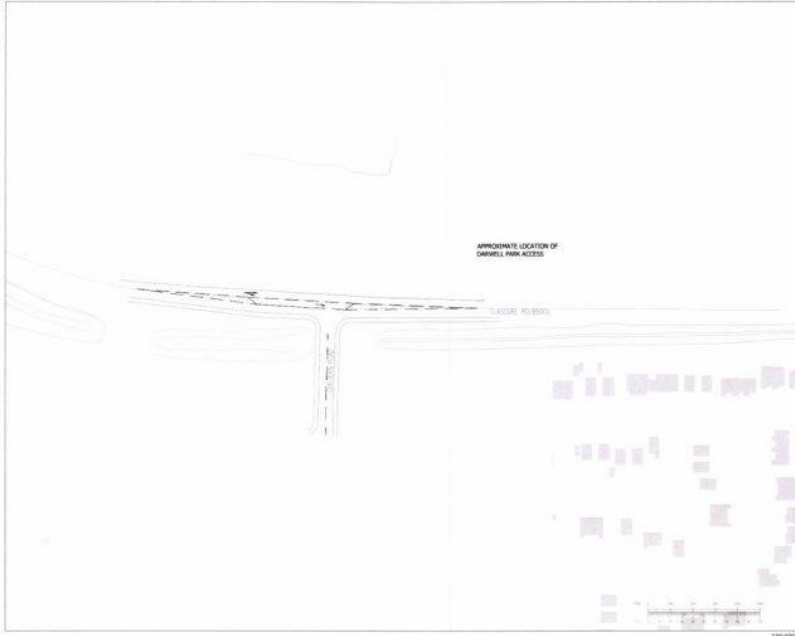
**waterman**  
Waterman House, 110-112, High Street, Tamworth, B77 1JN

**PRELIMINARY**

Project No.	15569
Issue No.	01
Issue Date	15/06/2018
Issue Description	ISSUED FOR TENDER

WIE SA 06 020 A02

APPENDIX J



**GENERAL NOTES**

1. THE DRAWING IS TO BE READ IN CONNECTION WITH ALL SPECIFICATIONS, INSTRUCTIONS AND CONDITIONS OF CONTRACT DRAWING AND SPECIFICATIONS.
2. ALL DIMENSIONS AND LEVELS ARE TO BE GIVEN IN USE OF THE CONTRACTOR UNLESS OTHERWISE SPECIFIED. DIMENSIONS OF CONCRETE OR S.I.
3. THE CONTRACTOR MUST INSURE AND WILL BE HELD RESPONSIBLE FOR THE CORRECT CONSTRUCTION OF THE BALANCE/CONTRACT/COVENANT AT ALL STAGES OF THE WORK.
4. ALL WORK BY THE CONTRACTOR MUST BE CARRIED OUT IN ACCORDANCE WITH ALL RELEVANT REGULATIONS UNDER THE HIGHWAY AND SAFETY ACT 1997 AND THE SAFETY.
5. ALL WORK IS TO BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF THE RELEVANT STATUTORY INSTRUMENTS AND REGULATIONS.

NO.	DATE	DESCRIPTION	BY
1	15/06/2018	ISSUED FOR TENDER	SP
2	15/06/2018	ISSUED FOR TENDER	SP
3	15/06/2018	ISSUED FOR TENDER	SP

**ROBEY'S LANE TAMWORTH**  
IMPROVEMENT OF CHILTERN ROAD BRIDGE

Client: HULLAM LAND

**waterman**  
Waterman House, 110-112, High Street, Tamworth, B77 1JN

**PRELIMINARY**

Project No.	15569
Issue No.	01
Issue Date	15/06/2018
Issue Description	ISSUED FOR TENDER

WIE SA 06 007 A01

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Land to the East of the former Tamworth Golf Course site, North of Tamworth Road (B5000) and West of the M42

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## **Environmental Statement Addendum – Non Technical Summary**

In support of:

Outline Planning Application for demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) &(g) (i) and (ii)), drinking establishment and hot food takeaway uses, a primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping

On behalf of:

Hallam Land Management Ltd



April 2024

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## 1. INTRODUCTION

- 1.1. This document is the Non-Technical Summary ("NTS") of the Environmental Statement Addendum ("ESA2024") which has been prepared to support an existing outline planning application by Hallam Land Management Limited ("the Applicant") for residential development.
- 1.2. In December 2018, the Applicant submitted an outline planning application for up to 1540 dwellings, (including a 100 bed extra care home) a community hub, (up to 2,250m2 of gross floorspace for Uses A1-A5, B1a-B1b, D1 and D2), a primary school, green infrastructure including children's play space, playing fields, sports pavilion, allotments and informal open space, vehicular access, drainage infrastructure and landscaping. With the exception of access all matters were reserved for further consideration.
- 1.3. The application site is predominately within the administrative boundary of North Warwickshire Borough Council ("NWBC"), with the exception of a very small area of land to the south of the site, to solely facilitate access works, which is within Tamworth Borough Council ("TBC"). The application was therefore made in duplicate to both planning authorities and registered under references PAP/2018/755 & 0561/2018 respectively.
- 1.4. The application was supported by an Environmental Statement ("ES") and assessed development up to a maximum quantum of 1700 dwellings, together with the non-residential uses listed above. In May 2021, an ES addendum (ESA2021) was submitted, that covered additional information in relation to Chapter 7 (Ecology) and Chapter 9 (Cultural Heritage).
- 1.5. The application has been subject to extensive discussion since submission and through discussions in 2023, NWBC has formally requested a revision to the proposed scheme, which removes built development, bar an access road from land east of Robey's Lane. This has necessitated changes to a number of key drawings including the site location plan; the parameters plan and the indicative layout. This is explained in summary terms in the next section of this NTS.

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- 1.6. The ESA2024 is provided to reassess any likely environmental effects of the proposed development, as amended by the revised scheme defined in Chapter 3 of the ESA2024. In summary terms this comprises a reduced site area and a lower quantum of residential development. The ESA2024 re-appraises the effects, by reference to the original assessment and updates the baseline data where appropriate.
- 1.7. The ESA2024 should be read in conjunction with the original ES and the ESA2021.

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## 2. THE PROPOSED DEVELOPMENT

2.1. The extent of the Site subject to the application and the ES assessment has been reduced from 96ha to 73.8ha as a consequence to the revised approach to land east of Robey's Lane. The site boundary west of Robey's Lane remains unchanged and comprises 66ha of land. The land east of Robey's Lane has been reduced from approximately 30ha to 7.8ha and comprises the southwest portion of a large agricultural field, together with a linear area of land running broadly parallel with Robey's Lane. The principal reason for this amendment is to minimise development within NWBC's 'Strategic Gap', a designated area identified within NWBC's Local Plan.

2.2. The revised description of development is:

*"Demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) &(g) (i) and (ii)), drinking establishment and hot food takeaway uses, a primary school, the comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping"*

2.3. The original description of development included upper quantum limits in respect of residential units and floor space for the community hub. These have been removed from the description to allow for flexibility, albeit the revised parameters plan still provides the breakdown of the quantum of development and it is envisaged that conditions will be imposed to control this.

2.4. The differences between the original and amended scheme are summarised in the table overleaf.

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**Table 1 - Comparison of original and amended scheme**

	<b>Original Scheme (ES based on 1700 dwellings)</b>	<b>Amended Scheme 6186-L-04Y 6186-L-12Z</b>	<b>Difference</b>
<b>Site Size</b>	96ha	73.8ha	-22.2ha
<b>Residential Units</b>	Up to 1540 (inc 100 beds Extra Care)	<b>1370</b> (inc 100 beds Extra Care)	<b>-170 dwellings</b>
<b>Community Hub</b>	Up to 2,250	Up 2,250	-
<b>Primary School</b>	2ha	2.2ha	+ 0.2ha
<b>Green Infrastructure</b>	50ha	<b>34.28ha</b>	<b>-15.72ha</b>

- 2.5. All three access points remain as part of the scheme. The design of access 1 remains unchanged, however, it now facilitates a much shorter link road to access the land west of Robey's Lane. This creates two additional accesses, across Robey's Lane just north of access 2. These additional accesses have been named 'access 3a and 3b' respectively on the revised parameters plan.

### 3. SUMMARY OF ENVIRONMENTAL EFFECTS

- 3.1. This section summarises the conclusions of the assessment on a technical chapter by chapter basis as described in the ESA2024. A table at the end of this NTS is provided which sets out the residual effects (ie: after mitigation measures have been implemented) for all chapters.

#### Chapter 5 – Transport and Access

- 3.2. This Chapter considers potential changes in baseline conditions of the site and surrounding area and re-appraises the likely transport-related impact of the proposed development on the local highway network.
- 3.3. The Chapter confirms there have been no significant changes to legislation, policy or guidance since the original ES which would have a material effect on the approach to or findings of the assessment. It adopts the same methodology and significance criteria as the original ES.
- 3.4. In respect of the baseline assessment for traffic, the original ES utilised traffic flows extracted from Warwickshire County Council's Atherstone Paramics Model and also from planning application 0088/2015 (Tamworth Municipal Golf Course – Residential led development consisting of 1100 dwellings, a primary school and small convenience store). The data obtained from the Atherstone Paramics Model was the principal source of data for links/junctions within Warwickshire, whereas the data obtained from planning application 0088/2015 was the principal source of data for links/junctions within Staffordshire. This approach was agreed with Warwickshire County Council, Staffordshire County Council and National Highways.
- 3.5. To determine if there have been any significant changes in baseline traffic flows, traffic data for 2023 has been obtained for the same links (defined as sections of highway, usually between two junctions) that were considered within the original ES. Traffic data was obtained from

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Warwickshire County Council and where data was not available new traffic surveys were commissioned in November 2023. This approach was agreed with Warwickshire County Council. The same approach as adopted in the original ES has been undertaken in regard to the assessment of junctions within Staffordshire.

- 3.6. Table A5.1 in the ESA2024 sets out the differences between baseline traffic flows in the original ES compared to the ESA2024 (which is a comparison between 2016 and 2023).
- 3.7. The baseline traffic flows on the local highway network have decreased significantly between 2016 and 2023, with traffic flows 19.4% less (103,577 vehicles fewer across the study area). This change is likely to be due to large increases in people working from home due to lifestyle changes brought about by the covid-19 pandemic and improvements in remote working capabilities due to technological advancements.
- 3.8. The original ES concluded that there were very few negative effects of significance in terms of transport-related environmental effects which require specific mitigation to be identified. Where necessary a range of mitigation measures were identified i.e. where the impact of development is considered to be adverse. The original ES concluded that the level of residual effects of the development, after the above mitigation, would be of **Negligible** effect.
- 3.9. Given the reduction in forecast traffic flows on the network, and reduction in the quantum of proposed development, the conclusions of the original ES to remain valid/unchanged. The mitigation proposed in the original scheme is continued through into the amended scheme and includes (but is not limited to) the following:
  - Improvement works at the B5000 / Sandy Way / Pennine Way Roundabout;
  - Improvement works at the B5000 / Mercian Way / Beyer Close Roundabout;
  - Improvement works at the B5000 / Chiltern Road junction;
  - Improvement works to the B5000 / Bridge Street / Market Street junction in Polesworth (applicant to provide a contribution);

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## Chapter 6 – Noise and Vibration

- 3.10. The Noise and Vibration Chapter assesses the impact of the revised scheme in respect of the following issues:
- Road Traffic Network Noise (to existing receptors)
  - Construction Noise
  - Fixed Plant Items
  - Sports Pitches
  - Noise from Existing Sources (to proposed receptors).
- 3.11. The Chapter reports an update to National Planning Practice Guidance and Local Plan policy since the submission of the original ES. It confirms there have been no significant changes to legislation, policy or guidance since the original ES which would have a material effect on the approach to the noise assessment.
- 3.12. The Chapter explains that baseline conditions have been re-appraised since the original ES with new sound survey data collected between 30<sup>th</sup> November and 8<sup>th</sup> December 2023. The proposed development site has been reduced, removing the nearest receptors relative to the M42 carriageway from the scheme (those east of Robey's Lane).
- 3.13. The potential for adverse effects on proposed residential receptors has been determined as being consistent with or reduced to that prescribed in the original ES, with a noted reduction of development land relative to the M42 carriageway and the reduced residential allocation at the south of the site relative to Glascote Road.
- 3.14. Outline mitigation measures of noise affecting the proposed development has not significantly changed since the original ES.
- 3.15. The potential noise impacts from changes in traffic flows on the local road network, construction activity and operational fixed plant items have been considered and taking into account the cumulative effects as applicable with respect to traffic flows.

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- 3.16. In the short and long term, a **minor** adverse impact (in the worst-case) from future road traffic has been assessed and the effect is not significant.
- 3.17. Following suitable mitigation in the form of good acoustic design and the acoustic specification of sound insulating façade elements, the impact of environmental noise on proposed dwellings as mitigated has been assessed as **Negligible** and the residual effect is **not significant**.

#### **Chapter 7 – Ecology**

- 3.18. As a consequence of the revision to the site boundary there is a change to the extent of the baseline and this addendum chapter has taken the opportunity to update various baseline surveys. The chapter confirms that the survey methodology employed on the original habitat and protected species reports has not altered.
- 3.19. It is confirmed that there is no change to baseline conditions in respect of internationally designated sites or nationally designated sites. There is a minor change at local level with Abbey Green Local Nature Reserve no longer falling within 1km of the site boundary and so it is removed from assessment. In addition three Local Wildlife Sites have been identified since 2018 comprising; Betty's Wood; Pooley Country Park Meadows and an unnamed site located approx. 950m to the north east of the Site.
- 3.20. In respect of habitats and species, the baseline conditions section updates the position on each, comparing to the original assessment. The summary table within the ESA2024 confirms that they all remain as per the original assessment.
- 3.21. The chapter assesses the impact of the proposed development on each of the ecological receptors, comprising designated sites (international, national and local), habitats and individual species. It concludes that there are no additional impacts anticipated for designated sites, or on-site habitats or fauna and the assessment is unchanged from the original ES.

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- 3.22. The mitigation measures remain unchanged from the original ES. Table A7.5 provides a comprehensive summary of the effects on each ecological receptor and comments whether this has altered from the original assessment. On each occasion no change is noted and the residual effects range from **Negligible to Minor Beneficial**.

#### **Chapter 8 – Air Quality**

- 3.23. The Air Quality Chapter reports that there has been several updated guidance documents which are applicable to the assessment and therefore have been considered in the addendum. The assessment methodology has also been revised to take account of updated baseline traffic flow and a more recent base year has been utilised (2022). Consultation was held with the relevant local authorities on the scope of the methodology.
- 3.24. The baseline has been updated to 2022 and 12 receptors (as per the original ES) are identified and assessed for levels of Nitrogen oxides; Nitrogen dioxide; and particulate matter (expressed as PM<sub>10</sub> and PM<sub>2.5</sub>), which relates to the size of the particulates.
- 3.25. The impact assessment has been carried out for the representative existing sensitive receptors considered (i.e. ESR 1 to ESR 12), using the latest Emission Factor Toolkit (v12.0.1), for the 2026 Opening Year. The results of the assessment show that all predicted NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations, in all scenarios considered, are well below the relevant objectives and limit value.
- 3.26. The results of the assessment have been compared against the results found in the original ES. Despite the reduced number of vehicles assessed in this addendum compared to the original ES, the majority of ESR's have a higher concentration change as a percentage of Air Quality Assessment Level in the addendum. This could be due to several factors, such as the use of an updated Emissions Factor Toolkit, the use of 2018-based Defra background concentrations, the use of an updated NO<sub>x</sub> to NO<sub>2</sub> calculator, additional committed developments being included in the traffic data, and the use of a different verification factor to adjust the NO<sub>2</sub> concentrations.

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- 3.27. Each of the effects on the assessed receptors are classed as **Negligible**. The overall effect of the Proposed Development at the sensitive receptor locations considered remains '**not significant**'.

#### **Chapter 9 – Heritage**

- 3.28. The scope of this chapter is unchanged from the original cultural heritage assessment. Following archaeological trenching that occurred to inform the ESA2021, NWBC has advised that no further archaeological fieldwork is required at this stage. A programme of archaeological works, comprising trial trenching and subsequent excavation and associated works would be required should consent be granted.
- 3.29. The assessment methodology remains unchanged from that used in the original ES. The desk-based assessment was originally prepared in 2018 and has been updated to reflect the results of the trial trenching
- 3.30. The predicted construction phase effects remain unchanged except in relation to the features to the east of Robey's Lane. The ESA2021, based on the results of trial trenching, found that there would be a negligible residual effect in relation to these. Most of these now fall outside the Site and as such the Proposed Development as amended, will have no impact upon them. The only features recorded within the amended Site east of Robey's Lane are a series of undated postholes. These are considered to be of low sensitivity. The Proposed Development as amended will preserve these features in situ in an area of Green Infrastructure. There will consequently be **no impact** upon them. The other construction effects remains unchanged from the original ES.
- 3.31. No operational phase impacts have been identified owing to a lack of intervisibility and appreciable historic relationships. This is unchanged from the original ES.
- 3.32. The mitigation for the construction phase remains unchanged. It has been agreed with the LPA that the programme of works will be undertaken post-consent and will be secured by a suitably worded planning condition. The programme of works will be undertaken in

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accordance with a Written Scheme of Investigation (WSI) agreed with the LPA's archaeological advisors.

- 3.33. The proposed mitigation will offset the physical loss of archaeological assets within the Site, reducing the magnitude of impact to negligible. This would result in residual effect of **Negligible** significance. This is not significant in the terms of the EIA Regulations.
- 3.34. No mitigation is proposed in relation to Historic Landscape Character. The residual effect will be adverse and of **Slight** significance. This is not significant in the terms of the EIA Regulations and is unchanged from the original assessment.
- 3.35. Residual effects are unchanged from the original assessment.

#### **Chapter 10 – Landscape and Visual Assessment**

- 3.36. This addendum chapter reviews and updates the baseline position and assesses the impacts and the consequential effects (level of significance) on the receiving landscape receptors and visual receptors as result of the amended Proposed Development. A revised and updated Landscape & Visual Impact Assessment is undertaken and is present within the chapter. This chapter replaces the original Landscape and Visual ES chapter.
- 3.37. An update on national and local policy is provided and of particular note is the adoption of the NWBC Local Plan in 2021 and the Strategic Gap policy (LP4). Whilst this was 'emerging' during the consideration of the original ES, the policy wording was different, more restrictive, and not adopted.
- 3.38. The methodology used is broadly the same as the original ES though updated technical guidance has been considered.
- 3.39. A series of judgements are made on the landscape value and condition. The assessment advises that the site is not assessed as being a landscape of high value, nor is it interpreted to be a "valued landscape" in the context of the NPPF. Having examined the above factors that are considered to influence value, the chapter judges that the site and the

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immediate landscape is of medium landscape value. In respect of visual receptors, these have been maintained from the original ES, and photographs taken to inform the original ES (2016/17) have been updated in January 2024.

- 3.40. There has been a change to the visual baseline since the original ES. This is in relation to the largely built out housing development of Amington Garden Village, which borders the site to the west. Whereas previously the site was primarily subject to urban influences of the residential area of Tamworth to the south at Stoneydelph, the site is now also subject to the influences of the built-up area on its western edge.
- 3.41. The chapter analyses effects both from the construction phase and the operational phase (including 15 years post completion) against a range of landscape and visual receptors.
- 3.42. The only change between the original ES Chapter and the ESA2024 in relation to effects on landscape character is on the site and its immediate context. The completion effects are judged by the Addendum to be **Major-Moderate Adverse**, (as opposed to Moderate Adverse in the original ES) and the longer term effects are judged to be **Moderate-Adverse**, (as opposed to Moderate-Minor Adverse in the original ES). This reflects the reduced levels of green infrastructure between the original submission and the revised scheme. Significant effects are however not anticipated by Year 15 once mitigation (landscaping) has been allowed to mature.
- 3.43. In respect of visual amenity Table A10.2 of the ESA sets out the changes in 'effect' between the original scheme and the revised proposals. These are largely the same effects, or a slight betterment, with the exception being new properties within the Amington Garden Village development. These is judged as **Moderate Adverse** but not significant at Year 15.

#### **Chapter 11 – Water Environment**

- 3.44. This Chapter updates the original assessment to ensure the latest data, policy and development proposals are considered. For consistency, the

Water Environment receptors are retained from the previous ES Chapter but with consideration for the latest proposals.

- 3.45. The chapter notes changes both in the Planning Practice Guidance and the latest Environment Agency climate change allowance guidance, since the original ES. The overall methodology set out in the previously submitted ES has been updated in accordance with the latest revision of the guidance.
- 3.46. The baseline flood risk and drainage conditions at the Site remain predominately unchanged compared to the original ES. The hydraulic modelling exercise of the Unnamed Ordinary Watercourse (UOW) on the western Site boundary has been updated to account for the latest modelling software and hydrological analysis. The updated baseline modelling was approved by an independent third party in March 2024. The potential receptors to the Water Environment Chapter remain as per the original ES and are the UOW, minor waterbodies (ponds) groundwater recharge and surface water run-off. The Flood Risk Assessment and Sustainable Urban Drainage Statement have been updated and are appended to Chapter 11 of the ESA2024.
- 3.47. As per the original ES, following implementation of the proposed mitigation measures for the construction phase, there will be **Negligible** residual effects from the Proposed Development during the construction phase.
- 3.48. There will be **Negligible** residual effects from the Proposed Development on flood risk to the wider catchment as the Site is in Flood Zone 1 and the proposed built development is removed from the modelled UOW floodplain. The appropriate management of surface water in accordance with the Drainage Statement and the use of above ground surface water storage will provide a **Slight Beneficial** effect to the Water Environment. The significance of effects remains the same as the summary provided in Table 11.4 of the original ES Chapter

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## Chapter 12 – Geology and Contamination

- 3.49. This chapter reviews the assessment methodology, existing baseline conditions of the site and surroundings, likely significant environmental effects with respect to both its construction and operational phases, and the mitigation measures required to prevent, reduce or offset significant adverse effects.
- 3.50. The Methodology has not changed since the original ES. With the exception of the change to the site area, the baseline remains largely the same as per the original ES.
- 3.51. The baseline position is summarised as follows *“based on the limited contaminative uses that have occurred, the development is considered to pose a moderate to low risk to human health and a low risk to controlled waters receptors. The main pollutant linkages are localised contaminants within the shallow soils which can be readily mitigated.”*
- 3.52. Following the implementation of applicable impact avoidance and mitigation measures (which remains the same as the original ES), all potential geological and contamination related effects associated with the construction and operation of the proposed development are assessed as being **Negligible** (i.e. not significant). This conclusion remains unchanged from the original ES.

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### Chapter 13 – Socio-Economics

- 3.53. The chapter updates the policy position by reference to the adopted NWBC Local Plan and confirms that the assessment methodology remains as per the original ES.
- 3.54. Since the original ES a new set of census data has been published (2021). However, given the modest changes to the proposal in quantum of development, and the scope of the original assessment, it is not considered proportionate or necessary to update all of the previous baseline data.
- 3.55. In comparison to the period 2001-2011, which is set out in the original ES, both North Warwickshire and Tamworth had larger population rises for the period 2011-2021 (North Warwickshire 0.7 to 4.8% and Tamworth 3.1 to 5.5 %). The Local Impact Area (LIA), which is made up of seven wards defined in the original ES, also saw a rise of 1%, compared to a fall of 2.5% for the period 2001-2021.
- 3.56. The revised proposal reduces the number of dwellings by 330 (in respect of the ES assessment). However, notwithstanding this, the economic impact of the proposed development will continue to lead to an increased output in the local and UK economy. A **moderate beneficial** effect on the economy during the construction phase remains.
- 3.57. Operational effects are analysed from the perspective of demographics, housing, social and community facilities and the local economy. The effects range from major beneficial (contribution to housing) to major adverse (education), prior to mitigation.
- 3.58. The mitigation package comprises a range of Section 106 contributions that have been requested through the course of the consideration of the application (subject to CIL compliance). These are set out in detail in the ESA2024. Once mitigation is applied the residual effects for education reduce to negligible/minor beneficial

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- 3.59. In socio-economic terms, overall the development will have a **moderate beneficial** effect. This remains consistent with the conclusion of the original ES.

#### **Chapter 14 – Population and Human Health**

- 3.60. The original ES chapter was accompanied by a Health Impact Assessment (HIA). Although the ES chapter has been reviewed in the context of the proposed revisions to the scheme, it is not considered necessary to update the HIA.
- 3.61. The key determinants of health and well being remains as per the original ES and include diseases and other conditions; physical injury, mental health and well-being, employment, transport and connectivity, learning and education, crime and safety and health and social care. The significance criteria remains as per the original ES. The baseline has been revised since the original ES to account for updated data including from the Public Health England Health Profile.
- 3.62. The development will have **moderate to major beneficial** physical and mental health effects on residents, construction workers, visitors and other users of the facilities and services. These are the result of some direct effects of the development on the concerned individuals as well as outcomes resulting from the wider determinants of health such as employment, income, education and social capital.

#### **Chapter 15 – Soils and Agricultural**

- 3.63. This Chapter of the ES Addendum re-assesses the effect the Proposed Development will have on agricultural land and soil resources. There is no change to the assessment methodology. The soil resources and agricultural land grades recorded within the site have not changed since the original ES. The area of agricultural land grades have reduced with the site area, with now 52ha classed as best, most versatile land (71%)
- 3.64. The permanent loss of 52.2 ha of best and most versatile (Subgrade 3a) agricultural land (reduced from 68.6ha on the original scheme) cannot be mitigated against and is a permanent **Moderate Adverse** effects of the Proposed Development. The ESA2024 refers back to the original

ES to demonstrate that the agricultural quality of the site is typical of that in the Borough and accordingly a scheme of this scale is likely to have similar effects on BMV. In this context the loss of BMV is considered acceptable.

3.65. The soil resources will be protected by the Soil Management Plan as per the original ES Chapter, and this reduces the effects to **Negligible**.

3.66. Both conclusions are consistent with the original ES.

#### **Chapter 16 – Open Space and Public Rights of Way**

3.67. The Chapter explains that various local policy documents have been updated since the original ES including the Green Spaces Strategy and the Open Space SPD for NWBC.

3.68. No change to the assessment methodology or the baseline conditions is identified.

3.69. The construction effects in respect to open space and public rights of way remains as per the original ES. The effects on Tamworth 169 is considered to be **Minor Adverse**, though this will be temporary.

3.70. The overall level of Green Infrastructure is reduced through the revisions to the proposed development, as a consequence of a reduction of land east of Robeys Lane. The total Green Infrastructure is reduced from approx. 50ha in the original scheme to 34.28ha in the revised scheme. In terms of land that meets the open space definition of the SPD, the reduction is from 24.3ha to 18.12ha.

3.71. The proposed development includes open space provision significantly in excess of the requirements of the SPD and suitable playing pitch provision. Having regard for this provision and the site's relationship with existing open space facilities in the wider area, it is concluded that the development will have a **Minor Beneficial effect**. This has reduced from a Minor to Moderate Beneficial effect as a consequence of a reduction in sports pitch provision, albeit the scheme still provides suitable provision.

- 3.72. With regards to impact on PROW, the development is considered to have a **Negligible effect**.

#### **Chapter 17 – Conclusion**

- 3.73. The ESA2024 has updated the assessment of the proposed development as part of a formal revisions package submission. The changes to the scheme include a reduction in site area, to limit development east of Robey's Lane to site access and a link road, following negotiation with NWBC.
- 3.74. The purpose of the ESA2024 is to appraise the revised scheme and compare the effects to the original ES (as amended by the addendum in 2021).
- 3.75. In a single case, relating to the loss of agricultural land, a residual 'Significant' impact is identified. The loss BMV land is considered a **Moderate Adverse** effect, which the author has judged as '**Significant**'. This remains unchanged from the original ES, albeit the amount of BMV lost has reduced from 68ha to 52ha. No mitigation is possible for this impact.
- 3.76. Whilst there are some limited variations in effects from the original ES to the ESA2024, no significant changes have been identified and the position is summarised in table 2 below.
- 3.77. Each of the chapters consider the cumulative effects on their topic areas and no significant effects are identified. In respect of Soils and Agriculture there is no additional significant effects.

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**Table 2 – ES Chapter Effects Summary**

Chapter	Residual Effects		Cumulative Effects
	Construction	Operational	
5. Transport	Negligible (no change)	Negligible (no change)	Negligible (no change)
6. Noise and Vibration	Minor adverse (no change)	Minor Adverse-Negligible (no change)	Not significant (no change)
7. Ecology	Negligible to Minor Beneficial (no change)	Negligible to Minor Beneficial (no change)	None (no change)
8. Air Quality	Negligible (no change)	Negligible (no change)	Negligible (no change)
9. Heritage	Negligible (no change)	None (no change)	None (no change)
10. Landscape and Visual	Negligible to Major-Moderate Adverse	Negligible to Major-Moderate Adverse <sup>1</sup>	Moderate/Minor Adverse
11. Water Environment	Negligible (no change)	Negligible to Minor Beneficial (no change)	None (no change)
12. Geology and Contamination	Negligible (no change)	Negligible (no change)	None (no change)
13. Socio-Economic	Moderate Beneficial (no change)	Negligible to Major Beneficial (no change)	None (no change)
14. Population and Human Health	Beneficial to Minor Adverse (no change)	Major to Moderate Beneficial with limited Minor Adverse	Range of beneficial/adverse impacts, none identified as significant

<sup>1</sup> See Tables A10.1 to A10.2 for full details

		(no change)	(no change)
15. Soils and Agriculture	Impact 'gradual' through construction phase, so assessed under operational (no change)	Negligible (soils) & Moderate Adverse (Agricultural land) – A 'Significant' effect (no change)	None (no change)
16. Open Space and Public Rights of Way	Negligible (no change)	Negligible to Minor Beneficial	Negligible to Minor Beneficial

\*'no change' compares to original ES.

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NOTES  
 The drawings are prepared in accordance with the current standards of the Institution of Civil Engineers (ICE) and the Institution of Structural Engineers (IStructE).  
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N  
 0 100 200 300 400 500  
 Site Boundary 73.82ha

Hallam Land Management  
 Land to the East of the Former Tamworth Golf Course  
 Tamworth

**SITE LOCATION PLAN**

1:500 @ A1  
 12 April 2024 SA, JBC  
 6186-L-09 F

Legend:  
 - Site Boundary  
 - Site Location

APPENDIX 6

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Aerial Imagery © 2015 Microsoft Corporation

Site Location

Hallam Land Management  
 Tamworth East,  
 Tamworth, Staffordshire

**fpcr**  
 AERIAL PHOTOGRAPH

1:12,500 @ A3  
 CHR / BC  
 25 March 2024

**Figure A10.5**

FPCR Environment and Design Ltd, Leekington Road, Leekington, Derby, DE74 2DA. Tel: 01509 827272. E: info@fpcr.co.uk. W: www.fpcr.co.uk  
 masterplanning • environmental assessment • landscape design • urban design • ecology • architecture • urban culture

APPENDIX 7

PAP/2018/0755

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**SUPERSEDED**

NOTICE OF SUPERSEDED  
 RECEIVED  
 21/12/2018  
 PLANNING & DEVELOPMENT  
 DIVISION



Hallam Land Management  
 Land to the East of the Former Tamworth Golf Course  
 Tamworth

**SITE LOCATION PLAN**

1:5000 @ A1  
 9 February 2018 SGL/BC  
**6186-L-09 - D**

fpcr

APPENDIX 8

**SUPERSEDED**

PAP/2018/0755

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- Existing Vegetation
- Structural Planting including New Hedgerows
- Play Area
- Allotments
- Changing Pavilion
- Community Orchard
- Sports Pitches
- Drainage Basins (contaminated runoff and attenuation)
- New Multi-Purpose Recreational Routes
- Section of Robey's Lane for Pedestrian/ Cycle Access Only

The Indicative Layout illustrates the intended layout of streets and buildings and does not represent the final design. It is intended to provide a general impression of the proposed development and is not intended to be used for any other purpose.



Hallam Land Management  
 Land to the East of the Former Tamworth Golf Course  
 Tamworth

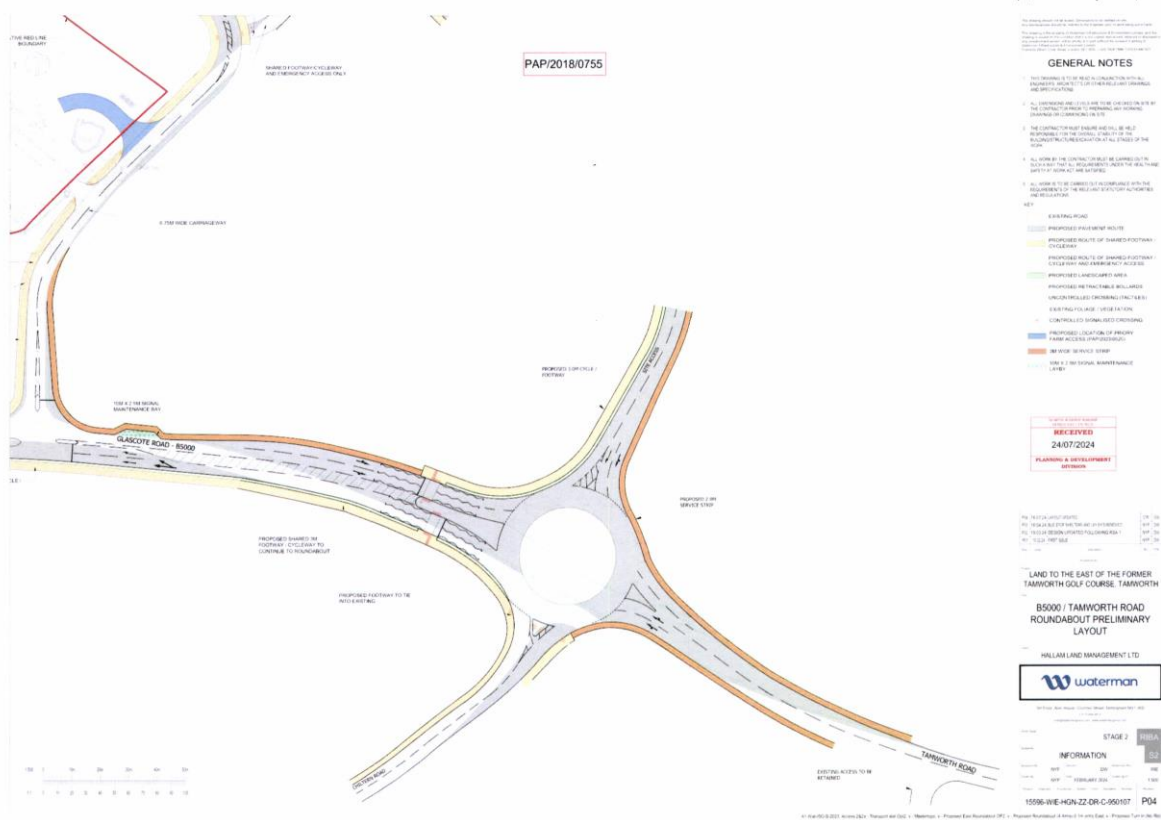
**INDICATIVE LAYOUT**

1:5000 @ A1 or 1:5000 @ A1  
 SGL/BC 20 April 2018  
**6186-L-04 - J**

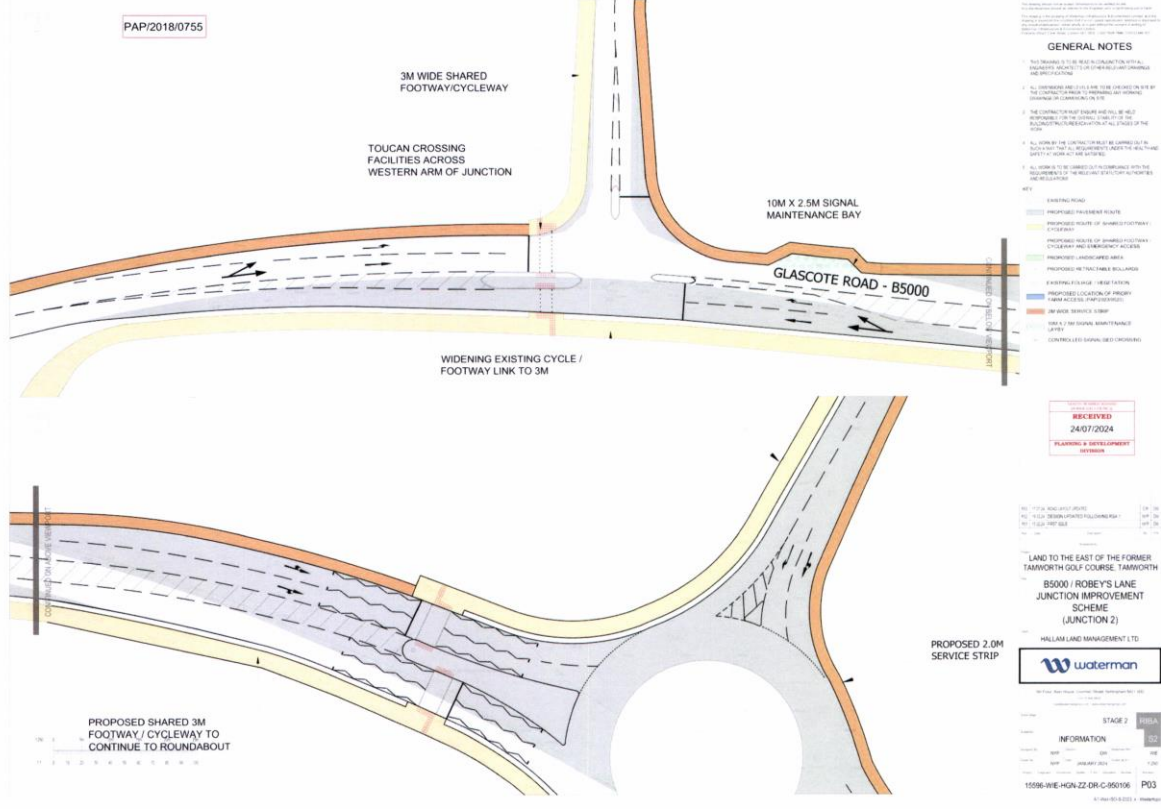
fpcr



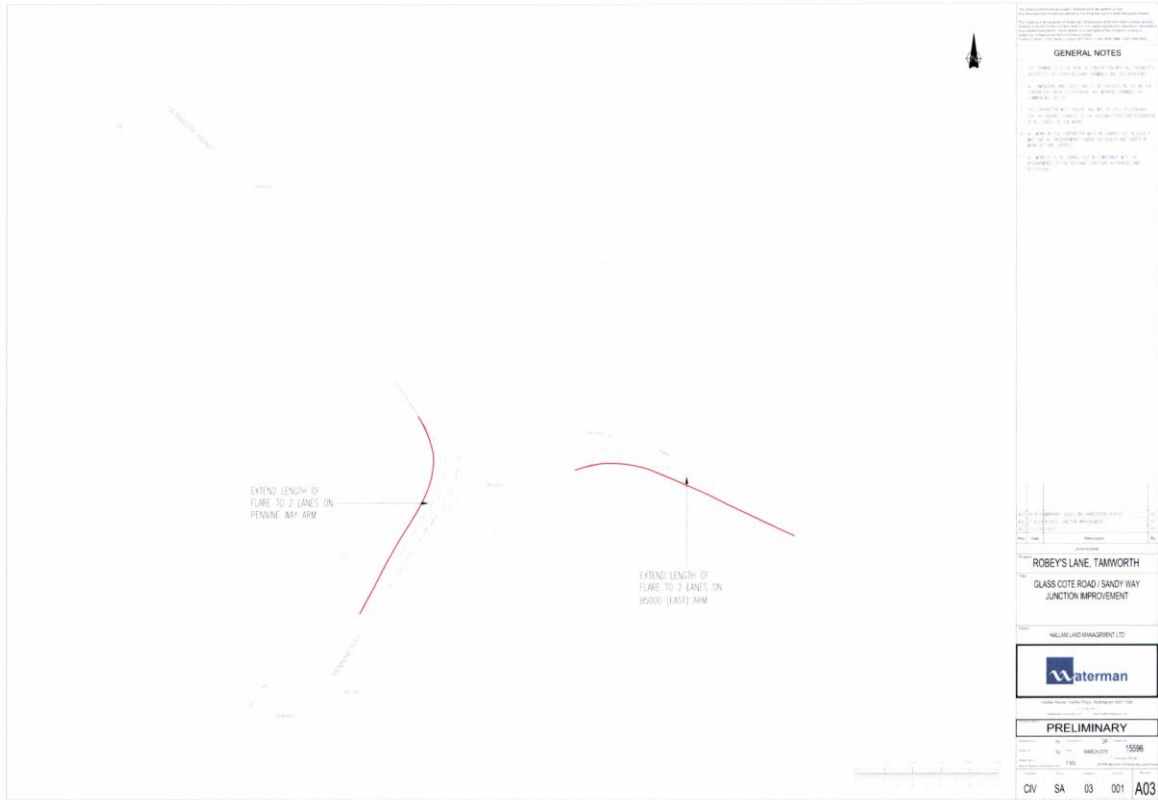
APPENDIX 11



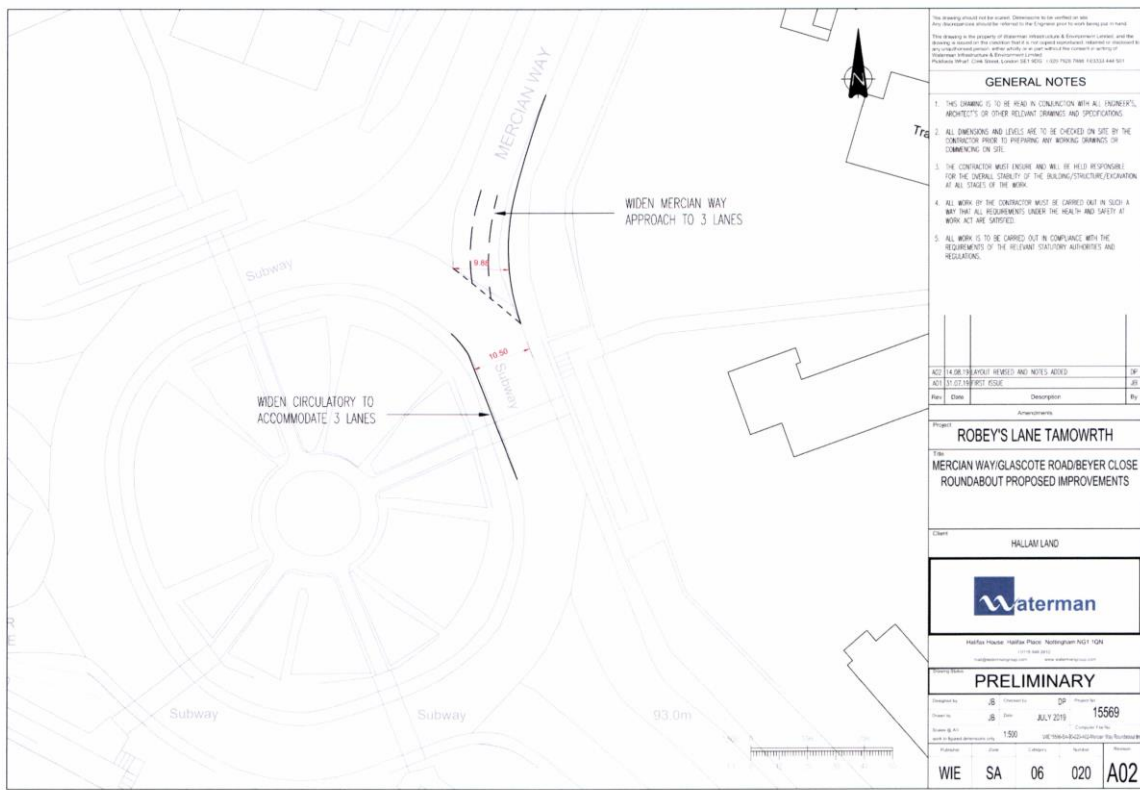
APPENDIX 12



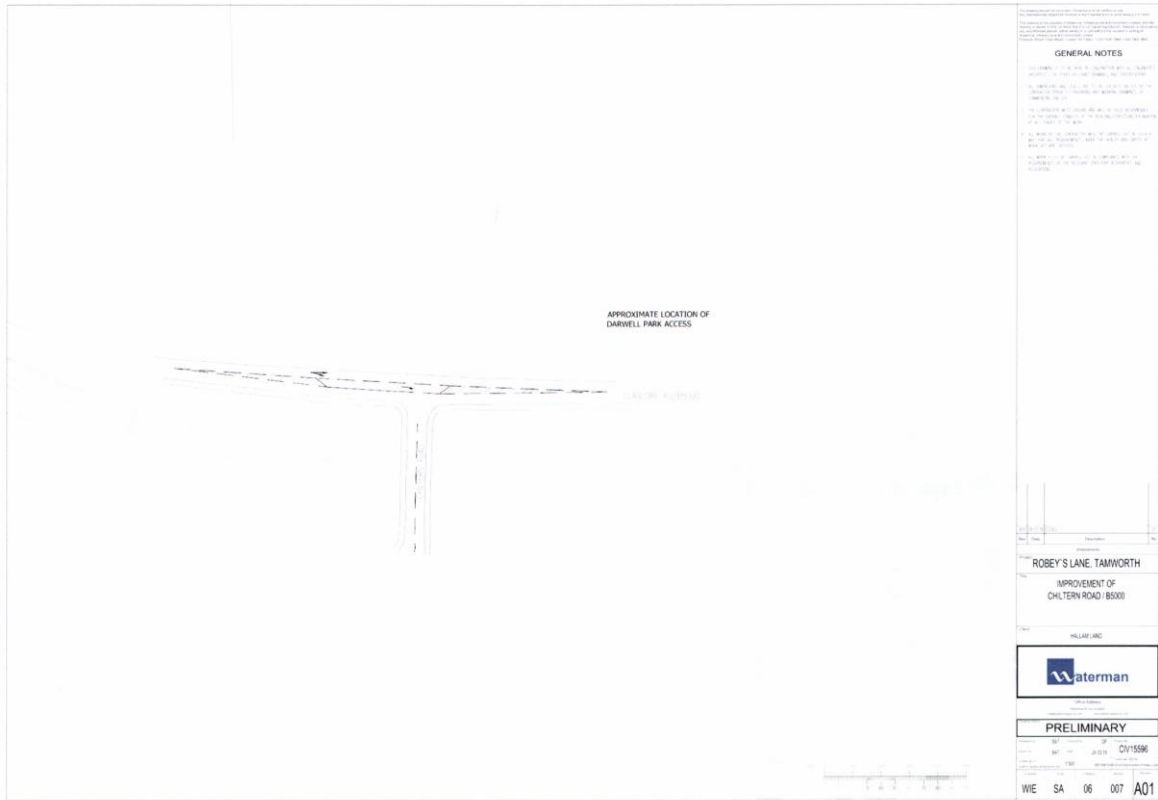
APPENDIX 13



APPENDIX 14



APPENDIX 15



APPENDIX 16



J:\010661\861\MCD\Phase4\861-178\DevelopmentPhasingPlan.rvt

Halism Land Management  
Land to the East of the Former Tamworth Golf Course  
Tamworth

**BUILT DEVELOPMENT PHASING PLAN**

1:10000 - g: A3 to 1:10000 - g: A3  
18/02/2024 10:49:20 AM  
**6186-L-17**

fpcr



## Agenda Item No 6

### Planning and Development Board

2 September 2024

#### Report of the Head of Development Control

#### Proposed changes to the National Planning Policy Framework and other changes to the planning system

### 1 Summary

- 1.1 Draft revisions to the NPPF (“NPPF24”) were announced on 31 July 2024. The changes comprise a mix of proposals that either accept or reverse changes made to the December 2023 version of the Framework and then they introduce some new policies. The report considers the main changes and explains how they may affect the Borough.

#### **Recommendation to the Board**

**That the views contained in the report, and any additional comments by Members, be sent to Government by the consultation deadline of 24 September 2024.**

### 2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

### 3 Introduction

- 3.1 The NPPF was last amended in December 2023. Further review of the planning system was a feature of the recent King’s Speech, so as to introduce new Legislation as quickly as possible. The Government has now published its proposed changes to the NPPF as well as announcing other measures including the promotion of a Planning and Infrastructure Bill and a consultation paper on changes to the Right to Buy procedures.

- 3.2 There is a substantial amount of detail contained in the consultation papers and the national news has picked up on some of the main issues. A useful “summary” is contained in the Deputy Prime Minister’s letter of 30 July which is attached at Appendix A.
- ...

- 3.3 The paper asks over 100 questions. It is however proposed to look at the main matters as highlighted in the letter and how they might impact on North Warwickshire, rather than address each of the questions individually.

### 3.4 These changes will specifically:

- a make the standard method for assessing housing needs mandatory, requiring local authorities to plan for the resulting housing need figure and planning for a lower figure, only when they can demonstrate hard physical constraints and that they have exhausted all other options;
- b broaden the existing definition of brownfield land, set a strengthened expectation that applications on brownfield land will be approved and that plans should promote an uplift in density in urban areas;
- c identify grey belt land within the Green Belt, to be brought forward into the planning system through both plan and decision-making to meet development needs;
- d improve the operation of 'the presumption' in favour of sustainable development, to ensure it acts as an effective failsafe to support housing supply, by clarifying the circumstances in which it applies; and, introducing new safeguards, to make clear that its application cannot justify poor quality development;
- e deliver affordable, well-designed homes, with new "golden rules" for land released in the Green Belt to ensure it delivers in the public interest;
- f make wider changes to ensure that Local Planning Authorities are able to prioritise the types of affordable homes their communities need on all housing development sites and that the planning system supports a more diverse housebuilding sector;
- g support economic growth in key sectors, aligned with the Government's industrial strategy and future local growth plans, including laboratories, gigafactories, datacentres, digital economies and for freight and logistics;
- h deliver community needs to support local communities and the creation of healthy places; and
- i support clean energy and the environment, including through support for onshore wind and renewables.

### 3.5 Alongside these specific changes, the document also calls for views on:

- a whether to reform the way Nationally Significant Infrastructure Projects (NSIP) regime applies to onshore wind, solar, data centres, laboratories, gigafactories and water projects, as the first step of the Government's NSIP reform plans;
- b whether the local plan intervention policy criteria should be updated or removed, so the Government can intervene where necessary to ensure housing delivery;
- c proposals to increase some planning fees, particularly for householder applications, so that Local Planning Authorities are properly resourced to support a sustained increase in development and improve performance, as well as to re-introduce the prospect of locally set planning application fees
- d proposals to review which planning applications are to be determined by local Planning Committees, with a view to setting national thresholds so as to increase the number of delegated decisions.

- 3.6 Finally, it sets out how and when every Local Planning Authority is to “rapidly create a clear, ambitious local plan for high quality housebuilding and economic growth.”

#### 4 **Observations**

##### *Changes to the Standard Method of Housing Numbers*

- 4.1 The proposals seek to “make the standard method for assessing housing needs mandatory”. A new methodology is proposed that moves away from using the “less reliable and changeable household projections”. It instead uses a baseline of a percentage of existing housing stock, topped up by an affordability multiplier. Caps and additions are removed, including the urban uplift, “so that the approach is driven by an objective assessment of need” (chapter 4:7).
- 4.2 The ‘outcome of the proposed method’ shows that London and some larger cities such as Birmingham and Coventry will see a drop in housing numbers. Most (but not all) other authorities will see an increase. North Warwickshire would see an increase in its figure from 163 homes per annum to 381 homes per annum using this method. However, it is difficult to compare figures across different timelines and through different plans. For instance, during the production of the existing Local Plan, Government changed the method of calculating local need so that our figure went down to 169. However, the final adopted local plan used a previous figure of 237 homes per annum (para 14.6 of adopted local plan).
- 4.3 The implications of the new figures will need to be taken through the future Local Plan Review and will inform the future housing requirement. However, there is great deal of uncertainty here and officers are presently unable to advise Members confidently as what the Borough’s housing figure would be in that Review. For instance, if we were to use the new figure of 381 in a new 15-year Local Plan, this would increase the amount of housing required for local needs to 5,715. But the adopted Local Plan already seeks to deliver 9598 homes from 2019 to 2033 (policy LP5 of the adopted local plan) – the increase due to us agreeing to meet a wider housing need. If the Birmingham or wider housing need numbers do fall, then that may change the situation for the next plan period.

##### *5HYLS*

- 4.4 As Members will recall, the Borough Council has for many years had to demonstrate a 5-year housing land supply (5YHLS). With the changes to the NPPF in December 2023 this requirement was dropped for those with an adopted Local Plan less than five years old – including North Warwickshire. Currently, this means that a 5YHLS would not be required to be shown by the Borough Council until September 2026. However, the proposed changes re-introduce this requirement along with the 5% buffer. This means an additional 5% of what is required to be delivered over the next five-year period is added to the amount that needs to be delivered within that timeframe.

- 4.5 With much of the development in the Borough situated and relying on improvements to the A5, these changes could potentially lead to more speculative housing applications away from the A5 corridor, if the Borough Council cannot demonstrate a five-year housing land supply. This goes against the principle of a plan-led approach to development. As members will recall, we are the only Local Authority in the West Midlands providing homes for the Greater Birmingham and Coventry and Warwickshire areas with a Local Plan that is less than 5 years old. Considering therefore that the Local Plan is already very proactive in terms of housing delivery, this seems to be the Borough getting caught in the crossfire of other local planning authorities not producing proactive plans.

*Duty to Co-operate*

- 4.6 Members will recall the Duty to Co-operate was to be removed and replaced with a “duty to align”. It is now proposed that the duty to co-operate will remain. This is welcomed as its replacement was far too ambiguous and did not ensure that neighbouring local authorities would deliver the homes or employment land expected.

*Strategic Planning*

- 4.7 Paragraph 24 is proposed to be expanded to require “effective strategic planning...to play a vital and increasing role...including meeting housing needs, delivering strategic infrastructure, and building economic and climate resilience”. A new para 27 is included that sets out a need to identify matters on which to collaborate and to ensure all plans, including those of other bodies (e.g. investment plans) are consistent with each other especially in respect of delivering major infrastructure, unmet development needs and allocations/designations which cross authority boundaries. Although it is also clear in paragraph 28 that waiting for a perfect evidence base or set of plans and strategies is not an excuse for delay. The more strategic approach is also apparent in respect of economic related uses with paragraphs 84 and 85 emphasising the need to plan for the economy including at a regional and national scale.
- 4.8 Strategic Development Strategies (SDS’s) are proposed to be introduced. This is effectively re-introducing “regional” planning. Mayors are likely to oversee Spatial Development Strategies for their areas. As the Borough Council is a non-constituent member of the West Midlands Combined Authority and the Mayor has no remit over the Borough, it is expected that other arrangements will need to be put in place based on functional economic areas. For example: this could be Warwickshire, or it could be Coventry and Warwickshire, but Coventry is a constituent authority of the WMCA. The geography of where this will be carried out, is still very unclear and further guidance is awaited.

### *Green Belt*

- 4.9 The proposals make significant changes to Chapter 13 of the NPPF on 'Protecting Green Belt Land'. The issue of there being 'exceptional circumstances' for a Green Belt review would now include where a Local Authority cannot meet its identified need for housing, commercial or other developments through other means. In these circumstances, Local Authorities would be under an obligation to review their Green Belt "unless the review provides clear evidence that alterations would fundamentally undermine the function of the Green Belt across the area of the plan as a whole" (para 142).
- 4.10 Where such land is to be released from the Green Belt, then this would have to follow a sequential approach. Reviews to the Green Belt should release previously developed land first, then "Grey Belt", followed by the most sustainable locations for growth in the Green Belt. 'Grey Belt' is introduced into the policy and is defined in the glossary as, "land in the Green Belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes". Sustainable locations would be likely to include land close to major public transport hubs and close to settlements that have a full range of services and facilities.
- 4.11 The reforms also say that where major development takes place on land which has been released from the Green Belt then such sites should provide at least 50% provision of affordable housing with an "appropriate proportion being Social Rent" subject to viability (para 155); necessary improvements to local and national infrastructure and to the provision of good quality green spaces.
- 4.12 Because of the reference to viability above, the draft NPPF provides guidance on how this might be calculated. 'Annex 4: Viability in relation to Green Belt release' has thus been included, to provide guidance on setting a benchmark land value. An exact figure is not provided, however, para 30 (Questions 37, 38 and 39) of the accompanying consultation document considers the appropriateness of a premium, citing evidence of Benchmark Land Value (BLVs) of three times existing use value; ten times existing use value; and between 10, and 40, times existing use value. The Government then indicates its intention of "setting BLV at the lower end of this spectrum" but acknowledging the restrictions on development in these locations.

### *Economic growth*

- 4.13 There is no dramatic change to the policies on economic growth, but NPPF24 proposes to expressly require Local Planning Authorities to identify "*appropriate sites*" for needs of the modern economy, with "*laboratories, gigafactories, data centres, digital infrastructure, freight and logistics*" specifically highlighted. However, as yet no definitions are included. There is also a new requirement to make provision for the "*expansion or modernisation*

*of other industries of local, regional or national importance to support economic growth and resilience*". In this regard the Council's forthcoming Employment DPD is the most appropriate and timely way in which to approach these requirements.

*Renewable energy/low carbon development.*

- 4.14 Planning support for renewable energy and low carbon energy sources (and associated infrastructure) is given additional weight, with para 161(b) requiring Local Planning Authorities to "identify" suitable areas for development, rather than to "just consider" identifying such areas as at present. This position is further strengthened by the introduction of "*significant weight*" to be given in decision making for the contribution of renewable and low carbon developments in renewable energy generation and a broader net zero future.

*Design*

- 4.15 Paragraph 130 was added to the NPPF in 2023 to explain that local character can be taken into account when Local Planning Authorities consider their ability to meet their housing needs. It sets out that significant uplifts in density may be inappropriate if this would result in development wholly out of character with the existing area. Under this paragraph Local Planning Authorities were required to use authority-wide design codes to evidence the impact on character.
- 4.16 However, the new proposals reverse this change and delete paragraph 130 in its entirety. Paras 11 and 12 of the consultation document state that Local Planning Authorities should identify opportunities for maximising the efficient use of land, especially in areas well served by transport and other infrastructure, thereby better achieving sustainable patterns of development and meeting expectations on future housing supply. Alongside this reversal, the proposals strengthen expectations that plans should promote an uplift in density in urban areas.
- 4.17 There is a focus too on ensuring development plans support the efficient use of land at appropriate densities. Rather than district-wide design codes, Ministers want to focus Local Planning Authority efforts on the preparation of localised design codes, masterplans and guides for areas of most change and most potential – including regeneration sites, areas of intensification, urban extensions and the development of large new communities. This is already happening in respect of our strategic housing allocations under the current Local Plan, with its requirement for Master Plans to be prepared for each respective site.

### *Transitional Arrangements*

- 4.18 The consultation seeks to extend the timeline for submitting a Local Plan or other Development Plan Document, such as our Employment DPD, to December 2025 using the current plan-making regulations. As Members will recall this is currently 30 June 2025 and the work on the Employment DPD is geared to meeting the June deadline. If the extension to December is brought in, this would give more flexibility to the process, but given its significance to the Borough, it is important that the work on the Employment DPD continues and reaches submission as soon as practicable.

### *Planning Fees*

- 4.19 It appears that the annual increase in fees, proposed by the previous Government is to remain, but that the new proposal is to double the fee for a householder application to around £560. This is welcomed, as this form of application still constitutes the bulk of those received. However, the proportional annual receipt of fees from them is low and this would remain even after this increase.
- 4.20 The consultation paper also re-introduces the prospect of each Local Planning Authority setting its own planning fees. This is extended this time such that the fee could be seen as covering the total cost of the Development Management service – so including enforcement and some heritage costs – and not just the planning application process. Members previously expressed caution at the time of the earlier proposals due to the bulk of our applications being householders – even with an increased fee - being low-income generators; the service being wholly reliant on the submission of major applications, the unpredictability of the fee stream and ultimately the potential for competition between Local Planning Authorities as has happened within the Building Control service.

### *Increased Delegation*

- 4.21 The consultation paper introduces for the first time, the prospect of a nationally defined scheme of delegation for planning and related applications. The objective is that Local Planning Authorities should concentrate and focus on their decision making on the most significant and strategic development submissions. This however seems to ignore the fact that nationally the delegation level is already around 95% and here at North Warwickshire it is the low 90%'s. There doesn't appear to be much gained from this proposal. At best the requirement should be that each Authority should review its own respective Scheme annually or at least every two years.

## **5 Next Steps**

- 5.1 Following consideration of the comments made during this consultation period, the Government is expecting to publish changes to the NPPF by the end of the year.

- 5.2 We are still awaiting further information on the National Development Management Policies which are missing from this consultation. Indications are they will be brought forward later this year for consultation.
- 5.3 Further information on how strategic planning will be delivered, particularly in Warwickshire and the West Midlands, is expected during this Parliament.
- 5.4 The Planning and Infrastructure Bill is expected this Autumn and should help in filling out some of the detail and operational detail of the proposed NPPF changes.
- 5.5 The overall view of officers at the present time is one of concern about how the changes will affect the Borough, given the current position with its Local Plan seemingly unable to deliver the growth it proposes, due to circumstances wholly outside of its control and thus leaving the Borough vulnerable to speculative development proposals.

The Contact Officers for this report are Jeff Brown (719310) and Dorothy Barratt (719250).





# Ministry of Housing, Communities & Local Government

**Rt Hon Angela Rayner MP**

*Deputy Prime Minister and Secretary of State for  
Housing, Communities & Local Government*  
2 Marsham Street  
London  
SW1P 4DF

**To:** all local authority Leaders in England  
**Cc:** all local authority Chief Executives in  
England

30 July 2024

## **Playing your part in building the homes we need**

Earlier today, I set out to the House of Commons the Government's plan to build the homes this country so desperately needs. Our plan is ambitious, it is radical, and I know it will not be without controversy – but as the Prime Minister said on the steps of Downing Street, our work is urgent, and in few areas is that urgency starker than in housing.

As the Leaders and Chief Executives of England's local authorities, you know how dire the situation has become and the depth of the housing crisis in which we find ourselves as a nation. You see it as you place record numbers of homeless children in temporary accommodation; as you grapple with waiting lists for social housing getting longer and longer; and as your younger residents are priced out of home ownership.

It is because of this I know that, like every member of the Government, you will feel not just a professional responsibility but a moral obligation to see more homes built. To take the tough choices necessary to fix the foundations of our housing system. And we will only succeed in this shared mission if we work together – because it falls to you and your authorities not only to plan for the houses we need, but also to deliver the affordable and social housing that can provide working families with a route to a secure home.

To that end, and in a spirit of collaboration and of shared endeavour, I wanted to set out the principal elements of our plan – including what you can expect of the Government, and what we are asking of you.

### *Universal coverage of local plans*

I believe strongly in the plan making system. It is the right way to plan for growth and environmental enhancement, ensuring local leaders and their communities come together to agree the future of their areas. Once in place, and kept up to date, local plans provide the stability and certainty that local people and developers want to see our planning system deliver. In the absence of a plan, development will come forward on a piecemeal basis, with much less public engagement and fewer guarantees that it is the best outcome for your communities.

That is why **our goal has to be for universal coverage of ambitious local plans as quickly as possible**. I would therefore like to draw your attention to the proposed timelines for plan-making set out in Chapter 12 of the National Planning Policy Framework (NPPF) consultation. My objective is to drive all plans to adoption as fast as possible, with the goal of achieving universal plan coverage in this Parliament, while making sure that these plans are sufficiently ambitious.

This will of course mean different things for different authorities.

- For **plans at examination** this means allowing them to continue, although where there is a significant gap between the plan and the new local housing need figure, we will expect authorities to begin a plan immediately in the new system.
- For **plans at an advanced stage of preparation** (Regulation 19), it means allowing them to continue to examination unless there is a significant gap between the plan and the new local housing need figure, in which case we propose to ask authorities to rework their plans to take account of the higher figure.
- **Areas at an earlier stage of plan development**, should prepare plans against the revised version of the National Planning Policy Framework and progress as quickly as possible.

I understand that will delay the adoption of some plans, but I want to balance keeping plans flowing to adoption with making sure they plan for sufficient housing. I also know that going back and increasing housing numbers will create additional work, which is why we will provide financial support to those authorities asked to do this. The Government is committed to taking action to ensure authorities have up-to-date local plans in place, supporting local democratic engagement with how, not if, necessary development should happen. On that basis, and while I hope the need will not arise, I will not hesitate to use my powers of intervention should it be necessary to drive progress – including taking over an authority’s plan making directly. The consultation we have published today sets out corresponding proposals to amend the local plan intervention criteria.

We will also empower Inspectors to be able to take the tough decisions they need to at examination, by being clear that they should not be devoting significant time and energy during an examination to ‘fix’ a deficient plan – in turn allowing Inspectors to focus on those plans that are capable of being found sound and can be adopted quickly.

### *Strategic planning*

We know however that whilst planning at the local authority level is critical, it’s not enough to deliver the growth we want to see. That is why the Government was clear in the Manifesto that housing need in England cannot be met without planning for growth on a larger than local scale, and that it will be necessary to introduce effective new mechanisms for cross-boundary strategic planning.

This will play a vital role in delivering sustainable growth and addressing key spatial issues – including meeting housing needs, delivering strategic infrastructure, building the economy, and

improving climate resilience. Strategic planning will also be important in planning for local growth and Local Nature Recovery Strategies.

We will therefore take the steps necessary to enable universal coverage of strategic planning within this Parliament, which we will formalise in legislation. This model will support elected Mayors in overseeing the development and agreement of Spatial Development Strategies (SDSs) for their areas. The Government will also explore the most effective arrangements for developing SDSs outside of mayoral areas, in order that we can achieve universal coverage in England, recognising that we will need to consider both the appropriate geographies to use to cover functional economic areas, and the right democratic mechanisms for securing agreement.

Across all areas, these arrangements will encourage partnership working but we are determined to ensure that, whatever the circumstances, SDSs can be concluded and adopted. The Government will work with local leaders and the wider sector to consult on, develop and test these arrangements in the months ahead before legislation is introduced, including consideration of the capacity and capabilities needed such as geospatial data and digital tools.

While this is the right approach in the medium-term, we do not want to wait where there are opportunities to make progress now. We are therefore also taking three immediate steps.

- First, in addition to the continued operation of the duty to cooperate in the current system, we are strengthening the position in the NPPF on cooperation between authorities, in order to ensure that the right engagement is occurring on the sharing of unmet housing need and other strategic issues where plans are being progressed in the short-term.
- Second, we will work in concert with Mayoral Combined Authorities to explore extending existing powers to develop an SDS.
- Third, we intend to identify priority groupings of other authorities where strategic planning – and in particular the sharing of housing need – would provide particular benefits, and engage directly with the authorities concerned to structure and support this cooperation, using powers of intervention as and where necessary.

### *Housing targets*

Underpinning plan making – at the strategic and local level – must be suitably ambitious housing targets. That is why we have confirmed today that we intend to **restore the standard method as the required approach for assessing housing needs and planning for homes**, and reverse the wider changes made to the NPPF in December 2023 that were detrimental to housing supply.

But simply going back to the previous position is not enough, because it failed to deliver enough homes. So, we are also consulting on **a new standard method** to ensure local plans are ambitious enough to support the Government's commitment to build 1.5 million new homes over the next five years. The new method sees a distribution that will drive growth in every corner of the country. This includes a stretching yet credible target for London, with what was previously unmet need in the capital effectively reallocated to see homes built in areas where they will be delivered. The new

method increases targets across all other regions relative to the existing one, and significantly boosts expectations across our city regions – with targets in Mayoral Combined Authority areas on average growing by more than 30%.

I want to be clear that local authorities will be **expected to make every effort to allocate land in line with their housing need as per the standard method**, noting it is possible to justify a lower housing requirement than the figure the method sets on the basis of local constraints on land and delivery, such as flood risk. Any such justification will need to be evidenced and explained through consultation and examination, and local authorities that cannot meet their development needs will have to demonstrate how they have worked with other nearby authorities to share that unmet need.

And we are also committed to making sure that **the right kind of homes are delivered through our planning system as quickly as possible**. That is why we are proposing to remove the prescriptive approach to affordable home ownership products, which can squeeze out Social and Affordable rent homes despite acute need. This will free authorities to secure more Social Rent homes, ensuring you get the homes you need in your local areas. We also want to promote the delivery of mixed use sites which can include a variety of ownership and rental tenures, including rented affordable housing and build to rent, and which provide a range of benefits – including creating diverse communities and supporting timely build out rates.

### *Green Belt and Grey Belt*

If targets tell us what needs to be built, the next step is to make sure we are building in the right places. The first port of call is rightly brownfield land, and we have proposed some changes today to support such development.

But brownfield land can only be part of the answer, which is why we are consulting on changes that would see councils **required to review boundaries and release Green Belt land where necessary to meet unmet housing or commercial need**.

I want to be clear that this Government is committed to protecting nature. That is why land safeguarded for environmental reasons will maintain its existing protections. But we know that large parts of the Green Belt have little ecological value and are inaccessible to the public, and that the development that happens under the existing framework can be haphazard – too often lacking the affordable homes and wider infrastructure that communities need. Meanwhile, low quality parts of the Green Belt, which we have termed ‘grey belt’ and which make little contribution to Green Belt purposes, like disused car parks and industrial estates, remain undeveloped.

We will therefore ask authorities to prioritise sustainable development on previously developed land and other low quality ‘grey belt’ sites, before looking to other sustainable locations for meeting this need. We want decisions on where to release land to remain locally led, as we believe that local authorities are in the best position to judge what land within current Green Belt boundaries will be most suitable for development. But we also want to ensure enough land is identified in the planning system to meet housing and commercial need, and so we have proposed a clear route to bringing forward schemes on ‘grey belt’ land outside the plan process where delivery falls short of need.

To make sure development on the Green Belt truly benefits your communities, we are also **establishing firm golden rules**, with a target of at least 50% of the homes onsite being affordable, and a requirement that all developments are supported by the infrastructure needed – including GP surgeries, schools and transport links - as well as greater provision of accessible green space.

### *Growth supporting infrastructure*

Building more homes is fundamental to unlocking economic growth, but we need to do so much more. That is why we are also proposing changes to make it **easier to build growth-supporting infrastructure** such as laboratories, gigafactories, data centres, electricity grid connections and the networks that support freight and logistics – and seeking views on whether we should include some of these types of projects in the Nationally Significant Infrastructure Projects regime.

Having ended the ban on onshore wind on our fourth day in office, we are also proposing to: boost the weight that planning policy gives to the benefits associated with **renewables**; bring larger scale onshore wind projects back into the Nationally Significant Infrastructure Projects regime; and change the threshold for solar development to reflect developments in solar technology. In addition, we are testing whether to bring a broader definition of water infrastructure into the scope of the Nationally Significant Infrastructure Projects regime.

And recognising the role that planning plays in the **broader needs of communities**, we are proposing a number of changes to: support new, expanded or upgraded public service infrastructure; take a vision-led approach to transport planning, challenging the now outdated default assumption of automatic traffic growth; promote healthy communities, in particular tackling the scourge of childhood obesity; and boost the provision of much needed facilities for early-years childcare and post-16 education.

### *Capacity and fees*

I recognise that delivering on the above ambition will demand much from you and your teams, and your capacity is strained. We want to **see planning services put on a more sustainable footing**, which is why we are consulting on whether to use the Planning and Infrastructure Bill to allow local authorities to set their own fees, better reflecting local costs and reducing financial pressures on local authority budgets.

While legislative change is important, we also do not want to wait to get extra resource into planning departments – which is why I am consulting on increasing planning fees for householder applications and other applications, that for too long have been well below cost recovery. We know that we are asking a lot more of local authorities, and we are clear that this will only be possible if we find a way to give more resource.

It is also important that you are supported in the critical role you play when the infrastructure needed to kickstart economic growth and make Britain a clean energy superpower is being consented under the Nationally Significant Infrastructure Projects regime. I am therefore consulting on whether to

make provision to allow host upper and lower tier (or unitary) authorities to recover costs for relevant services provided in relation to applications, and proposed applications, for development consent.

### *Social and affordable housing*

Overhauling our planning system is key to delivering the 1.5 million homes we have committed to build over the next five years – but it is not enough. We need to diversify supply, and I want to make sure that you have the tools and support needed to deliver quality affordable and social housing, reversing the continued decline in stock. This is vital to help you manage local pressures, including tackling and preventing homelessness.

Within the current Affordable Homes Programme (AHP), we know that particularly outside London, almost all of the funding for the 2021-2026 AHP is contractually committed. That is why I have confirmed that we will **press Homes England and the Greater London Authority (GLA) to maximise the number of Social Rent homes in allocating the remaining funding.**

The Government will also bring forward details of future Government investment in social and affordable housing at the Spending Review, so that social housing providers can plan for the future and help deliver **the biggest increase in affordable housebuilding in a generation.** We will work with Mayors and local areas to consider how funding can be used in their areas and support devolution and local growth.

In addition, I have confirmed that the Local Authority Housing Fund (LAHF) 3 will be going ahead, with £450 million provided to councils to acquire and create homes for families at risk of homelessness. This will create over 2,000 affordable homes for some of the most vulnerable families in society.

I recognise that councils and housing associations need support to build their capacity if they are to make a greater contribution to affordable housing supply. We will set out plans at the next fiscal event to **give councils and housing associations the rent stability they need** to be able to borrow and invest in both new and existing homes, while also ensuring that there are appropriate protections for both existing and future social housing tenants.

As we work to build more affordable homes, we also need to do better at maintaining our existing stock – which is why I have announced three updates on the Right to Buy scheme:

- First, we have started to review the increased Right to Buy discounts introduced in 2012, and we will bring forward secondary legislation to implement changes in the autumn;
- Second, we will review Right to Buy more widely, including looking at eligibility criteria and protections for new homes, bringing forward a consultation also in the autumn; and
- Third, we are increasing the flexibilities that apply to how councils can use their Right to Buy receipts.

With respect to the third point, from today we are removing the caps on the percentage of replacements delivered as acquisitions (which was previously 50%) and the percentage cost of a replacement home that can be funded using Right to Buy receipts (which was also previously 50%).

Councils will also now be able to combine Right to Buy receipts with section 106 contributions. These flexibilities will be in place for an initial 24 months, subject to review. My department will be writing to stock-holding local authorities with more details on the changes, and I would encourage you to make the best use of these flexibilities to maximise Right to Buy replacements and to achieve the right balance between acquisitions and new builds.

Finally, I would like to emphasise the importance of homes being decent, safe and warm. That is why this Government will introduce Awaab's Law into the social rented sector. We will set out more detail and bring forward the secondary legislation to implement this in due course. We also intend to bring forward more detail in the autumn on our plans to raise standards and strengthen residents' voices.

### *Next phase of reform*

The action we have announced today will get us building, but as I said to the House of Commons it represents only a downpayment on our ambitions.

As announced in the King's Speech, we will introduce a Planning and Infrastructure Bill later in the first session, which will: modernise planning committees by introducing a national scheme of delegation that focuses their efforts on the applications that really matter, and places more trust in skilled professional planners to do the rest; enable local authorities to put their planning departments on a sustainable footing; further reform compulsory purchase compensation rules to ensure that what is paid to landowners is fair but not excessive; streamline the delivery process for critical infrastructure; and provide any necessary legal underpinning to ensure we can use development to fund nature recovery where currently both are stalled.

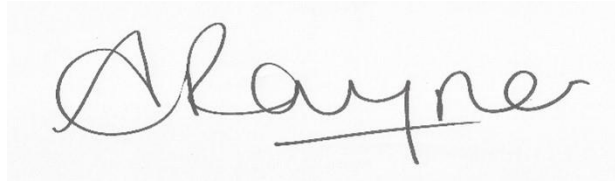
We will consult on the right approach to strategic planning, in particular how we structure arrangements outside of Mayoral Combined Authorities, considering both the right geographies and democratic mechanisms.

We will say more imminently about how we intend to deliver on our commitment to build a new generation of new towns. This will include large-scale new communities built on greenfield land and separated from other nearby settlements, but also a larger number of urban extensions and urban regeneration schemes that will work with the grain of development in any given area.

And because we know that the housing crisis cannot be fixed overnight, the Government will publish a long-term housing strategy, alongside the Spending Review, which the Chancellor announced yesterday.

We have a long way to go, but I hope today proves to be a major first step for all of us as we seek to put the housing crisis behind us. I look forward to working with you all, and am confident that together, we can achieve significant improvements that will benefit our citizens.

Yours sincerely,

A handwritten signature in black ink on a light grey background. The signature is written in a cursive style and reads "A Rayner". The first letter 'A' is large and loops around the 'R'. The name "Rayner" is written in a fluid, connected script.

**RT HON ANGELA RAYNER MP**

Deputy Prime Minister and Secretary of State for Housing, Communities & Local Government



**Agenda Item No 7**

**Planning and Development Board**

**2 September 2024**

**Report of the  
Head of Development Control**

**Appeal Updates**

**1 Summary**

1.1 The report updates Members on recent appeal decisions.

<p><b>Recommendation to the Board</b></p> <p><b>That the report be noted.</b></p>
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**2 Appeal Decisions**

**a) The Willows, Tamworth Road, Cliff**

2.1 This case dealt with a Gypsy and Traveller pitch in the Green Belt. Notwithstanding that the Inspector found moderate actual harm to the openness of the Green Belt, he found that other planning considerations outweighed this harm. These matters were the lack of available alternative sites, the lack of progress on the Council's Gypsy and Traveller Development Plan Document and the personal circumstances of the appellant's family.

... 2.2 The decision letter is at Appendix A.

**b) Hodgetts Estates, Junction 10 of the M42**

2.3 This has been one of the most significant appeals which we have had to deal with recently. The Inspector has fully supported our view of the substantial loss involved with this proposal, to the purpose of the Strategic Gap that was been defined for the open land between Tamworth and Polesworth with Dordon. Even the acceptance of there being a need for new employment land could not outweigh that loss. The reasoning in the Inspector's letter will be a material consideration in going forward with the work on the Employment Development Plan Document.

... 2.4 The decision letter is at Appendix B.

**c) Dexter Lane, Hurley**

2.5 This case involved a proposal for permanent residential accommodation to replace an existing temporary permission on a holding in Hurley which is largely involved with alpaca breeding. The Inspector found that there was an animal husbandry case to support the proposal even although the site is in the Green Belt and that there were other properties available nearby within Hurley.

2.6 The decision letter is at Appendix C.

**3 Report Implications**

**3.1 Environment, Sustainability and Human Health**

3.1.1 These are all different decisions relating to the individual matters of each case. The Dordon decision is of substantial significance in its support for the spatial planning policy in the Local Plan.

The Contact Officer for this report is Jeff Brown (719310).



## Appeal Decision

Hearing held on 23 July 2024

Site visit made on 23 July 2024

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> July 2024**

**Appeal Ref: APP/R3705/W/24/3338275**

**The Willows, Tamworth Road, Cliff, Kingsbury, Warwickshire B78 2DS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr J Doherty against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2023/0191.
- The development proposed is described as "the change of use of land for a single pitch Gypsy site, installation of septic tank and relocation of the access".

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for a single pitch Gypsy residential site, installation of septic tank, creation of access, driveway, parking area and patio, construction of bunds and erection of gate at The Willows, Tamworth Road, Cliff, Kingsbury, Warwickshire B78 2DS in accordance with the terms of the application, Ref PAP/2023/0191, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The description of development in the header is taken from the application form. At the hearing, the appellant confirmed the Gypsy site was to be used solely for residential purposes. Also, it was confirmed that the development includes the creation rather than relocation of an access as well as the creation of a driveway, a parking area and a patio, construction of bunds and the erection of a gate. All of these features are identified on the drawing submitted with the planning application leading to this appeal. As such, no prejudice would be caused to any party by treating these features as part of the proposal. The description of development in my decision was agreed to by the main parties at the hearing and it reflects the various elements to the scheme.
3. The extent of bunding as shown on the appeal drawings has already been constructed, although in places it would appear to be less than 2.5m in height as annotated. Also, a gap in the roadside hedgerow has been formed at the position of the proposed access. In these respects, the development has commenced.
4. A revised National Planning Policy Framework (the Framework) has been published since the appeal was lodged. On the same day, the government published an amendment to the national Planning Policy For Traveller Sites (PPTS) and the definition it contains for Gypsies and Travellers. I have had regard to these revised documents in my assessment. The intended occupants

of the site are the appellant and their family. The Council accepts that they meet the definition of Gypsies and Travellers as set out in the PPTS. My decision is made on this basis.

### **Main Issues**

5. It is agreed between the Council and the appellant that the change of use to a Gypsy site represents inappropriate development in the Green Belt. In light of paragraph 16 of the PPTS, I find no reason to disagree with the parties on this matter. As such, the main issues are:-
- the effect of the development on openness and on the purposes of Green Belt policy;
  - its effect on the character and appearance of the area; and
  - whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### **Reasons**

#### *Planning history.*

6. The appeal site is a single field. Since 2019, there has been 3 appeal decisions relating to the same site. Appeal decision reference number APP/R3705/W/19/3220135 (hereafter referred to as the 2019 appeal) relates to a proposed change of the land to equestrian use and as a Gypsy site comprising of 5 pitches with dayrooms, stable block and ménage. This appeal was dismissed in November 2019. Appeal decision reference APP/R3705/W/19/3242521 (referred to as the 2020 appeal) relates to a scheme for change of the land to equestrian use and as a single pitch Gypsy site with day room. This was dismissed in June 2020. Most recently, appeal reference number APP/R3705/W/20/3260829 (2021 appeal) relates to the change in the use of land for stationing of caravans for residential use for a Gypsy-Traveller family with associated development. This was also dismissed in December 2021. I have had regard to these decisions in my assessment.

#### *Effect on openness and purposes of Green Belt.*

7. Prior to the construction of the bunds, I understand the appeal site was fairly flat and open. The bunding follows parts of the field boundary, stretches across the field towards the rear and follows part of the route of the proposed driveway. As such, it has a significant overall length as well as a height and a width. The bunding's mass and volume has reduced the site's spatial openness.
8. I saw the bunds largely covered by ruderal plant species and so they appeared as lines of higher vegetation rather than defined earthworks. Moreover, the bunds are set back from the road and they are seen from the pavement against the backdrop of mature trees beyond the rear of the field. The bunding has reduced visual openness by obstructing views across the site. Nonetheless, the field still maintains a degree of openness as it contains no buildings.
9. Overall, I find the bunding has resulted in a moderate loss of openness. As such, the creation of the bunds has not preserved openness and so it does not accord with the provisions of paragraph 155 of the Framework. The creation of the bunds in itself constitutes inappropriate development in the Green Belt.

10. The volume of the static caravan on the proposed residential pitch would lead to a loss of spatial openness. So too would the touring caravan, parked vehicles and the proposed gate. It is likely the development would lead to domestic paraphernalia on the garden area and patio, which would also erode spatial openness. The access, driveway, patio and drainage would be at or below ground level and so they would have no meaningful effect in these regards.
11. The pitch would be towards the rear of the site away from the road. Therefore, the caravans, parking and domestic paraphernalia would not be easily seen from off the site, particularly given the screening effect of the bunds and existing and proposed planting. Therefore, the pitch's effect on visual openness would be limited. The entrance gate would be more obvious from the road but it is likely to have only a minor effect on visual openness.
12. The introduction of a residential pitch into a field would go against the purpose of Green Belt policy to safeguard the countryside from encroachment. However, this would not be particularly obvious from public vantage points. The bunds themselves do not stand out as encroachment as their vegetated appearance is consistent with a rural area. The gate and access would indicate a non-agricultural use of the field and the development would generate activity typical of a residential property. Even so, the proposal would avoid a significant sense of encroachment as most of the front part of the field would be left open and planted. I find no conflict with any of the other purposes of Green Belt policy as set out at paragraph 143 of the Framework.
13. In summary, I consider the overall scheme would lead to a moderate loss of openness given its scale and its visual effects. The proposal would also slightly conflict with the purpose of Green Belt policy to safeguard the countryside from encroachment. I understand that other major developments in the area have already affected Green Belt openness but these have no influence on my assessment of the appeal development.

*Effect on character and appearance.*

14. The site lies in a predominantly rural area with roadside hedgerows, fields and belts of mature trees. Road traffic noise as well as several nearby properties all have an effect on its character and appearance but nevertheless the locality has an obvious countryside feel.
15. The North Warwickshire Landscape Character Assessment 2010 identifies the site as being in the Tamworth – Urban Fringe Farmlands area. This is described as predominantly open arable land with little tree cover, although it is also noted as being an indistinct and variable landscape with pockets of pastoral land and other uses. The Inspector for the 2019 appeal described the appeal site at that time as having an open and undeveloped rural character. As such, the evidence suggests the site prior to the construction of the bunds was consistent with a fairly open agricultural landscape.
16. The constructed earthworks follow fairly straight lines and so they do not appear as natural landforms as suggested by the appellant. Also, the bunds and the vegetation upon them have created a sense of enclosure, particularly to the rear part of the field. Therefore, to a degree they have diminished the open agricultural nature of the site.

17. At the same time, I understand from the evidence and discussions at the hearing that the adjoining field to the north of the site has also changed since the 2019 appeal decision. Whereas before it was an open field with little if any boundary hedgerow, I saw it now contains mowed grass and lines of sapling trees and hedges on the boundaries with Tamworth Road and Cliff Hall Lane. As such, the adjoining plot appears enclosed and not as open arable or pasture land. It is proposed to provide new native tree planting across most of the front part of the appeal site. Such landscaping would result in the site being similar in appearance to the neighbouring field when viewed from the highway.
18. The Council is concerned that the development would not preserve the pastoral character of the site and area. There is little evidence to indicate how the field was previously used and so I am uncertain whether the development would result in the loss of pasture land as claimed. In any event, the replacement of an open field with an area of trees and vegetated bunds would appear in keeping with the immediate surroundings to the site. Indeed, the provision of new tree planting as proposed would complement the existing area of saplings to the north. As they grow, the proposed trees would also supplement the belt of mature trees to the rear of the site.
19. The bunds and proposed planting would screen the residential pitch to the rear of the field so that it would not have any effect on views from the Tamworth Road. Also, it would not be visible from Cliff Hall Lane and the public footpaths to the north and south of the site due to the separation distances, local land form and intervening buildings and vegetation. The access and associated drive would be seen from the front of the site and from the upper floor windows of the house on adjoining land to the south. Such views and the associated coming and going of vehicles would undermine the site's sense of rurality. However, these would be fairly limited and localised visual effects that would be seen in the context of new tree planting.
20. In summary, I find the site overall would retain an obvious natural feel through new tree planting that would be consistent with features on adjacent land. The minor visual effects of the development would avoid significant harm to the qualities of the landscape and new tree planting would enhance the local landscape character. As such, I conclude the development would not have an unacceptable effect on the character and appearance of the area. In these regards, it would accord with policies LP10 and LP14 of the North Warwickshire Local Plan 2021 (the LP). Amongst other things, these look for new Gypsy sites to be assimilated into their surroundings without significant adverse effects and so as to conserve, enhance or restore landscape character.
21. My conclusion on this matter differs from that of the Inspectors for the 2019, 2020 and 2021 appeals. However, those decisions relate to different developments to the proposal before me. Compared to the previous schemes, the proposed pitch would be smaller and further from the road and so it would be less obvious. Also, the context to the appeal site has since changed. Therefore, it is not inconsistent for me to arrive at a different view on this issue.

*Other raised concerns.*

22. A number of other concerns have been raised by interested parties. Visibility splays at the proposed access would allow satisfactory sight of on-coming

- traffic and so the development would not prejudice highway safety, despite the speed of cars on Tamworth Road going past the site.
23. I was advised at the hearing that the bunds have been constructed of topsoil taken from the site itself with no imported materials. Without evidence to the contrary I am satisfied the earthworks have not caused ground contamination. I envisage no significant additional noise from construction activity as the bunds have mostly been completed.
24. Foul water drainage that avoids pollution could be secured through the imposition of a planning condition. Similarly, a condition could reasonably be imposed to secure surface water drainage features that avoid flood risk to the site itself or surrounding land. The site is near to but well above the River Tame and so the development would be at a low risk of fluvial flooding.
25. A summary of a protected species appraisal provided by the appellant indicates the development would cause no risk to protected species. I am advised the appeal site is not near any land designated for its ecological or nature value. No external lighting is proposed and a planning condition could be imposed to ensure any future lighting is controlled so as to avoid disturbance to wildlife. Sensitive, native planting could also be secured by planning condition. As such, I am satisfied the development would have an acceptable effect on biodiversity.
26. The site would accommodate a single additional household and there is no evidence to show that this would have any unacceptable impacts on the provision of local services and infrastructure. A single pitch would not dominate any settled community and I see no reason why the intended occupants would fail to integrate with the local community. The site is away from Kingsbury, the nearest settlement where there are schools, medical services and shops. However, the village is a short car journey from the site and there are nearby bus stops within easy walking distance that provide access to public transport services between Tamworth and Kingsbury. Therefore, the site would be in a suitable location that allows reasonable access to facilities.
27. My assessment is based on the details of the development before me. There is no substantive evidence to indicate similar schemes in the area would be proposed in the event of me allowing the appeal. In any case, any such proposals would need to be considered having regard to their effects and the relevant circumstances at that time. Granting planning permission for this development would not set an irresistible precedent to be followed in the consideration of any future proposals.
28. I have noted the representations made to the effect that the rights of local residents under Article 8 of the Human Rights Act 1998 would be violated if the appeal is allowed and the development carried out. However, the pitch would be set away from the nearest properties and so it would not harm the living conditions at existing residences by reason of noise, loss of light, loss of privacy or overbearing effects. I fail to see how the development would directly affect the health or well-being of any nearby residents. Therefore, I am satisfied that granting planning permission would not unacceptably interfere with any person's right to a private family life and home. As such, it would be proportionate in the circumstances to allow the appeal.
29. None of the above concerns provide reason to refuse planning permission. As such, they do not affect my overall assessment.

*Considerations in favour of the development.*

*Need for and supply of pitches.*

30. The PPTS promotes the provision of more private Gypsy and Traveller sites. The appeal development would help meet the government's aim in these regards.
31. LP policy LP5 says the Council will make provision for a minimum of 19 permanent Gypsy and Traveller pitches between 2019 and 2033. A list provided with the statement of common ground indicates that planning permission has been granted for 24 pitches since 2019. Even if I accept the appellant's contention that 3 of these pitches should not be counted, the evidence suggests that planning permission has been granted for more than the minimum number of new pitches required under the LP.
32. However, it is clear from LP policy LP5 that 19 pitches is a minimum target. Paragraph 8.21 of the LP explains the Council's intention to bring forward a Gypsy and Traveller Plan (GTP) that will include pitch allocations. The Council's representative at the hearing accepted that this is required to meet an on-going need for more Gypsy and Traveller sites. While work has started on the GTP no document has yet been published for consultation. The Council's Local Development Scheme indicates that this would have happened in August 2023 and so progress towards the adoption of the GTP is significantly delayed. These factors point to the Council accepting a need for more Gypsy and Traveller pitches that currently is not recognised or identified in the LP.
33. Moreover, the Gypsy and Traveller Accommodation Assessment (GTAA) that informed LP policy LP5 is now of some age having been issued in 2019 with an update in 2020. Furthermore, in an appeal decision from December 2021 relating to a proposal for a Gypsy site at Wishing Well Farm, Fillongley<sup>1</sup>, an Inspector states that there has been a significant in-migration which was not anticipated at the time the GTAA was published. The Inspector notes at that time the Council's acceptance of a general need for Gypsy and Traveller sites. The Council's representative at this appeal hearing raised no issue with the previous Inspector's criticism of the GTAA and also accepted there is still a need for more pitches.
34. At paragraph 10, the PPTS states local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Footnote 4 to the PPTS states that sites should be available now to be classed as deliverable. I am advised the sites granted planning permission as identified in the statement of common ground have all been provided and are occupied. As such, they are not now available. Accordingly, there is no supply at all of deliverable sites to address any current need, yet alone a 5 years' worth of supply. The Council accepts there is no alternative and suitable site available for the intended occupants of the appeal development. The apparent unmet need for Gypsy and Traveller sites weighs significantly in favour of allowing the development.

*Personal circumstances of the intended occupants*

35. The appellant, their spouse and their children intend to live on the proposed site. Two of the children are over 18 years old but the others are of school age.

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<sup>1</sup> Appeal reference number APP/R3705/W/20/3255527



After the 2021 appeal decision, the family left the appeal site as it did not benefit from planning permission for residential use. Since then, they have been unable to find another permanent settled residential base to accommodate caravans. Instead, they have had a highly transient lifestyle, either living on the side of roads, on driveways and occasionally on holiday caravan parks. The appellant explained at the hearing that they have had to move nearly every week. This lifestyle has caused significant interruptions to the education of the children of school age as well as difficulties for all family members in accessing health care facilities.

36. The current uncertainty over the appellant's accommodation is clearly unsatisfactory, particularly as their family includes children. The benefits of the development to the intended occupiers in terms of facilitating access to schools and medical services are in themselves significant. In addition, the settled base would be in the best interests of the children involved.

### *Green Belt Balance*

37. The Framework and the PPTS state that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm as a result of the proposal is clearly outweighed by other considerations. LP policy LP3 is generally consistent with the Framework and PPTS in these regards. LP policy LP10 is referred to but this contains no provisions on how proposals for inappropriate development in the Green Belt should be determined.
38. The Framework dictates that substantial weight should be given to any harm to the Green Belt. In this instance, harm would be caused by reason of inappropriateness, loss of openness and failing to safeguard the countryside from encroachment. I have found no unacceptable harm to the character and appearance of the area.
39. The PPTS states that, subject to the best interests of children, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and other harm so as to establish very special circumstances. Even so, it does not follow that this will always be the case.
40. The development would help address an unmet need for more private Gypsy and Traveller sites as recognised at a national level under the PPTS and more locally as acknowledged by the Council. The benefit of a single additional pitch in addressing this general need attracts significant weight but this in itself is insufficient to outweigh the identified harm of the development.
41. However, I attach substantial weight to the benefits of a settled base to the intended occupants in terms of facilitating regular access to medical facilities, schools and other services. In arriving at this view, I am mindful that Article 3 of the United Nations Convention on the Rights of the Child requires a child's best interests to be a primary consideration. Also, I am conscious that dismissing the appeal is highly likely to lead to a continuation of the appellant's existing transient lifestyle and its undesirable effects on the children's education and the health of all of the intended occupants.
42. Planning permission runs with the land. However, I find the circumstances of this case represent an exceptional occasion where development that would not

normally be permitted may be justified on grounds of who would benefit from the permission. As such, a condition limiting occupancy to the appellant and named persons and their resident dependents would be reasonable and justified. In effect, such a condition would allow a temporary permission, although the length of occupancy is unknown. Even so, a requirement for the restoration of the site at the end of the occupancy would ensure no permanent harm to the Green Belt and character and appearance of the area.

43. Therefore, I conclude the total harm as a result of the development would be clearly outweighed by other factors. As such, very special circumstances exist to justify allowing the appeal. The development would accord with the Framework's and the PPTS's provisions on Green Belt as well as LP policy LP3.
44. I note that my overall conclusion differs from that made by Inspectors for the 2019, 2020 and 2021 appeals. However, my views have been formed having regard to the evidence before me and the current circumstances faced by the appellant and their family. The case for allowing the development is now notably different, particularly in terms of the position on need and on the undersupply of sites as well as the appellant's particular accommodation difficulties. Also, the other appeals related to different developments with different effects on openness and the character and appearance of the area. Therefore, I am not bound to arrive at the same conclusions to those arrived at under the previous appeal decisions.

*Human rights and Public Sector Equality Duty.*

45. By allowing the appeal subject to a personal condition, my decision would not interfere with the appellant's and their family's rights to respect for private and family life and their home. As such, there would be no interference with the occupiers' human rights under Article 8 of the European Convention of Human Rights as enshrined in the Human Rights Act 1998 (Article 8).
46. I have considered whether it would be appropriate to impose a condition that allows the development for a temporary time period and thereafter requires cessation of the use, regardless as to whether the intended occupants still reside on the site. However, granting temporary planning permission could lead to an interference under Article 8. To my mind, the uncertainty that would hang over the occupants' living arrangements would be a disproportionate response to the level of harm caused by the development. In arriving at this view, I have had regard to the particular merits of the case, the specific effects of the development and the occupiers' circumstances.
47. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. This includes those of a particular race and so the occupants of the development. Granting planning permission would allow the opportunity for the intended occupants to foster good relationships with the local community. Therefore, my decision advances opportunity in line with the PSED.

**Conditions**

48. The list of suggested conditions included as part of the statement of common ground as well as other conditions were discussed at the hearing. Where

appropriate I have amended the wording in light of the comments made and for reasons of precision.

49. For clarity purposes, I attach a condition that requires the development to be carried out in accordance with the approved drawings. There is no need for this condition to refer to the existing site layout plan, the soakaway assessment or storm sewer design. Conditions 2 and 3 require site restoration once the intended occupants cease to reside at the site so as to avoid permanent harm to Green Belt openness. The development is only acceptable due to the personal circumstances of the occupiers and so condition 3 limits occupancy accordingly. The suggested condition that would require a permanent cessation of the use after a short period of non-occupancy would be unreasonable and so it has not been imposed. Also, a condition that would limit the proposed use for a defined temporary period of time would be an unacceptable interference with the intended occupants' human rights. Therefore, this condition is not included.
50. Condition 4 is required to ensure a satisfactory effect on landscape character and appearance. Conditions 5 and 6 are imposed to ensure foul and surface water is disposed of without causing pollution or flood risk. Conditions 7, 8, 9 and 10 are imposed in the interests of highway safety.
51. My assessment is based on the development being occupied by Gypsy and Travellers and there is no evidence to indicate the development would be acceptable for any other group. Accordingly, I attach condition 11 that restricts occupancy. Conditions 12 and 13 are attached to minimise the effect of the development on the openness of the Green Belt and the character and appearance of the area. Condition 14 is attached to ensure the development causes no unacceptable light pollution to the detriment of wildlife and the character and appearance of the locality. Condition 15 is imposed to minimise the visual impact of the proposed driveway.
52. As the proposed use is residential there is no requirement for a condition that places limits on the size of vehicles to be parked on the site. At the hearing, the Council's representative accepted the suggested condition on ground contamination was not needed. Therefore, this condition is not included.

### **Conclusion**

53. For the reasons given above, I conclude the appeal should be allowed.

*Jonathan Edwards*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Alex Bruce	Planning agent
John Doherty	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Andrew Collinson

### INTERESTED PERSONS

Carol Davis	Objector
Robert Williams	Agent acting on behalf of Mr and Mrs Goodall, Objector

## **LIST OF DOCUMENTS SUBMITTED AT THE HEARING:**

1. Extract of Map entitled Rights of Way - Warwickshire.

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with drawing nos SA47316-BRY-ST-PL-A-0001 and SA47316-BRY-ST-PL-A-0005 revision A.
- 2) Within 3 months of the date of this decision, a site restoration scheme in the event of the Gypsy residential site use hereby permitted not commencing or commencing but then ceasing shall be submitted to the local planning authority for approval in writing. If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the Gypsy residential site use shall cease until such a time as a restoration scheme is approved in writing.
- 3) The Gypsy residential site use hereby permitted shall be carried out only by the following persons and their resident dependents – Mr John Doherty and Mrs Theresa Doherty and their children John Doherty and Roseanne Doherty. If the site is not occupied by these persons within 2 years of the date of this decision, or when the site ceases to be occupied by these persons, the use hereby permitted shall cease and the land shall be restored in accordance with the site restoration scheme approved under condition 2 above.
- 4) The Gypsy residential site use hereby permitted shall not commence until a landscaping scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and the approved landscaping scheme shall be carried out in accordance with the approved timetable. Thereafter, the

landscaping scheme shall be maintained and any tree, hedge or shrub that is removed, uprooted or destroyed or dies within five years of planting or becomes seriously damaged or defective, shall be replaced with another of the same species and size as that originally planted.

- 5) Notwithstanding the details as shown on the approved plans, the Gypsy residential site use hereby permitted shall not commence until details of a foul water drainage scheme to serve the development has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and details on how the drainage system is to be maintained. A foul water drainage system shall be provided in accordance with the approved details and timetable and thereafter it shall be retained and maintained in accordance with the approved details.
- 6) The Gypsy residential site use hereby permitted shall not commence until a surface water drainage scheme to serve the whole of the development, including the tarmac part of the access drive, has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and details on how the drainage system is to be maintained. A surface water drainage system shall be provided in accordance with the approved details and timetable and thereafter it shall be retained and maintained in accordance with the approved details.
- 7) The Gypsy residential site use hereby permitted shall not commence until the access to the site for vehicles from the public highway as indicated on the approved plans and associated visibility splays also shown on the plans have been completed and created. Thereafter the access shall be retained and the visibility splays shall be kept clear of obstruction that prevents sight of vehicles on the road.
- 8) The Gypsy residential site use hereby permitted shall not commence until details of a bin collection point have been submitted to and approved in writing by the local planning authority. A bin collection point shall be provided in accordance with the approved details prior to the first use of the site for residential purposes and shall thereafter be retained.
- 9) The Gypsy residential site use hereby permitted shall not commence until the existing access within the highway and not included in the permitted means of access as defined on the approved plans has been closed and the footway/verge has been re-instated.
- 10) No gates or barriers or means of enclosure shall be erected across the approved vehicular access within 12 metres of the highway boundary and all such features should open inward away from the highway.
- 11) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

- 12) There shall be no more than one pitch on the site and no more than two caravans (as defined by the Caravan Sites and Control of Development Act 1990 as amended by the Caravan Sites Act 1968 as amended), shall be stationed at any one time, of which only one caravan shall be a static caravan.
- 13) The extent of the Gypsy residential site use hereby permitted shall be restricted to the areas defined on the approved plans as static pitch, touring pitch, patio area, garden area and parking area. No residential use including the stationing of caravans, parking or erection or provision of domestic paraphernalia shall take place on any other part of the site as defined by the dash red line on the approved plans.
- 14) No external lighting shall be installed or provided within the site unless full details of its design, location and the specification of the illuminance have first been submitted to and approved in writing by the local planning authority.
- 15) The grass parking grids as shown on the approved plans to be used to the driveway shall not at any time be replaced with any other type of surfacing.



## Appeal Decision

Inquiry opened on 18 June 2024

Accompanied site visit made on 21 June 2024

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> August 2024**

**APPEAL REF: APP/R3705/W/24/3336295**

**Land north-east of Junction 10 of the M42 Motorway, Dordon, North Warwickshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hodgetts Estates ('the appellant') against North Warwickshire Borough Council ('the Council' or 'NWBC').
- The application Ref PAP/2021/0663 is dated 2 December 2021.
- The development proposed is development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works; and development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved.
- The inquiry sat for 12 days on 18–21 June, 25–27 June, 2–4 July and 9–10 July 2024.

### Decision

1. The appeal is dismissed.

### Preliminary and procedural matters

2. The appeal was made as a result of the Council's failure to determine this proposal, with the Council subsequently indicating that if it had still been the determining authority it would have refused planning permission for 3 reasons<sup>1</sup>. In summary these were that the proposed development would not maintain the separate identities of Tamworth and Polesworth with Dordon; that it would result in a range of significant adverse landscape and visual effects which would fail to respect or respond positively to the key characteristics of the surrounding area; and that it would result in a severe impact on the road network.
3. The application was for outline planning permission with the exception of the means of access, for which full details were submitted. On this matter discussions between the appellant and the relevant highway authorities continued after the appeal had been lodged. As a result the appellant agreed Statements of Common Ground (SoCG) with the strategic highway authority<sup>2</sup> (National Highways (NH) - the highway authority for the M42 and the A5 Trunk Road), and the 2 local highway authorities, Warwickshire County Council<sup>3</sup> (WCC) and Staffordshire County Council<sup>4</sup> (SCC). NH appeared at the Inquiry as a Rule 6(6) Party and participated in a round table discussion on highways matters, as did a witness from WCC. Agreement was

<sup>1</sup> Core Documents (CDs) E59 & E60

<sup>2</sup> CD D18

<sup>3</sup> CD D19

<sup>4</sup> CD D20

reached on the principal highways matters and this meant that the Council did not pursue its third putative reason for refusal. That said, objections on a number of highways matters were maintained by Dordon Parish Council, Polesworth Parish Council and Birchmoor Community Action Team who appeared at the Inquiry as a Rule 6(6) Party ('the Local Rule 6 Party'), and by interested persons. I deal with these matters under the third main issue.

4. After the Inquiry had closed, but in accordance with an agreed timescale, the appellant submitted 2 completed planning obligations in the form of Unilateral Undertakings (UUs) made under section 106 (S106) of the Town and Country Planning Act 1990, as amended<sup>5</sup>. I deal with these under the sixth main issue.
5. The proposed development meets the applicable thresholds of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 and the appellant has submitted an Environmental Statement<sup>6</sup> (ES) and an ES Addendum<sup>7</sup> which have assessed the likely effects of the proposal on a wide range of environmental receptors. I consider that the ES and its Addendum are compliant with the requirements of the aforementioned Environmental Impact Assessment (EIA) Regulations and form an appropriate and robust assessment of the environmental implications of the appeal proposal. Along with other relevant documentation submitted with the planning application and as part of this appeal process these documents constitute the 'environmental information', which I have taken into account in coming to my decision.
6. In its planning and employment evidence the Council questioned whether the proposed industrial development and the proposed lorry parking needed to be co-located on this site and, as a result, the Inquiry considered whether these elements could possibly be disaggregated and a split decision issued. I deal with this matter later in this decision.
7. I undertook an accompanied visit to the appeal site and surrounding area in the company of representatives of the appellant, the Council and the Local Rule 6 Party on 21 June 2024. On the same day, and on other days throughout the course of the Inquiry, I visited other locations in the vicinity of the appeal site and further afield, as suggested and requested by the main parties, on an unaccompanied basis<sup>8</sup>.

### **Site description, surrounding area and details of the appeal proposal**

8. Details of the appeal site and the surrounding area are given in the main SoCG<sup>9</sup> and Landscape SoCG<sup>10</sup> agreed between the appellant and the Council, and in the Officer's Report to the Planning and Development Board<sup>11</sup>. In summary, the site comprises some 32.4 hectares (ha) of agricultural land located in the north-eastern quadrant of Junction 10 of the M42, bounded by the motorway which lies in a cutting to the west, and the A5 to the south. Further agricultural land, amounting to about 41.7ha, also in the ownership of the appellant, lies to the east<sup>12</sup>. All of this land, together with more land to the north and north-west, lies within a Strategic Gap defined in the North Warwickshire Local Plan (NWLP) 2021<sup>13</sup>.

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<sup>5</sup> Document (Doc) 37

<sup>6</sup> CDs A7-A10

<sup>7</sup> CD D14

<sup>8</sup> See Doc 33

<sup>9</sup> CD D13

<sup>10</sup> CD D15

<sup>11</sup> CD E59

<sup>12</sup> See the Red and Blue Line Plan at CD A3

<sup>13</sup> CD F1



9. The village of Dordon lies to the east of this agricultural land, with the small settlement of Birchmoor lying to the north of the appeal site, separated from it by a narrow area of paddocks. The southern part of the appeal site contains a small hardstanding area of some 0.5ha which was used a few years ago as a compound associated with the maintenance of the A5 and M42. The current land levels are between about 92 metres (m) above Ordnance Datum (AOD) in the south-western corner, rising up to about 115m AOD in the north, adjacent to Birchmoor.
10. A mature tree belt lies to the west and south-west along the route of the M42, and there is a mature hedgerow along the A5 boundary, gappy in places, together with some thickets of self-set younger trees and shrubs. The appeal site has an existing access onto the A5 leading to the hardstanding area referred to above. Public bridleway AE45 crosses the south-eastern part of the site north-south, with public footpath AE46 passing in a south-easterly direction from the bridleway, across the further agricultural land owned by the appellant to meet with the A5. These public rights of way (PRoW) are also used for agricultural access to the land.
11. Tamworth, within Staffordshire, lies to the west of the M42, with the north-western quadrant of Junction 10 containing a Motorway Service Area (MSA - within the NWBC boundary) along with an industrial and warehousing complex at Relay Park within Tamworth Borough. Similar industrial developments are located in the south-western and south-eastern quadrants of Junction 10 – Centurion Park and the Tamworth Logistics Park (formerly St Modwen Park) respectively. Further to the east, the Birch Coppice and Core 42 Business Parks, containing the Birmingham Intermodal Freight Terminal (BIFT), are located on the southern side of the A5.
12. Under the appeal proposal the appellant seeks to construct buildings to provide up to 100,000 square metres (sqm) (about 1.07 million square feet (sqft)) of mixed Class B2, Class B8 and Class E(g)(iii) floorspace, with no more than 10% or 10,000sqm of this being within the B2 and E(g)(iii) Use Classes. In addition, an overnight lorry parking facility with up to 150 spaces is proposed, together with an amenity building of up to 400sqm floorspace. The proposed development would be served by a new signal controlled all-movements access junction onto the A5, and there would also be landscaped buffer zones around the site perimeter.
13. An Amended Parameters Plan<sup>14</sup> has been submitted to define how development could be set out on the site. This, together with further information provided within a Design Guide<sup>15</sup> (DG) and a Design and Access Statement<sup>16</sup> (DAS) indicates that the tallest buildings would be at the western end of the site (Plot A1), with a maximum height of up to 117.8m AOD. The height limits for plot A2 (closest to Birchmoor) would be up to 113m AOD with up to 102m AOD for plot B2 (towards the A5 frontage). The lorry parking elements would be within plot B1 towards the eastern side of the site, with a height of up to 111m AOD. As part of the proposal public bridleway AE45 would be diverted within the development site, as necessary.
14. Surplus 'cut' material from the developable area would be utilised in the creation of landscaped buffer zones around the perimeter of the site. In the north the proposed buffer would be some 134m at its widest point, reducing to 75m at the closest point to Birchmoor. In the east the buffer would be about 106m at its widest point, reducing to 49m to the north-east of Plot A2, and extending to 65m to the east of Plot B1 and Plot B2. The buffer would have a minimum width of 35m to the south of

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<sup>14</sup> CD B37

<sup>15</sup> CD B35

<sup>16</sup> CD B34

Plot A1, extending to 58m in the south-west corner of the site close to M42 Junction 10, and 35m-37m to the south of Plot B2. There would also be a minimum 10m wide landscape buffer to the west of Plot A1 and Plot A2, alongside the existing screening vegetation for the M42 motorway.

15. In addition, by means of the submitted UU between the appellant and the Council (see later), the proposal would result in additional off-site green infrastructure on the 'blue edged' land owned by the appellant, incorporating native woodland and hedgerow planting along the route of the existing and enhanced PRow network, the provision of a community orchard on the western side of Dordon, and the conversion of arable land to species-rich pasture.

### **Main issues**

16. Having carefully considered the detail and extent of the evidence put forward by the parties I have decided to combine the first 2 main issues, for ease of reasoning and to avoid unnecessary repetition. In addition, I have assessed how the proposed development would perform against the objectives for achieving sustainable development set out in the National Planning Policy Framework<sup>17</sup> (NPPF) under the benefits and disbenefits heading, towards the end of this decision. With these points in mind I consider the main issues in this case to be:

- the effect of the proposed development on the character and appearance of the surrounding area, and whether it would maintain an effective Strategic Gap between Tamworth and Polesworth with Dordon;
- its effect on the best and most versatile (BMV) agricultural land;
- its effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways;
- whether the proposed development would address an immediate need for employment land, or a certain type of employment land and, if so, whether the appeal site is an appropriate location to meet such a need;
- whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities; and
- whether any submitted planning obligations and/or planning conditions would adequately address the impacts of the proposed development.

17. Following my assessment of the main issues I look briefly at other matters raised, before moving on to assess the benefits and disbenefits of the proposal, carry out a final planning balance, and reach my overall conclusion.

### **Reasons**

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The main SoCG states that in this case the development plan comprises the NWLP, adopted in September 2021 and the Dordon Neighbourhood Plan 2022-2033<sup>18</sup> (DNP) adopted in December 2023. Both of these plans are up-to-date, and there was no suggestion that their policies should carry anything other than full weight. The Council's putative reasons for refusal allege conflict with a number of NWLP and DNP policies and I discuss these, along with other relevant policies, under the various main issues.

19. The NPPF is a material consideration in this appeal. Its paragraph 11(c) explains that development proposals that accord with an up-to-date development plan

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<sup>17</sup> CD F11

<sup>18</sup> CD F9

should be approved without delay. I address the relevant NPPF policies as necessary throughout this decision. The Planning Practice Guidance (PPG) is also a material consideration in the determination of this appeal, as are a number of the Council's adopted Supplementary Planning Documents and Guidance<sup>19</sup> (SPD/SPG) and other relevant documents as detailed in paragraph 30 of the main SoCG.

***Main issue 1 – the effect of the proposed development on character and appearance, and whether it would maintain an effective Strategic Gap***

Policy framework

20. In summary, the Council's first putative reason for refusal alleges that the proposed development would not maintain the separate identities of Tamworth and Polesworth with Dordon, and is consequently in conflict with NWLP Policy LP4 and DNP Policies DNP1 and DNP4. It goes on to also allege that the benefits of the proposal as outlined by the appellant do not outweigh this significant harm as the requirements of NWLP Policies LP6 and LP34 are not fully demonstrated<sup>20</sup>.
21. The second putative reason for refusal points out that the appeal site lies outside any settlement boundary and is thus within the open countryside. As such it alleges that the proposed development would result in a range of significant adverse landscape and visual effects which would fail to respect or respond positively to the key characteristics of the surrounding area. Accordingly the Council considers the proposal to be in conflict with NWLP Policies LP1, LP14 and LP30, as well as with DNP Policies DNP1 and DNP4. It also alleges conflict with the NPPF, although no specific references are given in this regard.
22. With regards to the identified NWLP policies, Policy LP1 seeks the achievement of sustainable development. Amongst other things it requires development proposals to integrate appropriately with the natural and historic environment, protecting and enhancing the rights of way network where appropriate and demonstrating a high quality of sustainable design that positively improves the individual settlement's character, appearance and environmental quality of an area. It also requires new development to provide, conserve and enhance biodiversity; create linkages between green spaces, wildlife sites and corridors; and protect the existing rights of way network and, where possible, contribute to its expansion and management.
23. Under Policy LP4 a Strategic Gap has been identified on the Policies Map in order to maintain the separate identity of Tamworth and Polesworth with Dordon, and prevent their coalescence. The policy states that development proposals will not be permitted where they would significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon, and explains that in assessing whether or not that would occur, consideration will be given to any effects in terms of the physical and visual separation between those settlements.
24. Policy LP14 deals with Landscape and makes it clear that development proposals should look to conserve, enhance and, where appropriate, restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change. Specific reference is made to the Landscape Character Areas (LCAs) as defined in the North Warwickshire Landscape Character Assessment (2010)<sup>21</sup> (NWLCA). In terms of landscaping proposals the policy requires new development, as far as possible, to retain existing trees, hedgerows and nature

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<sup>19</sup> See CDs F2 & F3

<sup>20</sup> NWLP Polices LP6 'Additional Employment Land' and LP34 'Parking' are outlined under later main issues

<sup>21</sup> CD G1

conservation features. It further explains that new landscape features will be assessed against the descriptions in the LCAs.

25. Policy LP30 deals with Built Form and indicates that as a general principle all development should respect and reflect the existing pattern, character and appearance of its setting in terms of its layout, form and density. To this end the policy requires, amongst other things, that development proposals should ensure that all elements of the proposal are well related to each other and harmonise with both the immediate setting and wider surroundings.
26. From the DNP, Policy DNP1 sets out criteria to ensure that all new development is sustainable. Amongst other things these require development proposals to maintain the sense of space, place and separation on land to the west of the Parish, taking into account the amenity of Dordon residents; enhance the biodiversity of the site in accordance with biodiversity net gain requirements; be well located in relation to public transport and local services; and promote active travel (cycling and walking).
27. Finally, Policy DNP4 seeks to protect landscape character. It requires development proposals to take account of the landscape, landscape character and topographical setting of the neighbourhood area and its urban environment which contribute to the distinctive character of the Parish. Where possible, new development should take a number of specified key views into account in its location and layout, and should also take account of the way the development contributes to the wider character of the neighbourhood area, with its layout, scale and boundary treatment seeking to retain a sense of space, place and (where relevant) separation.
28. The policy also requires development proposals to demonstrate that they are sympathetic to the landscape setting as defined in the NWLCA, and demonstrate how they have taken account of the landscape management strategies recommended for the relevant LCA. The policy ends by explaining that whilst those promoting new development need to show that they have taken the matters identified above into account, the provisions of strategic NWLP Policies LP4 (Strategic Gap) and LP6 (Additional Employment Land) shall have priority.

#### The effect on character and appearance

29. At the local level the appeal site lies within the northern part of LCA5, Tamworth Fringe Uplands, as designated in the NWLCA. It is listed as having a wide range of key characteristics, including 'gently undulating indistinct landform'; 'predominantly open arable land with little tree cover'; 'fragmented landscape with a complex mix of agricultural, industrial and urban fringe land uses'; and 'heavily influenced by adjacent settlement edges of Tamworth and Dordon and by large-scale modern industry [...] in the vicinity of the M42 motorway junction'. The presence of large-scale industrial buildings is a clear feature at this location, described as having an urbanising influence in this part of the LCA, along with the settlement of Dordon which is located upon the crest of a gentle escarpment.
30. The Council and appellant agree, in the Landscape SoCG, that the appeal site and surrounding area are valued by the local community for recreational use and for residential visual amenity, but do not constitute a 'valued' landscape as detailed in paragraph 180(a) of the NPPF. The parties further agree that whilst the appeal site and the area of off-site mitigation (the blue-edged land) are largely in agricultural use, the character of the area is also influenced by the visibility of the existing large-scale commercial development to the west and south, traffic noise and existing lighting. As such the appeal site is agreed to be an area of transitional

character. I broadly share that view, but saw at my accompanied site visit that because of the extensive size of the appeal site, areas away from the A5 are significantly less influenced by the existing development to the south, and retain a clear rural feel and character.

31. It is with these points in mind that the likely impact of the proposed development needs to be assessed. As this is an outline application with only a Parameters Plan and the overall proposed floorspace defined, any assessment should reasonably be carried out on the basis of a 'worst case' scenario. The Council argued that this could well be a single building on Plot A1/A2 some 580m long and 21m high, along the lines of that shown in the DAS<sup>22</sup>. However, no visualisations on this basis were submitted until just before the Inquiry opened.
32. Indeed the Council had been very critical of the visual material which the appellant had submitted throughout the progress of this proposal. In particular it pointed out that no visualisations or photomontages of the proposed development were submitted with the ES<sup>23</sup> - only baseline photographs - and that only 'wireframe' images were contained within the DAS<sup>24</sup>. Further 'wireline' visualisations were subsequently submitted but as these showed proposed vegetation in a state of maturity they gave no indication of the likely impact of the proposed development at construction or Year 1.
33. Photomontages were submitted in July 2023, but as these showed 3 buildings with curved roofs – an option not depicted in either the DG or the DAS – they again were of only limited assistance as they clearly did not depict what could be the 'worse case' scenario discussed above. Moreover, the appellant acknowledged that these photomontages showed the buildings with an incorrect height of some 121.44m AOD. It was only shortly before the opening of the Inquiry when Mr Smith, the appellant's landscape witness, submitted a Supplementary proof of evidence<sup>25</sup> (PoE), that photomontages showing a single building on Plot A1/A2, to a height of 21m, were made available. Even then, no photomontages were provided from 2 of the closest viewpoints – 3 and 10<sup>26</sup>.
34. Notwithstanding the above points, I am satisfied that sufficient information has now been submitted to enable me to make an assessment of the likely impact of the proposed development in a 'worst case' scenario. I have had regard to the comments and assessments put forward by each of the landscape witnesses, along with the wide variety of photographic and written material submitted in evidence, and have also relied on my own observations of the site and the surrounding area made at my accompanied and unaccompanied site visits.
35. As already noted, the appeal site is influenced by large-scale industrial development located to the south of the A5 and, to a far lesser extent, by similar development to the west of the M42. However, these effects are currently only perceptual, whereas the appeal proposal would physically extend this character onto the appeal site by introducing a very large building or buildings and associated hardstanding areas for vehicle parking and manoeuvring, as well as a separate overnight lorry parking facility, into this currently gently rolling agricultural landscape.

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<sup>22</sup> See page 74 of CD B34

<sup>23</sup> CD A9.6 Appendix 10.3

<sup>24</sup> CD B34

<sup>25</sup> CD D30-D, dated 5 June 2024

<sup>26</sup> See Viewpoint Location Plan LAJ-4 in CD A9.6 Appendix 10.1

36. On this point, I note that whilst the appellant's planning witness accepted that the scheme could proceed with just a single building on Plots A1/A2, he was reluctant to agree that the photomontages depicting this illustrated what would be a 'very large building', referring to it instead as just a 'large building'<sup>27</sup>. However, as a single building of 100,000sqm could have a length of about 580m and a width of about 170m, with a height of 21m, I share the Council's view that this would self-evidently be a very large building. Indeed this should be a non-controversial point as the appellant's own Employment Land Statement defines 'very large buildings' as those of 30,000sqm<sup>28</sup> (300,000sqft).
37. Mr Smith argued that if this scheme was to proceed it is unlikely that the buildings would reach the maximum height of 21m<sup>29</sup>. However, I give little weight to this view as there is no restriction on building heights in the details placed before me for determination, save for the absolute building height limit of no more than 117.8m AOD. An earlier version of the Parameters Plan did indicate that this AOD height would equate to buildings with a maximum height of 21m but the current version no longer makes any reference to the maximum height of buildings themselves, nor does the DG, referenced in one of the suggested conditions. In these circumstances I consider it quite reasonable to assess this proposal as likely resulting in a building or buildings rising to the maximum permitted height.
38. With these points in mind it is clear to me that at construction/Year 1 the proposed development would have a large-scale negative impact by introducing a very large and tall industrial building or buildings onto what is currently an open undeveloped agricultural field. This impact would be added to by the extensive areas of hardstanding, not just to serve any new building or buildings, but also to provide the proposed 150 space overnight lorry parking facility. Unsurprisingly, this view is echoed by the landscape witnesses for the Council and the appellant who agree, in the Landscape SoCG, that it is usual practice in a landscape and visual impact assessment to assess increased visibility/prominence of large-scale development within a semi-rural context as resulting in negative landscape and/or visual effects.
39. I do accept, however, that although the appeal proposal would bring about an appreciable change to the character and appearance of the appeal site itself, the large industrial buildings at the Tamworth Logistics Park on the south side of the A5 already exert an influence in character and visual terms on the appeal site – certainly on its southern part. Moreover, the appeal site's proximity to the A5 and motorway junction means that it is subject to noise from Heavy Goods Vehicles (HGVs) and traffic generally. I also accept that this is a LCA within which new industrial buildings are envisaged, as one element of the landscape/management strategy is that new industrial buildings should be sited, designed and landscaped to mitigate against further landscape impact from built development.
40. With regards to other relevant elements of the landscape/management strategy it is clear that the appeal proposal would not assist in maintaining a broad landscape corridor to both sides of the M42. However, it is plain that the presence of existing development in the north-western, south-western and south-eastern quadrants of the M42 junction already work against the achievement of this particular part of the strategy, and because of this I am not persuaded that a failure to accord with this management requirement should weigh against this proposal. Overall, I accept that many of the measures proposed for the site and the blue-edged area, such as the

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<sup>27</sup> Paragraphs 27, 222 & 394 in Doc 40

<sup>28</sup> Paragraph 5.4 in CD A12

<sup>29</sup> Paragraph 3.7 in CD D30-A

new hedgerow planting and the conversion of arable land back to pasture, would broadly accord with the overall landscape/management strategy for this LCA.

41. The impact of this change in character would lessen over time and the starkness of the new buildings would diminish somewhat, as the planting on the proposed wide landscaped buffers moves towards maturity<sup>30</sup>. That said, whilst the proposed extensive tree planting would no doubt be effective in providing some screening and filtering of views it would rely on additional height being achieved by the introduction of large bunds into the landscape, up to 5m in height, upon which the trees would be planted. These bunds would be formed from material excavated from the site to a depth of up to 8m at the site's northern end, in order to provide level development platforms for the proposed building or buildings.
42. Although I saw at my accompanied and unaccompanied site visits that man-made bunds are present in and around the Tamworth Logistics Park, Centurion Park, Relay Park and the MSA to the west of the M42, they are not a natural feature of this LCA and would therefore appear somewhat out of keeping on this northern side of the A5 – as would the dense tree cover proposed. In view of these points, and accepting the transitional nature of the appeal site, I consider that the proposed development would still result in a moderate impact on the character of the local area as a whole at Year 15, when the trees within the landscaped buffers would likely have grown to a height of some 7.5m-8.0m.
43. Turning to consider likely visual impacts, the appellant produced a computer-generated Zone of Theoretical Visibility (ZTV) which indicates where the proposed development would be seen from, and also indicates what vertical angle the development would subtend from these locations. Early versions of the ZTV drawings contained within the ES were criticised by the Council as they included planting at an unrealistic height of 10m, so the appellant submitted a revised set of ZTV drawings with planting assumed at a more realistic Year 15 height of 8m<sup>31</sup>.
44. These revised ZTV drawings show that the existing large buildings on the Tamworth Logistics Park can be clearly seen from much of the appeal site, the blue-edged land to its east, and the western side of Dordon. In practice, the large industrial buildings at the Birch Coppice Business Park and Core 42 can also be clearly seen from many of these locations, although these have been excluded from the ZTV.
45. Understandably, these drawings show that if the proposed development was to proceed, it would increase the prominence of such buildings in views from the east, including residential properties on the edge of Dordon, one of which I visited as part of my accompanied site visit. However, by Year 15 the proposed tree planting within the landscaped buffers around the appeal site would be expected to have reached a height of around 8m and, as a result, the ZTV drawings indicate that the visual impact of the proposed development, when viewed from the western side of Dordon, would be little different to that which currently exists. Nevertheless, I consider that it would be quite apparent that industrial-style buildings had moved much closer to Dordon, breaching the current strong A5 and M42 boundaries.
46. I accept that some additional screening is likely to be provided by the trees recently planted by the Parish Council at the western side of the Kitwood Avenue Recreation Ground, and by the community orchard proposed along the settlement edge south of this recreation ground as part of the off-site mitigation measures. Because of

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<sup>30</sup> See CDs B15 & B57

<sup>31</sup> CD D30-B

this, the proposal would not significantly increase the prominence of industrial development when viewed from ground floor rooms of dwellings on the western side of Dordon. On balance I consider that whilst the introduction of additional industrial buildings into the view, closer to Dordon, would be a negative feature, the overall impact would not be significant when viewed from the edge of Dordon.

47. In addition to the ZTV, the appellant agreed a total of 21 viewpoints with the Council as part of the Landscape and Visual Impact (LVIA) process. Baseline photography and photomontages showing the likely impact of the proposed development at Years 1 and 15 from a number of these viewpoints were submitted to the Inquiry<sup>32</sup>, although as noted above, the appellant chose not to submit photomontages from the 2 closest Viewpoints, 3 and 10.
48. The viewpoints were chosen to represent a wide range of visual receptors, including residential receptors mainly at Dordon and Birchmoor; walkers, cyclists and riders on the PRow network; users of open space such as the Kitwood Avenue Recreation Area and the proposed area of public open space in the south-east corner of the blue-edged land<sup>33</sup>; and vehicle users. I have already concluded, above, that the proposed development would have a negative impact on residential receptors on the western side of Dordon, but that this impact would not be significant once the intervening planting has reached semi-maturity.
49. Residents of some properties on the south side of Birchmoor currently have views across the appeal site, mainly from first-floor windows, as I saw when I visited one of these dwellings as part of my accompanied site visit. However, I was also able to see that these properties are predominantly single-storey, and that not all therefore have first-floor windows. I also saw that beyond the rear gardens of these properties there is a linear paddock area, some 20m or so in depth, bounded on both northern and southern sides by hedgerows and trees. These features limit the extent to which occupiers of these dwellings are able to see across the appeal site.
50. Under the appeal proposal there would be an extensive treed area at the north of the site, meaning that the closest buildings, on Plot A2, would be a minimum of some 100m away from these residential properties. This landscaped buffer would rise to a height of about 5m and because of the differing ground levels the evidence suggests that the roof height of these closest proposed industrial buildings would be no more than 7m higher than the residential properties. In these circumstances, whilst I acknowledge that the loss of wide-ranging views means that the visual impacts on these receptors would still be negative at Year 15, I do not consider that the effects would be significant. Nor do I consider that the proposed tree planting, which would lie beyond existing trees lining the paddock area, would be oppressive.
51. In my assessment the greatest visual impact would be on users of the PRow network, primarily those using bridleway AE45 and footpath AE46, who would generally be in closest proximity to the proposed industrial buildings and HGV activity. The photomontages make it clear that in the 'worst case' scenario, there would be significant negative visual impacts at construction/Year 1 from several of these viewpoints – notably Viewpoint 1 looking generally southwards across the appeal site from its north-eastern corner, Viewpoint 4, looking westwards towards the appeal site from footpath AE46, and Viewpoint 8 looking north-westwards towards the appeal site from the A5 end of footpath AE46.

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<sup>32</sup> In particular see CDs A7-10, B4, B30-31 & D30-D

<sup>33</sup> This area, referred to as OS1, is identified in the NWLP as an area for the relocation and replacement of allotments and open space, as part of employment allocations covered by Policies E2 and E3



52. However, as noted above, the appellant has chosen not to submit photomontages from the 2 closest Viewpoints, 3 and 10 - on bridleway AE45 at its junction with footpath AE46, and at the southern end of bridleway AE45, by the A5. In my opinion there would be a major adverse effect on receptors at both of these viewpoints at construction and Year 1, and notwithstanding the proposed planting and mitigation, I consider that the visual effect at all of these Viewpoints is likely to remain major or major/moderate and significant at Year 15.
53. To my mind the fact that the appellant has not identified any significant effects from any of the close proximity viewpoints in Year 15 reinforces the Council's view that the appellant has tended to underplay the impact of what would be a very large building or buildings, sited within an agricultural field, albeit of transitional character. I note that the Officer's Report to the Planning and Development Board considered that the proposal would result in moderate landscape and visual harm, but this conclusion was reached without the benefit of the 'worst case' photomontages submitted to the Inquiry. I accept, however, that other viewpoints would generally be further away from the proposed development and would therefore be unlikely to experience significant negative visual effects in Year 15.
54. Finally on the topic of viewpoints, it is relevant to consider the impact of the proposed development on the DNP key views V1, V2 and V3, which broadly accord with LVIA Viewpoints 5, 20 and 13. Key views V1 and V2 look south-westwards and westwards from the western side of Dordon, in the general vicinity of the Kitwood Avenue Recreation Area, and I have already commented, above, that although the proposed development would be seen as a negative feature from such locations, its visual impact would not be significant at Year 15.
55. However, a different situation arises with regard to key view V3, which looks eastwards across the appeal site to Dordon from a pedestrian crossing point of the southbound M42 off-slip. I acknowledge that the continuing availability of this view seems to be somewhat dependent on third-party maintenance of the vegetation and planting on the slip road embankment, and it is difficult to be clear on the likely impact of the proposed development in the absence of a firm site layout. Nonetheless, it is highly likely that the proposed industrial buildings and the overnight lorry parking area would be prominent in views from this location.
56. I note that the supporting text to DNP Policy DNP4 explains that these key views are not intended to be a bar to development<sup>34</sup> and that local people acknowledge that development may take place within these key views, but that the layout of any such development should, where possible, provide glimpses between buildings to countryside views beyond. Nevertheless, having regard to the potential size and positioning of buildings permitted by the Amended Parameters Plan I find it difficult to see how this policy objective could reasonably be achieved in this case.
57. Summarising all the above points, my overall conclusion is that notwithstanding the proposed on-site and off-site mitigation measures, at Year 15 the appeal proposal would still have a moderate adverse impact on landscape character and some significant adverse visual effects on receptors at the closest viewpoints, primarily on bridleway AE45 and footpath AE46. As such, the proposed development would have an adverse impact on the character and appearance of the surrounding area, in landscape and visual terms, and would therefore be at odds with the objectives of NWLP Policies LP1, LP14 and LP30, and with those of DNP Policies DNP1 and DNP4.

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<sup>34</sup> Paragraph 65 of CD F9

## Strategic Gap

58. As already noted, the appeal site lies within a defined Strategic Gap extending to some 450ha at the north-western edge of the Borough, set out diagrammatically in the NWLP<sup>35</sup> and covered by NWLP Policy LP4. The Strategic Gap is the current version of a long-standing planning policy objective to maintain a gap between Polesworth with Dordon and Tamworth. This protected area has been referred to variously as an 'Area of Restraint' and a 'Meaningful Gap' from as far back as the late 1980s, with these areas extending to both the north and south of the A5.
59. Before the adoption of the NWLP the relevant policy was NW19 in the North Warwickshire Core Strategy<sup>36</sup> (NWCS), adopted in 2014. This policy indicated that the broad location of growth for Polesworth and Dordon would be to the south and east of the settlements. It went on to state that *'any development to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them'*.
60. As the geographical extent of the meaningful gap had not been defined at this time, the Council commissioned an assessment which resulted in the Meaningful Gap Report<sup>37</sup> (MGR) of August 2015. Amongst other things this indicated that some locations within the gap correspond with significant gateways/entrances to the Borough along significant transport corridors. In those cases the MGR stated that the need to protect such areas from significant development is reinforced both by NWCS Policy NW19 and the need to deliver the NWCS Spatial Vision of retaining and reinforcing the rural character of North Warwickshire, to ensure that when entering the Borough it is distinctive from the surrounding urban areas<sup>38</sup>.
61. In the MGR the appeal site and adjacent blue-edged land were both located within Area 8, which was described as having the most obvious potential for maintaining a meaningful gap between the settlements of Tamworth and Dordon, with the clear boundaries provided by the M42 to the west and Dordon's built edge to the east. The MGR commented that although Areas 8 and 9 (to the south of the A5) are considered less sensitive in landscape terms, they operate more significantly as a strategic gap on the major gateway into the Borough from the west and are more sensitive to the impact of development, in view of their open aspect. As such they were considered to constitute the main meaningful gap area between Tamworth, the M42 and the built areas of Dordon and Birch Coppice, along with Areas 2 and 6 further north, which followed the broad, eastern corridor of the M42.
62. Around this time an application for development for some 80,000sqm of floorspace within Use Classes B1(c), B2 and B8 on land in the south-eastern quadrant of the M42 Junction 10 (within MGR Area 9), was under consideration by the Council. The Council refused planning permission with one reason for refusal being that the scheme would harm the separate identity of Dordon and undermine the meaningful gap between Polesworth and Dordon and Tamworth. That refusal was appealed<sup>39</sup>, and the Inspector who determined that appeal granted planning permission for what subsequently became St Modwen Park<sup>40</sup>. In so doing he assessed the proposal against NWCS Policy NW19, and was also aware of the 2015 MGR.

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<sup>35</sup> Page 32 of the Maps section of CD F1

<sup>36</sup> See paragraphs 7.85-7.90 in CD F14

<sup>37</sup> CD G2

<sup>38</sup> See paragraphs 8.1 & 8.2 of CD G2, and paragraph 3.2 of CD F14

<sup>39</sup> See CD K2 - referred to at the Inquiry as the St Modwen appeal

<sup>40</sup> Now renamed the Tamworth Logistics Park

63. Overall he concluded that due to the large area of open farmland to the north of the A5, combined with the location of Dordon on higher ground, its different character and appearance to Birch Coppice and the inclusion of a landscaped buffer along the eastern site boundary, that proposal would respect the separate identity of Dordon, and maintain a meaningful gap between Polesworth and Dordon and Tamworth. As a result, he found no conflict with NWCS Policy NW19. Put simply, the St Modwen appeal was allowed on the basis that any harm would be sufficiently mitigated by the continued existence of the open undulating farmland to the north, which would ensure sufficient separation between the settlements of Tamworth and Dordon and permit them to maintain their distinct characters.
64. Self-evidently that Inspector was dealing with a different proposal to that before me, and had to grapple with different facts and evidence. He did not have to consider the consequences of development of the appeal site upon the effectiveness of the residue of the gap, or its effect on the character of the settlements. Nor was he asked to consider any alternative scheme north of the A5 and whether the amount of agricultural land that the appellant is now proposing would retain the separation. That said, I consider that his comments and views are pertinent and should be given weight. I have had regard to them in reaching my conclusion on this issue.
65. In policy terms things have moved on since the time of the St Modwen appeal. At that time the Council had begun the preparation of what subsequently became the NWLP, and to assist in that process it commissioned another study to look further into the value of the meaningful gap and also to assess potential Green Belt alterations<sup>41</sup>. This was known as the Assessment of Value Report (AVR), issued in January 2018. The AVR used broadly similar land areas for assessment as had the 2015 MGR, but referred to them as 'Parcels' rather than 'Areas'.
66. The AVR assessed how the various land parcels contributed to separation between settlements in terms of both physical and perceived separation. Parcel 8 was again described as performing very strongly as part of the meaningful gap by providing a buffer and sense of separation between the 3 separate settlements (Tamworth, Dordon and Birchmoor), which are very close to each other. The AVR's overall recommendation was that the meaningful gap should be retained, that Policy NW19 should be strengthened, and that the title of the meaningful gap should be changed to 'Strategic Gap' or 'Local Gap', so that its status would be clearer.
67. The Council took this advice forward into the NWLP and promoted a new Strategic Gap policy. Amongst other matters, the Inspector who examined that Plan commented how many local residents accorded significant value to the rural surroundings to Polesworth with Dordon<sup>42</sup>, and noted that a landscape does not have to be formally protected to merit protection within the terms of the NPPF<sup>43</sup>. He further stated that part of the intrinsic character to Polesworth with Dordon derives from its separation from Tamworth. With regard to the land parcels assessed in the 2015 MGR and 2018 AVR studies he took the view that they would inevitably include smaller apportionments where development may be advanced, but considered that that was a matter that legitimately falls to decision-taking.
68. In emphasising this last point he commented that whilst the broad extent of the Strategic Gap is justified, it may well be the case that alternatively defined parcels

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<sup>41</sup> CD G3

<sup>42</sup> See paragraphs 227-241 in CD F15

<sup>43</sup> At that time the relevant paragraph was 109 in the 2012 NPPF - now paragraph 180 in the current 2023 NPPF

of land have differing degrees of sensitivity, noting that the WCC Landscape Guidelines<sup>44</sup> point to a somewhat mixed landscape character between Tamworth and Polesworth with Dordon, including certain 'urbanising features'. As a result he considered it conceivable that certain schemes could be designed so as to be suitably accommodated within the Strategic Gap without undermining its purpose.

69. He was critical of the Council's attempt to limit all new development within the gap to only being small in scale, and because of this he modified the submitted policy to remove this requirement. As adopted, Strategic Gap Policy LP4 states *'In order to maintain the separate identity of Tamworth and Polesworth with Dordon, a Strategic Gap is identified on the Policies Map in order to prevent their coalescence. Development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon. In assessing whether or not that would occur, consideration will be given to any effects in terms of the physical and visual separation between those settlements'*.
70. Having regard to the above points, it is clearly the case that the proposed development would not bring about any physical coalescence of Tamworth and Polesworth with Dordon. Nor did any of the parties suggest that the proposal would have an adverse effect on the character of Tamworth. The evidence presented at the Inquiry therefore focussed on what effect, if any, the proposed development would have on the distinctive and separate character of Polesworth with Dordon, as a separate settlement to Tamworth.
71. Looking first at the effect of the proposed development in purely physical terms the Council and appellant agree, in the Landscape SoCG, that in the vicinity of the appeal site the existing distance between Dordon/Polesworth and Tamworth is approximately 1200m at the narrowest point and approximately 1450m at its widest point. If the appeal proposal was to be implemented a physical gap of about 750m between the appeal site and Dordon would remain to the north of the A5, representing a reduction in width of about 430m. Separately, the Local Rule 6 Party maintained that with the exception of the narrow row of paddock fields and the proposed landscaping, the proposed development would essentially connect the employment area south of the A5 up to Birchmoor.
72. When considering the proposed Strategic Gap policy the NWLP Inspector noted that in 2 recent appeals concerning this overall gap area<sup>45</sup> the relevant Inspectors had commented that reliance on a simple 'scale rule' approach to maintaining separation between settlements should be avoided, and that the character of the settlements concerned and the land in between needed to be taken into account. The NWLP Inspector took this point on board in putting forward his wording for Policy LP4, and I, too share this view. With these points in mind all parties agree that one method for assessing the effectiveness of a gap between 2 settlements is to apply what are known as the 'Eastleigh Criteria'.
73. As well as having regard to distance, these criteria also take account of topography, landscape character/type, vegetation, existing uses and density of buildings, nature of the settlement edges, inter-visibility of the settlement edges (the ability to see one edge from another), intra-visibility of the settlement edges (the ability to see both edges from a single point), and the sense of leaving a place and arriving somewhere else. I have had regard to these criteria and the views of the landscape witnesses in coming to my own assessment.

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<sup>44</sup> CD G9

<sup>45</sup> See CDs K1 & K2

74. In simple distance terms I consider that the proposed development would appreciably reduce the existing separation between Dordon and the M42 (which in many ways can be seen as a proxy for the edge of Tamworth), both for drivers and other users of the A5, and for users of the PRow across the current gap area. The appellant refers to the effectiveness of much narrower gaps than would be the case here, stating that gaps of around 200m can still allow settlements to retain their separate identities, but that clearly depends on the nature of the gap itself and the nature of the buildings and settlements either side. In any case, whether or not narrower gaps elsewhere serve effective gap purposes is not material in this case.
75. Dordon sits on higher ground, with open, agricultural land sloping down westwards in a gently rolling and undulating fashion towards the M42. I share the appellant's view that at present this agricultural land between Dordon and Tamworth is a marked contrast to the settlements and commercial developments, and thus helps to provide a clear sense of separation between them<sup>46</sup>. The appellant rightly notes that this is the 'expanse of farmland', notably lower than Dordon, that the St Modwen Inspector concluded would continue to provide an 'unequivocal sense of separation from Tamworth'. However, I take a different view from the appellant with regards to the likely impact the proposed development would have on this sense of separation and the character of the area.
76. The appellant argues that although some of this open farmland would be lost to development, about 750m would remain between the 2 settlements at the closest point, and that the gently sloping ground between the appeal site and Dordon would therefore remain in its current state. In the appellant's view this gap, coupled with the provision of additional native hedgerow and woodland planting within the off-site mitigation area would reinforce the rural characteristics of this space, ensuring that there remains a marked difference in character between settlement edges and the intervening space. As such the appellant maintains that Dordon would continue to be very clearly defined by the steep slope at its western edge and its position on higher ground.
77. However, these are self-evidently not the only defining features which give Dordon its character. Its rural setting is also a very important element of its character as is made plain by the commentary to key views V1, V2 and V3 in the DNP. These highlight the contribution the Strategic Gap makes to the separation of the edge of the Dordon built-up area from development of large industrial units to the south of the A5, and from Tamworth. The appeal proposal seeks to introduce a very large building or buildings into this gently undulating topography, on flat development platforms, and the landform would also be significantly altered by the introduction of large perimeter bunds, up to 5m in height, whose sole purpose would be to assist in shielding the new building(s).
78. Extensive tree planting is proposed for these bunds, and whilst this would clearly serve to filter some views of the proposed building(s), it would take many years to mature and could not disguise the development's size and scale. Moreover, there is currently only limited vegetation on the appeal site and in this part of the Strategic Gap, with a large field pattern, relatively few hedgerows and associated trees, and very little woodland except a fairly small copse to the east. Whilst I acknowledge that some new hedgerow planting has taken place alongside the bridleway, the current lack of significant vegetation means that long and open views are available across this land. In light of these points, extensive woodland planting of the scale

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<sup>46</sup> Paragraph 5.23 in CD D30-A

proposed for the northern and eastern sides of the appeal site would not be a feature of this local area and would therefore be out of character, as already noted.

79. Overall, the effect of the introduction of very large scale development onto the appeal site would be to bring the character of Tamworth much closer to Dordon, foreshortening westward views out of the gap area and significantly changing the area's open feel. In such circumstances, inter-visibility across the gap would remain, but the perceived separation between settlements would be considerably reduced from that which currently exists, as the built form of Tamworth would effectively move to the eastern side of the M42, in a significant and substantial fashion. Similar points arise in terms of intra-visibility. A sense of separation would remain between Dordon and Tamworth, but to my mind it would be much reduced, for reasons already given.
80. The last part of the Eastleigh Criteria relates to the sense of leaving a place and arriving somewhere else, a matter echoed in the supporting text to NWLP Policy LP4 at paragraph 7.28. This states that the Strategic Gap *'seeks to retain and maintain the sense of space, place and separation between these settlements so that when travelling through the Strategic Gap (by all modes of transport), a traveller should have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering the second settlement'*.
81. At the present time, people travelling eastwards on the A5 experience open fields and countryside on their left-hand side, in significant contrast to the urban nature of Tamworth to the west of the M42. Under the appeal proposal this experience would change significantly as major industrial development in the form of a very large building or buildings would occupy this currently open area, together with the presence of large areas of hardstanding for vehicle parking and manoeuvring, and a substantial lorry parking facility. This would be clearly seen by A5 travellers, as much of the existing roadside hedging and vegetation would need to be removed to allow the necessary highway improvements to take place. This would include the construction of a new all-movements traffic signal controlled junction, which again would serve to make this area appear more urbanised.
82. I acknowledge that eastbound travellers would still experience a length of undeveloped land between the end of the proposed development and the start of the built-up area of Dordon, but at around 750m this would be traversed quite quickly by car, passing through 2 further traffic signal installations. As such I find it difficult to agree that there would be any really meaningful sense of leaving one place and arriving in another. A similar situation would arise for westbound travellers. In this case I accept that vehicle travellers would be on the south side of the A5, but the proposed building or buildings on the appeal site would be visible from some distance away. Coupled with the fact that there is existing large-scale development along much of the southern side of the A5, and the presence of the aforementioned sets of traffic signals, I consider that this whole length of A5 would have a clear urban or suburban feel, with no real sense of a different character between Dordon and Tamworth.
83. A somewhat different situation would exist for users of the PRoW network. Whilst future travellers passing north or south on the bridleway would undoubtedly be aware of the new development to the west, once they turn east onto footpath AE46 they would leave the new development behind them and would experience a rural journey from that point up to Dordon. However, I am not persuaded that travellers making the reverse journey would have a similar experience, as the very large

building or buildings on the appeal site would have a continuing visual presence for much of the westbound journey on footpath AE46, in effect spreading its urbanised and industrial character and influence onto the intervening land.

84. In my assessment the size and scale of the proposed development means that this would be the case despite the shielding and filtering that would be provided by the proposed off-site mitigation planting and the tree planting on the bund at the eastern side of the appeal site. Overall, I do not consider that the area which would remain, if the proposed development were to proceed, would give a clear sense of leaving one area, and travelling to another, as required by the Eastleigh Criteria. Rather, it is my view that the proposed development would fail to maintain a sense of space, place and separation between the settlements of Tamworth and Polesworth with Dordon.
85. In summary, development of the size and scale proposed through this appeal would eat massively into the open expanse of undulating farmland to the north of the A5 which was instrumental in enabling development to the south of the A5 at what is now the Tamworth Logistics Park to be granted planning permission. This would significantly change the character of a very large portion of this clearly identifiable gap and undermine the reasoning used by the St Modwen Inspector to justify allowing that appeal. It would give the clear impression of Tamworth leap-frogging the M42, but not in any minor way.
86. Rather, the appeal proposal seeks a very substantial development with a proposed floorspace appreciably larger than that allowed through the St Modwen appeal, potentially with just a single very large building which would be larger than any other nearby building on the Tamworth Logistics Park or the Birch Coppice or Core 42 Business Parks. In addition, it would be accompanied by a significantly-sized overnight lorry parking area with all its attendant HGV activity and lighting, extending well into the defined Strategic Gap. To my mind, and echoing the words of the NWLP Inspector, this is not a scheme which could be suitably accommodated within the Strategic Gap without undermining its purpose.
87. I therefore have no doubt that if this development was to proceed it would harmfully change the character and appearance of what would be a large portion of a clearly defined and important part of the Strategic Gap, on an important entrance to the Borough. This, in turn, would substantially alter and impinge on the countryside setting of Dordon and would thereby have a clear and significant adverse impact on its distinctive character and identity. The proposed off-site mitigation would reduce this impact, but would not be able to disguise the fact that development of a significant size and scale would be present on the north side of the A5, east of the M42.
88. Drawing all the above points together I conclude that the proposed development would have an adverse impact on the character and appearance of the surrounding area, and would fail to maintain an effective Strategic Gap between Tamworth and Polesworth with Dordon. Accordingly I consider the proposal to be in conflict with NWLP Policies LP1, LP4, LP14 and LP30, and with DNP Policies DNP1 and DNP4.

***Main issue 2 – the effect on the best and most versatile (BMV) agricultural land***

89. The loss of agricultural land had not been a concern to the Council during the planning application process, and did not feature in the Council’s putative reasons for refusal. It was, however, raised by a number of interested persons in their

representations at both application stage and appeal stage, and was also expressed as a concern by the Local Rule 6 Party.

90. Evidence before the Inquiry shows that the appeal site contains about 29ha of very good Grade 2 agricultural land, with about 2ha of moderate Grade 3b land, and about 1ha of non-agricultural land<sup>47</sup>. This BMV land would be lost to agricultural production if the appeal proposal was to proceed. Further agricultural land within the blue-edged area would also be taken out of active arable production and would be converted to pastureland, or be required to provide the necessary areas for biodiversity net gain (BNG). However, with regards to this additional land I see no reason to dispute the appellant's point that using land to take an occasional haylage/silage crop or for grazing livestock is still an agricultural use, and that a reversion to arable would be possible in the future, if the land was so required.
91. Agricultural evidence provided by the appellant explains that the appeal site is part of a larger block of agricultural land currently farmed using large scale agricultural contractors<sup>48</sup>. The land use is arable cropping and its loss would have no detrimental effect on the appellant's business or that of the contractors. Moreover, the evidence is that there would be no significant adverse effects on any farm business, labour or other economic impact for the farm or the rural economy. No contrary evidence has been put before me on these matters.
92. Planning policy does not place a bar on the loss of agricultural land, with the NPPF simply requiring that planning decisions should recognise the economic and other benefits of BMV land, and stating that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. In this case, the evidence is that poorer quality land is not generally available in this area, such that any development in the area would be expected to involve the use of BMV land. In light of these points I conclude that the loss of agricultural land would only carry limited weight against this proposal, if it were to proceed.

***Main issue 3 – effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways***

93. As noted above, approval was sought in full for the means of access for this proposal, and because of the location of the appeal site and its proximity to the Warwickshire/Staffordshire boundary, a total of 3 highway authorities have had an involvement. At the time the Council's Planning and Development Board considered this application, after the appeal had been lodged, no agreement had been reached with NH who's interest was not only in the safety, specification and operation of the proposed site access, but also the capacity of the wider Strategic Road Network (SRN), specifically Junction 10 of the M42 and the A5. In addition, WCC as highway authority for the non-strategic highway network within Warwickshire also maintained an objection to the proposal, placing reliance on the views of NH.
94. The Officer's Report explained that as the majority of the strategic housing allocations within the NWLP are dependent upon the delivery of substantial improvements to the A5 itself, development that is not allocated in the NWLP could well take up capacity on the A5 such that the delivery of these allocated sites would be prejudiced. Because of these points the Council was concerned that the proposed development could result in an unacceptable impact on both the strategic

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<sup>47</sup> Paragraph 3.6 of Appendix 6 to CD D28-B

<sup>48</sup> See Appendix 6 in CD D28-B



and local highway networks, and/or could give rise to increased danger and inconvenience to highway users, including those travelling by sustainable modes. As a result the Council maintained that the proposal could result in a severe impact on the road network contrary to NWLP Policies LP23, LP27 and LP29(6), as well as NPPF paragraph 115.

95. In brief, these NWLP policies require proposals for development to submit an appropriate Transport Assessment; consider what improvements can be made to encourage safe and fully accessible walking and cycling; and provide safe and suitable access to the site for all users. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
96. Discussions continued with the highway authorities both in the run-up to the Inquiry and during the Inquiry itself. As part of this process improvements to M42 Junction 10, amounting to a significant proportion of the improvements already agreed to be necessary to allow the delivery of development allocated in the NWLP, were agreed with NH. SoCG were agreed with NH, WCC and SCC before the Inquiry opened, with just a few outstanding matters remaining with NH, relating primarily to a necessary Safety Risk Assessment and a Road Safety Audit (RSA).
97. These additional matters were resolved before the Inquiry closed, such that subject to the imposition of a planning condition requiring completion of the RSA in accordance with Standard GG119 of the Design Manual for Roads and Bridges, NH was satisfied that the proposed site access would function acceptably, and that the development would not result in an unacceptable impact on the SRN. WCC and SCC were also both satisfied that the proposed development would not result in any significant capacity or highway safety concerns on the relevant local roads within their jurisdiction. In view of the above points, the Council did not defend its putative third reason for refusal at the Inquiry.
98. Notwithstanding the agreements detailed above, there were still some general highway concerns raised by both WCC and the Local Rule 6 Party. WCC's concerns related to the appellant's claims that the Junction 10 mitigation works proposed as part of the appeal proposal would provide additional benefits by being able to accommodate a specified amount of traffic from development allocated in the NWLP. These claims were made by the appellant's traffic consultants, as a result of assessments using the traffic modelling program TRANSYT16, agreed with NH as being appropriate to assess the appeal scheme's impact on the A5 and M42 Junction 10<sup>49</sup>. However, whilst WCC was also content with this program insofar as the assessment of the appeal proposal itself is concerned, it has not agreed its use to assess any additional development, such as that allocated within the NWLP.
99. For any such assessments WCC would expect its own Modelling Protocol to be used and adhered to, which in this case would involve the use of WCC's Paramics Microsimulation Model<sup>50</sup>. As this model had not been used to evaluate the likely cumulative impact of the proposed mitigation on the developments included within the NWLP, WCC does not agree with the appellant's assertion that a certain level of the NWLP developments could be delivered in advance of any mitigation previously considered in the NWLP. Nor does it agree that the proposed mitigation would help to deliver any level of the NWLP development.

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<sup>49</sup> Paragraphs 6.25-6.44 in CD D32-A

<sup>50</sup> See CD D38

100. At the round table session to discuss these matters the appellant accepted that the benefit to the NWLP schemes could have been overstated, as the assessment which had been undertaken was described as simple and high-level. Nevertheless, it seems clear to me that by delivering what would amount to around half of the Junction 10 improvement scheme which was promoted as appropriate at the time of the NWLP examination, the appeal proposal is likely to also deliver some wider benefits with regards to the development allocated in the NWLP. In light of these points, but having regard to WCC's concerns, I consider it appropriate to take a somewhat cautious approach to this matter. I therefore accord modest weight to the appeal proposal in this regard.
101. The matters raised by the Local Rule 6 Party related mainly to concerns that workers at the proposed development could choose to park off-site at Birchmoor and use the PRoW network to reach their place of work; thereby giving rise to additional parking pressures within Birchmoor; and that an increased number of HGVs could find themselves 'lost' within Birchmoor. The appellant accepted that these scenarios could occur, and indicated a willingness to address these matters by offering a 'Birchmoor Parking Contribution' and a Birchmoor Highway Signage Contribution' through the UU with WCC. The Local Rule 6 Party was content that these offered contributions would mitigate any harm likely to arise in these regards. I deal with these contributions in more detail under main issue six.
102. In terms of public transport I understand that a strategy<sup>51</sup> has been agreed between WCC and a local bus operator, Stagecoach, which proposed diverting the 766/767 Nuneaton – Tamworth bus service into the site. Agreement has been reached on this matter between Stagecoach, WCC and SCC<sup>52</sup>. The appellant indicates that the diversion of this service would require financial support via a S106 obligation and a sum has been identified by WCC and Stagecoach.
103. The 766/767 service is to cease operations in July 2024 as S106 financial support from developments at Birch Coppice comes to an end. Replacement bus services between Tamworth and Birch Coppice are being provided by SCC (the No 66), and between Nuneaton and Birch Coppice by WCC (the No 41), and SCC and WCC have agreed that these services could be extended/diverted to serve the appeal site. The parties agree that the proposed S106 contribution of £216,000 per annum, for 5 years, could fully fund reinstatement of the 766/767 service or provide further support for the 66 or 41 services. In addition, the bus service diversion would include a bus turning area within the appeal site and a bus shelter, and WCC have requested real-time passenger information displays at the bus shelter. The appellant is willing to provide these features as part of the proposed development.
104. The appeal proposal also includes a range of improvements to walking and cycling routes between the site, Tamworth, Birchmoor, Polesworth and Dordon which would benefit employees and users of the proposed development<sup>53</sup>. These improved routes would also benefit the wider community by improving accessibility between the settlements and Tamworth Logistics Park, Birch Coppice and Core 42 Business Parks. As most of the routes are essentially rural in nature, passing through open farm land, it is proposed that the routes remain unlit. On this point the appellant commented that there are reasonable lit alternative foot/cycleway routes for those who do not wish to use the proposed unlit routes.

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<sup>51</sup> CD H22

<sup>52</sup> See CD E55 and Appendices NRB27 & NRB28 in CD D32-B

<sup>53</sup> Paragraphs 9.7-9.12 of CD D32-A, and CD B16

105. I also note that WCC's Local Cycling and Walking Infrastructure Plan<sup>54</sup> (LCWIP) identifies a number of potential routes for upgrading through this area, included AE45 (LCWIP route P03) and a link to Dordon from AE45 (LCWIP route P09). Both of these are shown as passing through 'open space', and it is apparent that the route improvements proposed through the appeal scheme would assist towards the delivery of these proposals. Some concern was expressed by both the Council and the Local Rule 6 Party that surfacing of these retained/redirected PRoW as 2m or 3m wide paths would give them a much more urban or suburban appearance which would be out of keeping in these rural locations.
106. Indeed, the Proposed Connectivity Plan at CD B16 indicates that bridleway AE45 would be part tarmac and part grassland, whilst footpath AE46 and other formal and permissive footpaths in this area are proposed as '*3m wide dual-use tarmac pavement/cycleway along route of existing and proposed public rights of way*'. I, share the views expressed by the Council and the Local Rule 6 Party on this point, and it is questionable why the appellant considered such surface treatment to be appropriate in this rural area. That said, I see no good reason why this matter could not be satisfactorily addressed by the approval of alternative and more appropriate surfacing materials, at reserved matters stage, if this proposal was to be allowed.
107. These matters have all been brought together in a Vision Based Travel Plan<sup>55</sup>, which sets out the predicted multimodal trip generation of the appeal proposal, the range of sustainable transport measures proposed, the likely reductions in vehicular traffic that could reasonably be expected from the sustained implementation of the Travel Plan, and the reduction in HGV movements which could reasonably be expected from being a rail-served development (see later). This Travel Plan could be secured by condition if planning permission was granted for this proposed development.
108. Finally on this issue, although concern was expressed by local residents about general congestion if planning permission were granted for the proposed development, no specific detail on this matter was provided. In these circumstances, and having had regard to the Revised Transport Assessment<sup>56</sup>, I do not consider that the appeal proposal would give rise to any unacceptable congestion or highway safety issues.
109. Drawing together all the above points, I conclude that the appeal proposal would not have an adverse impact on the nearby strategic and local highway network, or on the safety and convenience of users of these highways. In addition it would cater for the needs of non-car users wishing to access the proposed development. Accordingly, I find no conflict with the NWLP policies referred to above, or with paragraph 115 of the NPPF.

***Main issue 4 – whether the proposed development would address an immediate need for employment land, or a certain type of employment land and, if so, whether the appeal site is an appropriate location to meet such a need***

Policy background

110. There has been no clear indication of how to address the need for further large-scale B8 logistics development in North Warwickshire since the revocation of regional planning in 2012. This was an issue in 2013/14, when the NWCS was being examined, with the Inspector having to consider whether provision should be made

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<sup>54</sup> CD H30

<sup>55</sup> CD H25

<sup>56</sup> CD B25

to meet a regional need for large warehouse and distribution sites – referred to as Regional Logistics Sites (RLS). An Employment Land Review produced in 2013 to assist on this matter used 2 different models to predict future needs – one based on trends in economic performance and one based on past completions. The first of these estimated a need of 164ha, with the second estimating the need to be 313ha.

111. The Inspector noted that the Borough has two RLS, at Hams Hall and Birch Coppice, and that the floorspace created at these sites has a significant influence on the past completion model. He considered that it would not be prudent to rely on the past completions model as there are other suitable areas in the region which will compete with North Warwickshire to address this need, and he did not consider he had sufficient evidence to be able to set a RLS requirement for North Warwickshire. In order to make the plan sound he therefore introduced a commitment for the Council to review the NWCS, should currently on-going studies identify a need for more RLS floorspace in the Borough.
112. However, the Council did not undertake such a review but chose, instead, to prepare a full new Local Plan (the NWLP). Employment requirements for the Borough are dealt with in the NWLP from paragraph 7.36 onwards, and are set out in Policy LP5. Amongst other things this indicates that for 2011 to 2033 the Council will make provision for a minimum of 100ha of employment land to meet local needs. This 100ha is, however, subject to Policy LP6, which deals with Additional Employment Land. This policy was introduced to address the need for large-scale employment provision, particularly in respect of storage and distribution.
113. This is made clear in the NWLP Inspector's Report<sup>57</sup> which noted that various studies referenced during the Local Plan Examination pointed to the '*paucity of readily available land for large scale employment provision*'. In particular the Inspector referred to the West Midlands Strategic Employment Sites Study<sup>58</sup> (WMSESS) of September 2015, and its comment that demand for large-scale industrial space in the West Midlands is most intense along an 'M42 belt', which was shown diagrammatically on a map<sup>59</sup> and referred to as 'Area A', within which a significant amount of North Warwickshire falls.
114. The Report further noted that at the time the WMSESS study was prepared, land supply for large-scale development provision stood at around 3.7 years, relative to demand, with there being a high level of demand for large-scale facilities across the West Midlands broadly. The Report acknowledged that for consistency with the NPPF as it stood at that time, the NWLP needed to address this issue. This was achieved by means of Main Modifications to the plan at examination, resulting in the adopted version of NWLP Policy LP6.
115. This states '*Significant weight will be given in decision taking to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A on Figure 4.10 of the WMSESS of September 2015 (or successor study) which cannot be met via forecast supply or allocations. The relevant scheme will be required to demonstrate: (i) access to the strategic highway network is achievable and appropriate, (ii) the site is reasonably accessible by a choice of modes of transport, and (iii) it is otherwise acceptable, taking account of the living conditions of those nearby*'.

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<sup>57</sup> See paragraphs 176-180 of CD F15

<sup>58</sup> CD I1

<sup>59</sup> Shown as Figure 4.10 in the WMSESS (CD I1)

116. The Council and the appellant both agreed that the wording of the policy is somewhat ambiguous, as it is unclear whether the requirement to demonstrate an 'immediate need' applies to both 'employment land', and also 'a certain type of employment land'. Despite this rather awkward wording both parties considered that 'immediate need' applied to both of these limbs and I share that view.
117. The supporting text to this policy explains that Area A encompasses land covered by the Strategic Gap, designated Green Belt, and land which is not in categories 1, 2, 3 or 4<sup>60</sup> of NWLP Policy LP2. It states that this policy does not automatically override other policies, but recognises that there are particular locational requirements specific to certain employment uses, and economic benefits to addressing needs in those locations. As such it comments that any weight accorded to proposed employment provision by virtue of this policy will be considered in the context of the policies in the plan as a whole in arriving at a balanced assessment.
118. In addition to the above, the 2015 WMSESS is also referenced in NWLP paragraph 7.41 which comprises further supporting text in the 'Employment Requirements' section. This paragraph indicates that since the preparation of the NWCS, the WMSESS and another study have made it clear that there is a wider than local need for large sites, and that this provision does not necessarily have to be provided for within North Warwickshire. It goes on to state that the Council will continue to work with other local planning authorities to see what opportunities there are around the East and West Midlands to deal with this need, and points out that there are large-scale sites coming forward in other areas such as Daventry, Market Harborough, North-West Leicestershire and South Staffordshire.

Need, 'immediacy', and how and where it should be addressed

119. There was agreement between the Council and the appellant that 'Big Box' logistics, namely a specific segment within the overall employment land market which caters for logistics and distribution (Use Class B8), with unit sizes greater than 10,000sqm (100,000sqft), would accord with the Policy LP6 reference to 'a certain type of employment land'. Moreover, both parties accepted that a need has been identified both regionally and nationally for such large strategic employment sites<sup>61</sup>. Where the parties differ is in the quantification of this need; whether it can be shown to be 'immediate'; how it should be addressed; and where it should be met. I summarise each party's case and approach in the following paragraphs.
120. The appellant maintains that there is a clear immediate need which should be addressed by the application of NWLP Policy LP6 and development of the appeal scheme on the appeal site. In support of this position it has prepared a detailed Employment Land Study<sup>62</sup> (ELS) which draws on a significant amount of data, including an update to the WMSESS 2015 in the form of the WMSESS (Phase 2) 2021<sup>63</sup>. This later study has redefined Area A, with the current equivalent area being referred to as Area 2. Both WMSESS reports defined broad locations for areas for search for strategic employment sites, suitable for 'Big Box' development, and both studies were undertaken on a 'policy off' basis, meaning that sites and locations have been identified which meet market requirements, but there may be planning or other limitations or restrictions which would need to be considered and/or overcome before development could proceed on a particular site.

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<sup>60</sup> These categories relate to a hierarchy of settlements of varying sizes, with development boundaries

<sup>61</sup> See paragraph 2 in CD D36

<sup>62</sup> CD I20 – also at Appendix 1 in CD D29-C

<sup>63</sup> CD I2

121. The WMSESS 2021 identified 12 sites in the West Midlands region which were 25ha or greater and had planning permission or were allocated. These sites provide a combined area of 741ha, and based on past take-up rates they were considered to potentially generate 7.41 years' supply as of May 2021, or 4 years as of the date of the appellant's ELS. The appellant maintains that this should be seen as a maximum figure as several of the included sites are longstanding, having been allocated for many years but not delivered by the market due to site constraints or other issues. In addition, 2.5 years' supply is accounted for by only one site, the recently approved West Midlands Interchange in South Staffordshire.
122. Based on its assessment, the WMSESS 2021 concluded *'...that there is a limited supply of available, allocated and/or committed sites across the Study Area that meet the definition of 'strategic employment sites', and an urgent need for additional sites to be brought forward to provide a deliverable pipeline, noting the very substantial lead-in times for promoting and bringing forward such sites.'*
123. This Study also looked at which potential sites could form part of any future deliverable pipeline, primarily resulting from a 'Call for Sites' to developers and land promoters. The 'prime market facing' locations for strategic employment sites were concluded to be in an area from M42 Junction 2 in the south, north to M42 Junction 10, south-west to M40 Junction 14, and east to M6 Junction 1. The Study identified 5 key clusters or 'areas' of sites and concluded that the focus for identifying strategic employment sites should be in 4 of those 'Key Locations', including Area 2, which covers the M42 Corridor up to and including Junction 10, and broadly equates to Area A in the 2015 WMSESS<sup>64</sup>, as noted above.
124. The WMSESS 2021 found that at just 0.71 years the M42 corridor had the lowest supply of existing sites of the various Key Locations, with the appellant pointing out that this supply consists of just one site at Peddimore, Birmingham, where Amazon has now taken a 2.3 million sqft building, meaning that this location now only has land capable of accommodating about 550,000sqft of large B8 logistics floorspace. In contrast, at 905ha and 9.05 years', the supply of potential industry-promoted sites in the M42 corridor is the largest of the Key Clusters/locations<sup>65</sup>.
125. This Study also undertook a high level assessment of 30 developer-promoted sites and additional sites at motorway junctions considered capable of accommodating strategic employment sites of 25ha or more<sup>66</sup>. The appeal site had a joint top score of 11, shared by only 2 other sites, both of which are located in the Green Belt. On this point the appellant highlights the fact that the M42 Corridor is heavily constrained by the Green Belt, with Junctions 3 to 9 falling within the Green Belt, with only Junction 10 being not so constrained. This has meant that Junction 10 of the M42, and North Warwickshire, has been a long standing supplier of strategic employment land of scale, with the developments of Birch Coppice, Core 42, Centurion Park and Tamworth Logistics Park.
126. In summary the appellant maintains that its ELS provides clear evidence that NWLP Policy LP6 is triggered, and argues that there is no better site within the Borough or the wider sub-region than the appeal site to meet the immediate need and immediate demand for strategic employment land. It further argues that this unmet need is leading to lost investment which would benefit the local economy, as well as preventing businesses from expanding and modernising. Overall the appellant

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<sup>64</sup> Paragraph 6.52 of CD I2

<sup>65</sup> Table 6.8 in CD I2

<sup>66</sup> See paragraphs 6.14-6.31 of CD I2

maintains that the appeal site satisfies all the necessary established criteria for Big Box development and is available and deliverable to meet the immediate need that has been demonstrated in the ELS.

127. Taking a contrary view, the Council considers that the most appropriate way to assess and bring forward any strategic employment sites would be through a planned approach. To this end it is preparing an Employment Development Plan Document<sup>67</sup> (EDPD), for which it has just completed a 'Scope, Issues and Options' consultation. This was accompanied by a 'Call for Sites', a revised Statement of Community Involvement, Draft Scoping Sustainable Appraisal and a Draft Economic Development Strategy.
128. Although some slippage has occurred, the Council maintains that it is on track to progress the EDPD through to formal submission by no later than 30 June 2025, and at the Inquiry the Council indicated that it will be looking to allocate at least one large-scale logistics site through this process. However, as this EDPD is only at an early stage of preparation it can carry no weight in this appeal. Similarly, although the Council has also indicated that it intends to undertake a full Local Plan review once guidance is produced on the new plan making system, this again does not assist with the current matter.
129. The evidence for employment need at the time of the preparation of the NWLP comprised various Employment Land Reviews, as well as the 2015 WMSESS. Insofar as preparation of the EDPD is concerned, the Council has indicated it will use the most recent available evidence, namely the Coventry and Warwickshire Housing and Employment Needs Assessment<sup>68</sup> (HEDNA) together with the WMSESS (Phase 3) document, which is awaited, but not yet available. The Council worked with the other local authorities within the Coventry and Warwickshire area to prepare the HEDNA, which was published in November 2022.
130. The HEDNA indicates that a specific tried and tested forecasting approach has been used to determine the need for large-scale B8 warehousing units, and considers that it would be appropriate to plan for future development to be in line with recent completions trends over the initial 10 year period (2021-31), with the subsequent decade seeing potentially slower growth in line with traffic growth and replacement demand modelling. On this basis the HEDNA recommends that the authorities plan for a need for Strategic B8 uses of 551ha up to 2041, and 735ha up to 2050<sup>69</sup>. These figures cover the HEDNA area as a whole – no figures for individual authorities are given.
131. But whilst accepting that a need for large, strategic employment sites has been demonstrated, the Council maintained that this need has not been shown to be 'immediate', basing this view primarily on the fact that the appeal proposal is a speculative development with no clearly identified end-user, and very little detail provided of the proposed development itself, save the Amended Parameters Plan. In this regard the Council drew attention to how detailed information regarding a specific end-user had been used in neighbouring North West Leicestershire to satisfy a similar policy to LP6, by a logistics operator seeking planning permission<sup>70</sup>. However, whilst this clearly demonstrates one way of showing an immediate need, there is nothing within Policy LP6 to indicate that such information is essential.

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<sup>67</sup> CD F7

<sup>68</sup> CD I4

<sup>69</sup> Table 10.19 in CD I4

<sup>70</sup> See paragraphs 274-277 in Doc 40, and CD I99

132. The Council also argued that both land and buildings suitable for Big Box development are available within Area 2<sup>71</sup>, and that in the absence of any thresholds or targets within Policy LP6 this should be sufficient to demonstrate that there is no immediate need for employment land. The Council took this matter further by arguing that although Policy LP6 clearly refers specifically to Area A (now Area 2), it would still plainly be material to cast the net a little wider to meet the identified need for strategic Big Box development. In this regard the Council submitted details of a large number of sites and buildings in the wider Midlands area which it maintained would be perfectly appropriate for a strategic logistics development of the type being proposed here.
133. Whilst looking further afield than Area 2 would not accord with the requirements of Policy LP6, the Council was clearly of the view that the regional need for strategic employment land does not necessarily need to be met within North Warwickshire. In this regard it made reference to paragraph 7.41 of the NWLP, detailed above, and also to the findings of the HEDNA. Amongst other things these include the comment that *'whilst North Warwickshire remains an attractive location for warehousing and logistics development in particular, there is a case for seeking a broader spread of industrial land provision between the authorities within the sub-region and seeking positive growth in industrial land supply in all parts of the Coventry and Warwickshire sub-region'*<sup>72</sup>.

### Summary

134. I have carefully considered all the arguments and extensive evidence put forward by both the appellant and the Council on this issue, and on balance I favour the case put forward by the appellant. Whilst the Council was at pains to point out that much of the appellant's evidence related to demand rather than need, Mrs Barratt for the Council accepted that that 'need' means an excess of demand when compared to the extent of supply. With this in mind I have found the appellant's information on need/demand and immediacy in the ELS to be both comprehensive and persuasive, and consider that an immediate need for Big Box logistics land has been demonstrated. The way to deal with that immediate need, at this point in time, is through NWLP Policy LP6. In the fullness of time, when the Council's EDPD has progressed further along the path to adoption, that would be an appropriate vehicle to address any such need – but that option is not currently available.
135. Turning then to Policy LP6, its first part is clearly met, insofar as an immediate need for a certain type of employment land has been established, which I consider cannot be met by forecast supply or allocations as there appears to be no availability within Area 2 of a site or buildings capable of accommodating development of the size of the appeal proposal. However, the policy also makes it plain that full compliance is also dependent on the scheme in question satisfying 3 listed criteria. In this case, and drawing on matters discussed under the third main issue, I am satisfied that access to the strategic highway network would be achievable and appropriate, and that the site would be reasonably accessible by a choice of modes of transport.
136. However, because of my findings on the first main issue, the third criterion would not be satisfied, as the harm to the character and appearance of the surrounding area and on the integrity of the Strategic Gap would count against the proposal and prevent it being in compliance with this policy.

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<sup>71</sup> See paragraph 269, Table following paragraph 309, and paragraph 317 in Doc 40

<sup>72</sup> Paragraph 9.40 of CD I4



137. Clearly there would be some benefits if the proposed development was to proceed, and I take these into account when undertaking the planning balance later in this decision. But on this main issue I have to conclude that whilst the proposed development would address an immediate need for a certain type of employment land, the appeal site would not be an appropriate location to meet such a need in the specific terms of this proposal. Accordingly, I find that the appeal proposal would not accord with NWLP Policy LP6, and the significant weight which compliance with this policy would attract cannot be claimed.

***Main issue 5 – whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities***

138. Although the Council maintained that the proposed overnight lorry parking facility could be disaggregated from the industrial building element of the proposal, the appellant indicated that it would not wish to have the lorry parking facility considered in isolation. I have therefore assessed this part of the proposal in conjunction with the proposed industrial building element. No firm details of what is proposed for the lorry parking facility have been provided, with the Amended Parameters Plan simply identifying Plots B1 and B2, towards the eastern side of the appeal site, with development on Plot B1 indicated to be restricted to a maximum height of 111m AOD and with development on Plot B2 limited to 102m AOD.

139. Some additional information is, however, provided within the DG, which indicates that Plot B1 would contain the up to 400sqm amenity building for the overnight lorry parking facility which is indicated as containing the likes of a shop, restaurant/takeaway, laundry, gym, changing facilities, showers and toilets. Plot B2 is indicated as containing the proposed Hub Office, incorporating site office; security, management and marketing facilities; meeting/presentation rooms and computer suite; and communal cycle parking, showers and changing facilities.

140. NWLP Policy LP34 deals with various aspects of Parking. With regards to lorry parking it states that proposals which reduce lorry parking (either informal or formal parking areas) should be accompanied by evidence to support its loss and explore opportunities for alternative provision. It goes on to state that in recognition of the Borough's strategic location and demand for lorry parking, the Council will give weight to lorry parking provision and facilities, and opportunities for alternative provision and for improved management in decision-taking.

141. Although the appeal proposal would result in the loss of a lay-by on the A5, popular for overnight lorry parking, this would be more than compensated for by the proposed 150 space overnight lorry parking facility. From the submitted evidence I can see that there is much support for such a facility, with common themes being the need to provide high quality secure parking/amenity facilities in order to attract and retain qualified HGV drivers in a sector where there is a recognised shortage of personnel, and for secure parking to deter lorry crime<sup>73</sup>.

142. The supporting representation from the National Vehicle Crime Intelligence Service<sup>74</sup> highlights that there is a difference between 'safe' lorry parking, which would be akin to parking provision found in a typical MSA, and 'secured' lorry parking, which has active security measures. The facility proposed through this appeal would be 'secured' lorry parking. On this point I have also been mindful of the Professional Opinion Note provided by Christine Rampley<sup>75</sup>, which presents

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<sup>73</sup> See Appendix 9 in CD D33-B

<sup>74</sup> See Appendix 9 in CD D33-B. Also at CD B50

<sup>75</sup> Appendix 8 in CD D33-B

evidence to show that there is a clear preference for dedicated truck stops over MSAs, which suffer from issues such as poor management and security.

143. The appellant submitted an 'HGV Parking Facility Need Assessment'<sup>76</sup> (PFNA) in support of this application. Amongst other things this PFNA included the results of a 'parking beat' survey undertaken on a number of evenings in October 2021 to identify excess and unmet HGV parking demand at known and potential inappropriate non truck-stop locations in the vicinity of the appeal site, covering the A5 corridor from the western side of Tamworth to Atherstone. The survey was repeated in December 2023 to ascertain whether there had been any significant changes to the level of inappropriate parking observed 2 years earlier.
144. In summary, the December 2023 surveys indicated that around 117 HGVs were parking at inappropriate non-truck stop locations each night, a slightly higher figure than that recorded in October 2021. On this point I have noted the Council's comment that even when HGV parking is provided there is no means of compelling drivers to use it, and surveys which count lorries parking in laybys overnight may simply be indicative of those drivers who do not wish to pay to park in a designated area, rather than of an inability to find such a space. Whilst there is no firm evidence to resolve this matter either way, I nevertheless consider it reasonable to take the survey results as demonstrating a need for further lorry parking facilities.
145. The PFNA also refers to the NH publication 'Lorry Parking Demand Assessment'<sup>77</sup> dated September 2023 which indicates on its Map 4.1 that the existing Truck Stop facilities at the Moto MSA at Tamworth are shown as having a utilisation of 85%-100%. On this point the appellant commented that a utilisation rate greater than 85% is defined as 'critical', being the rate where it is considered very difficult for additional drivers to find parking spaces.
146. That said, I understand that in addition to the 56 HGV and 18 coach spaces currently available at this MSA, there is also an extant planning permission for an additional 38 HGV spaces, granted in 2020. Although this permission has not yet resulted in the provision of any new HGV parking spaces, a letter submitted to the Inquiry on behalf of Moto<sup>78</sup> indicates that these additional spaces are due to be completed by early 2025. The letter also indicates that Moto has potential plans to future-proof these HGV parking spaces by providing eHGV charging infrastructure at the site. In the absence of any firm evidence to the contrary, I see no reason to assume that these additional HGV parking spaces will not be provided.
147. The same letter also states that Moto has aspirations to bring forward an additional 150 HGV parking spaces through an expansion to the MSA. The appellant maintains that, taken at face value, this does indicate that there is an acute need for additional spaces in the area. However, both the appellant and the Council have categorised this letter as an attempt by one commercial operator to seek to prevent the establishment of a rival commercial operator in close proximity. Regardless of the intent of this letter, as there are no further details of this proposal, and as no planning application has been made, I give this latter point very little weight.
148. An appeal decision from February 2024, relating to a proposed 200 space overnight truck stop with associated facilities in the vicinity of M42 Junction 9 has been drawn to my attention. The Inspector who determined that appeal considered that there

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<sup>76</sup> CD A15

<sup>77</sup> CD I3

<sup>78</sup> Doc 16

was compelling evidence of need for additional HGV parking and driver facilities, the provision of which would help to address a national shortage of HGV parking, improve driver welfare, would support the distribution sector generally and would have wider public benefits in reducing the levels of roadside parking. But although that Inspector gave significant weight to the various benefits that she considered would arise, she dismissed the appeal as very special circumstances, necessary to justify that development in the Green Belt, were not considered to exist.

149. The Council also made reference to the 'Lorry parking issues' map shown at Figure 6.1 of the NH publication 'Lorry Parking Demand Assessment', detailed above, and commented that it shows North Warwickshire as 'amber', denoting no pressing need for HGV parking facilities. However, I understand that this map is not showing lorry parking demand but is a ranking system evaluating local authorities based on the severity of their lorry parking issues in relation to one another. It takes account of both off-site parking areas (lay-bys etc) and on-site (lorry parks) parking areas.
150. The appellant also points out that as this study locates the Tamworth MSA in Tamworth Borough rather than in North Warwickshire, it should be treated with some caution. But notwithstanding this point I see from Appendix B to this document that North Warwickshire does not appear in the top 40 Local Authorities for lorry parking issues, and that Tamworth sits at number 19 in this ranking. It is therefore difficult to argue, on this basis, that there is a pressing or severe need for additional lorry parking facilities in North Warwickshire.
151. Nonetheless, on the basis of the evidence before me, and in particular the specific parking beat surveys which have been undertaken, there does seem to be an identified demand for additional secure overnight lorry parking, as proposed through this appeal, even though this need might not be severe. As such, this element of the appeal proposal would clearly be in accord with NWLP Policy LP34 and, as a matter of principle, attracts weight.
152. However, the lorry parking itself would be accompanied by the proposed amenity building, and although no specific details have been provided, I consider it reasonable to also expect the whole area to be lit, possibly on a 24-hour basis. More importantly, the lorry parking facility would be provided alongside the very large industrial buildings which I have already concluded would be harmful in this Strategic Gap location. For this reason I have to conclude, in the context of this main issue, that although a demand for such facilities has been demonstrated, the appeal site would not be an appropriate location for the provision of an overnight lorry parking area and associated facilities.

### ***Main issue 6 – suggested conditions and planning obligations***

153. A total of 51 suggested planning conditions were put forward jointly by the parties, to be imposed if planning permission was to be granted<sup>79</sup>. There was agreement on most of these conditions, with just 2 exceptions. Firstly, the appellant submitted 2 conditions, numbers 30 and 31, aimed at controlling the amount of development floorspace which could be occupied before the M42 Junction 10 roundabout improvements shown on either of 2 stated drawings have been constructed, completed and are fully operational. The control would be by means of a 'Trigger Assessment' which would need to be submitted to and approved in writing by the Council. These agreed roundabout improvements would then need to be implemented in accordance with the approved Trigger Assessment.

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<sup>79</sup> Doc 35

154. Instead of these 2 conditions the Council put forward a single condition which would require the agreed M42 roundabout improvements to be completed in full before any phase of the development was occupied. It argued that the condition was necessary in this form to ensure that the works to the M42 roundabout, which would improve facilities for cyclists and pedestrians, were available at the first occupation of the development, thereby encouraging the use of non-car modes of transport from the outset. This seems to me to be a sensible and reasonable objective, and if I had been minded to allow this appeal I would have imposed the Council's condition.
155. The second area where there was a difference of opinion related to suggested condition 47, dealing with the submission for approval of an Employment Scheme – Occupational Phase (ESOP) setting out details of the programmes, commitments and measures to be implemented during occupation of the development, in accordance with the submitted Employment, Skills and Training Statement<sup>80</sup>. The appellant's version sought submission and approval of the ESOP prior to the first occupation of each unit in each phase of development, whereas the Council's version simply sought submission and approval prior to first occupation. It seems to me that the appellant's version would provide more flexibility and also provide the opportunity for prospective end-user(s) to input into each submission, thereby producing a more bespoke submission. If I had been minded to allow this appeal I would therefore have imposed the appellant's condition.
156. Neither the Local Rule 6 Party nor NH raised any objections to these conditions, and I therefore conclude that the 50 agreed conditions<sup>81</sup> would accord with the relevant NPPF guidance and would satisfactorily address the impacts of the proposed development, if it had been acceptable in all other respects.
157. The appellant had been expecting to conclude S106 Agreements with both the Council and WCC. However, fairly late in the day it became apparent that there were areas of disagreement which could not be resolved, meaning that the appellant chose instead to submit these planning obligations in the form of UUs<sup>82</sup>.
158. In summary, the UU to the Council makes provision for the following specific obligations:
- a. A Landscape Strategy to be submitted to the Council for approval, prior to commencement of the development; and the Mitigation Land to be maintained and managed in accordance with the approved Landscape Strategy in perpetuity;
  - b. Unfettered access for the public at all times (save in cases of emergency, or as otherwise agreed from time to time in writing between the Owner and the Council) to each of the areas hatched green on Plan 1;
  - c. Details of the land to be converted to pasture to be submitted to the Council for approval, prior to commencement of the development; and the Pasture Land to be delivered, maintained, retained, used and managed in agricultural use in perpetuity;
  - d. A Biodiversity Gain Plan (BGP) and a Habitat Management and Monitoring Plan (HMMP) to be submitted to the Council for approval, prior to commencement of the development; and the provisions of the BGP and HMMP to be carried out and complied with;

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<sup>80</sup> CD B45

<sup>81</sup> With the appellant's suggested conditions 30 and 31 replaced by the Council's condition 30

<sup>82</sup> Doc 37

- e. If any of the Mitigation Land is to be managed and maintained by a Management Entity, pursuant to the Landscape Strategy, then details of the identity and proposed structure of the Management Entity to be submitted to the Council for approval, prior to commencement of the development; and
- f. Active promotion of the rail freight facilities and services available at BIFT, from the date of first occupation of the development, and the provision of details of these facilities and services to any and all occupiers of the development, and each successive occupier, together with changes to the services and changes to relevant timetables; such details to be provided on at least an annual basis.

159. The Council was critical of a number of aspects of this UU<sup>83</sup>. In particular it maintained that, as drafted, the UU was lacking in detail and did not provide the certainty that the proposed mitigation would be delivered, and further maintained that the appellant could seek to remove these benefits through an application of S106A. It argued that the only way to avoid this would be to pass the blue-edged land into public ownership with covenants – a course of action with which the appellant did not agree. To a large extent the Council’s concerns seemed to be prompted by the fact that as part of the ‘Call for Sites’ process for the emerging EDPD the appellant’s whole landholding in this area, of some 74ha (ie the appeal site and the blue-edged land combined) has been put forward as a development area<sup>84</sup>. However, as this same documentation indicates that the site has been put forward on the basis that it could accommodate a total of some 100,000sqm of employment floorspace – as in the current appeal proposal – I do not consider this submission to be untoward.
160. On balance, I consider the Council’s concerns to be largely unfounded, but would fall to be addressed by a future decision maker in any event. With the above points in mind, and having had regard to the Community Infrastructure Levy (CIL) Compliance Statement<sup>85</sup> submitted by the Council, I am satisfied that all of these obligations would be necessary to make the development acceptable in planning terms, and that all meet the requirements of Regulation 122 of the CIL Regulations 2010 and paragraph 57 of the NPPF.
161. Turning to the UU to WCC, in summary this makes provision for the following specific contributions and obligations:
- a. A scheme of pedestrian and cycleway improvements for the land identified in khaki on Plan 2 to be submitted to WCC for approval, prior to commencement of the development; and the PRoW and permissive paths identified in khaki on Plan 2 to be provided in accordance with the approved scheme before occupation of any part of the development;
  - b. A Birchmoor Parking Scheme of proposed controls and management measures for parking in Birchmoor, together with a proposed timetable for their delivery, to be submitted to WCC for approval, prior to occupation of any part of the development;
  - c. A Birchmoor Parking Contribution of £125,000 to be spent on measures to control or manage parking in Birchmoor, as described in the Birchmoor Parking Scheme;

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<sup>83</sup> See paragraphs 373-387 of Doc 40

<sup>84</sup> Doc 31

<sup>85</sup> CD D44

- d. A Birchmoor Highway Signage Contribution of £27,500, to be spent of the provision and improvement of signage and road markings for HGVs and associated improvements in the locality of Birchmoor, and paid to WCC prior to occupation of the first phase of the development;
- e. A Bus Improvement Contribution of £1,080,000 to be spent on the provision and maintenance of a bus service between the development, Tamworth, Atherstone and Nuneaton; the contribution to be made in 5 equal instalments with the first instalment of 20% being made prior to the occupation of the first phase of the development, with subsequent 20% contributions made yearly thereafter;
- f. A Bus Shelter Real Time Information (RTI) Replacement Screen Commuted Sum of £2,500 to pay for a replacement real time information screen on the new bus shelter;
- g. A Bus Shelter RTI Maintenance Contribution of £4,000 to be spent on the maintenance of the real time information equipment installed on the new bus shelter for 5 years; and
- h. A Bus Shelter Maintenance Contribution of £5,000 to be spent on the maintenance of the new bus shelter for 5 years.

162. Having considered these matters, along with the CIL Compliance Statement<sup>86</sup> submitted by the Local Rule 6 Party and that from the Council, I am satisfied that these obligations would be necessary to make the development acceptable in planning terms, and that all meet the requirements of Regulation 122 of the CIL Regulations 2010 and paragraph 57 of the NPPF.

### **Other Matters**

163. Rail connectivity. A significant element of the appellant's case was that as the appeal site is less than 1kilometre (km) from BIFT, the proposed development would be genuinely rail-served, and would therefore be able to take advantage of a substantially more sustainable mode of transport. The appellant maintains that this would be a clear benefit, especially as firms move to improve their sustainability credentials based on decarbonisation goals. Moreover, because of the close proximity of the appeal site to BIFT, Mr Hatfield for the appellant is firmly of the view that the proposed development would be able to benefit from the use of yard tractors and semi-trailers to move freight, resulting in lower operating costs when compared with road-legal HGVs. This is because although yard tractors are designed to haul semi-trailers on private land they are also permitted, under limited circumstances, to be operated on the adopted public highway.
164. Maritime Transport, the operator of BIFT, is supportive of the proposed development and back in September 2022 it indicated that it operated 5 trains a day to the major ports of Felixtowe, Tilbury, London Gateway and Southampton, noting also that BIFT has plenty of spare capacity and could operate up to 8 trains a day on the existing infrastructure<sup>87</sup>. In a more recent letter, Maritime confirmed that it has recently agreed to undertake a 5-year Government-backed trial for the adoption of electric battery powered HGV tractor units, which will include up to 50 electric HGV tractor units, of which up to 20 units will be operating out of BIFT<sup>88</sup>.

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<sup>86</sup> Doc 34

<sup>87</sup> See Appendix 7 in CD D33-B

<sup>88</sup> *ibid*

165. It is clear that the potential for using BIFT has to be seen as a benefit of the appeal proposal, although it is questionable how much weight should be attributed to this matter, not least because Mr Hatfield also states that the appellant's scheme has been planned from the outset to operate successfully as a standalone road-based logistics warehousing facility<sup>89</sup>. Moreover, whilst the Maritime letters indicate that some firms at Birch Coppice, such as Euro Car Parts and AP Moller Maersk, do make use of BIFT, no firm information has been provided to indicate how much of BIFT's business comes from nearby Business Parks. Indeed the available evidence is that 50% of the freight which passes through the terminal is delivered or collected within a 10-mile radius, with another 30% within a 20-mile radius. Whilst these more distant businesses cannot make use of yard tractors, they still use BIFT, indicating that proximity to a rail terminal, whilst advantageous, is not essential.
166. The appellant maintains that the appeal site's proximity to BIFT could reduce HGV movements by 10%<sup>90</sup>, and as noted earlier the submitted UU to the Council contains measures to promote the use of BIFT. There is, however, nothing to compel any future occupiers of the appeal site to use BIFT, despite potential commercial advantages. Taking all of these points into account, I consider that the proximity of the appeal site to BIFT should be given moderate weight in the appeal proposal's favour.
167. Small and Medium Enterprise (SME) units. The appellant's Employment Skills and Training Statement states that the proposed development would provide a range of employment uses and unit sizes to facilitate a mix of employment providers and types, including a range of smaller 'starter'/'incubator' units targeted at local SMEs for general industry/light industrial uses<sup>91</sup>. On this matter, the suggested conditions indicate that if the proposal was to proceed, a minimum of 5 SME units would be provided, with no individual SME unit exceeding 2,000sqm of floorspace, and with the SME units occupying, in total, a minimum of 5,000sqm and no more than 10,000sqm of floorspace.
168. The appellant maintains that such units would be particularly beneficial as there is an evidenced shortage of SME spaces in the sub-region. As no contrary evidence has been put forward on this point, I see no reason to doubt the appellant's view that the provision of such units would be a benefit of the scheme. But as no firm details are available at this stage, and as the amount of SME floorspace could be as little as 5%, this matter attracts only modest weight in the scheme's favour.
169. Noise and Air Quality. These matters were not referred to in the Council's putative reasons for refusal, but they were raised in fairly general terms by a number of interested persons<sup>92</sup>. Put simply, local residents maintained that the appeal proposal would give rise to noise from lorries reversing and manoeuvring; noise from refrigerated lorries; general noise that is inevitable on an industrial estate; and a worsening of air quality, including as a result of fumes from diesel lorries.
170. However, such matters were considered as part of the EIA process, with the ES<sup>93</sup> and ES Addendum<sup>94</sup> assessing likely noise and air quality impacts on the nearest residential receptors based on a 'worst case' scenario of the maximum development parameters being implemented. The assessments considered both construction and

<sup>89</sup> Paragraph 4.3 of CD D33-A

<sup>90</sup> Paragraph 9.15 in CD D32-A

<sup>91</sup> See paragraph 2.5.2 in CD B45

<sup>92</sup> See, for example, CD D27-B

<sup>93</sup> CDs B1, A9.3, A9.4, A10.3 & A10.4

<sup>94</sup> CD D14

operational phases and concluded that the proposed development, with the adoption of appropriate mitigation measures, would not result in any significant adverse environmental effects, including on living conditions. This proposal was not objected to by the NWBC Environmental Health Officer<sup>95</sup>, and subject to the imposition of appropriate planning conditions I am satisfied that the scheme would not result in any undue adverse noise or air quality impacts for nearby residents.

171. Biodiversity Net Gain (BNG). Amongst other things, NWLP Policy LP16, dealing with the Natural Environment, seeks to minimise impacts on, and provide net gains for biodiversity where possible. As has already been indicated, a variety of landscape mitigation measure are proposed not only on the appeal site itself, but also on the blue-edged land to the east. In this regard the ES and ES Addendum included an assessment of BNG, concluding that the on and off-site landscaping, habitat creation and enhancement would deliver significant biodiversity net gains across the site of +26.5% for habitat biodiversity and +298% for linear biodiversity. This is clearly a benefit of the proposal, and accords with Policy LP16 and also with paragraph 180 of the NPPF. But as such net gains are a policy requirement, this matter only adds a modest amount of weight in the proposal's favour.
172. The Richborough application. Whilst the Inquiry was sitting, an outline planning application with all matters reserved was submitted on behalf of Richborough Commercial for '*employment development (Use Class B2/B8 with ancillary E(g)), together with habitat creation, landscaping, parking, service yards, HGV waiting area, footpaths/cycleways, and other associated infrastructure*', on land at Lichfield Road, Junction 9 of the M42. This site lies within the Green Belt and although full details have not been submitted, I understand that the applicant is maintaining that very special circumstances exist which would outweigh the harm to the Green Belt<sup>96</sup>.
173. The appellant in the current case has considered a number of documents submitted to support the Richborough application, namely the 'Economic Needs & Benefits Report'; the 'Outline Skills & Employment Plan'; the 'Employment Land Assessment'; and the 'Market Report and Occupier Overview'. The appellant maintains that the Richborough application relies on a very similar 'need' case to that being pursued in the current appeal, and is therefore very supportive of the appellant's case. As I have accepted the appellant's position on need/demand and the immediacy of such need, there is nothing further to say on this matter. The Richborough application will clearly be assessed and considered by the Council in due course. It has no direct effect on the proposal before me.

### **Benefits and disbenefits**

174. The appellant, through the evidence of Mr Hann, has set out an extensive list of benefits which it considers would arise if this appeal was allowed<sup>97</sup>. In general terms they have been ordered to correspond with the 3 overarching objectives for achieving sustainable development set out in paragraph 8 of the NPPF, namely economic, social and environmental.
175. It is clear that some significant economic benefits would arise from this proposal. The undisputed evidence is that it would generate around 255 to 283 person years of construction employment, and whilst this would only be a temporary benefit, it would nevertheless generate gross value added (GVA) to the regional economy of

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<sup>95</sup> CD E31

<sup>96</sup> See bundle of documents at Doc 25

<sup>97</sup> Pages 34-45 of CD D28-A



around £17.9 million to £19.9 million. It would also result in an appreciable number of jobs during the operational phase, but this is not particularly easy to quantify as the predicted number of full-time equivalent (FTE) jobs has changed quite dramatically during the lifetime of this project.

176. Back in December 2021 the Socio-Economic Chapter of the ES indicated that the gross FTE on-site jobs could range from around 1,230 to 2,050<sup>98</sup>. However, Prof Coleman's evidence to the Inquiry was that because of increasing automation of activity within warehouses, and the increased size and therefore efficiency of warehouses, employment densities have changed significantly, such that the likely range of FTE jobs is now considered to be 1,000 to 1,400. Prof Coleman maintains that although the proposed development is likely to produce fewer jobs than had previously been assumed, these jobs are likely, overall to be more highly skilled, such that the GVA figures set out in the ES, of £62.5 million to £104.2 million annually would still apply.
177. However, the speculative nature of this proposal and the lack of information regarding size and configuration of building(s) and future occupier(s) means that these figures have to be treated with some caution. Nonetheless, it is clear that there would be a positive impact on the local and sub-regional economy.
178. Whilst Mr Hann proceeds to list a total of 10 items under the 'Economic Benefits' heading, I do not consider it reasonable to accord weight separately to each of these benefits as Mr Hann appears to have done, as there is the clear potential for double-counting. That said, I see nothing untoward in Mr Hann itemising the different economic aspects of the proposed development – which he described as being akin to 'showing his workings' – but not all items warrant being given weight in their own right, especially as some are clearly disputed by the Council. For example, whilst accepting that providing people with a place to work is important, the Council argues that the proposal would not align with other aspects of its Sustainable Community Strategy as by failing to protect the landscape and Strategic Gap it would not accord with the environmental and amenity considerations of this strategy. I share that view.
179. Similarly, although the appellant argues that economic benefits would arise as the appeal proposal would help to facilitate the delivery of the NWLP, by providing increased capacity at M42 Junction 10 and an improvement to the A5, Mr Espino for WCC clearly disputed the extent to which these improvements would assist in the delivery of NWLP development proposals. Moreover, there is no clear evidence before me to indicate that the NWLP housing proposals around Polesworth and Dordon would be prejudiced if the appellant was not to proceed<sup>99</sup>, so again I treat these claimed benefits with caution, and consider that on their own they would only warrant modest weight.
180. I do, however, consider that economic benefits would arise from the training and employability support that the scheme would deliver, as detailed in the Employment, Skills and Training Statement<sup>100</sup>, and that further potential benefits would arise from the support which would be given to local businesses and SMEs, along with modest weight for the provision for SMEs.

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<sup>98</sup> Paragraph 13.5.16 of CD A8

<sup>99</sup> See paragraph 366 in Doc 40

<sup>100</sup> CD B45

181. Overall, and being mindful that paragraph 85 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development, I consider that the package of economic benefits likely to arise from this proposal should carry significant weight.
182. It is clear that a number of social benefits would also be realised if this proposal was to proceed. Amongst other things, paragraph 8 of the NPPF explains that well-designed and safe places, with accessible services fall into this category, and certain aspects of the appeal proposal would satisfy these objectives. The proposed overnight lorry parking area would be a safe and secure facility for HGV drivers, and would assist in combating anti-social behaviour and crime. In addition, the various proposals for active travel would make it easier for people to travel to and from the proposed development by foot or on cycle, and these benefits would also be available to other workers and travellers in this general area. Taken together with the proposed fitness trail located around the appeal site, these measures would also assist in encouraging healthy and active lifestyles.
183. Further benefits would arise to those using public transport, as bus facilities would be improved and some services would be routed into the development site. In addition, contributions offered through the S106 UU with WCC would see the 766/767 bus services sustained for a further 5 years. The proposed ancillary Hub Office would also provide social benefits as it would be available as a communal training facility for use by local training and education programmes associated with the site, as well as site occupiers. It is also intended to contain other features, such as showers and changing facilities which would be available for use by the general public, as well as by staff from neighbouring business parks. Once again, it seems to me that this package of social benefits should attract significant weight.
184. In terms of environmental benefits, the appeal proposal chimes with many of the points set out in the NPPF's paragraph 8. The proposals would provide significant amounts of both on-site and off-site green infrastructure, to include native woodland and hedgerow planting, species-rich grassland, a community orchard and habitat creation. In turn, these would assist in improving biodiversity by delivering significant net gains across the site. However, as the need for net gain is a policy requirement, this matter only adds a modest amount of weight in the proposal's favour, in its own right.
185. As set out in the Zero Emission Goods Statement<sup>101</sup>, the proposed development would include a significant number of charging and fast-charging points for electric vehicles (EV) and would have the ability to retro-fit additional points at a later date. The site would also have the ability to store alternative fuels, such as hydrogen, if this should emerge as an alternative to petrol/diesel, whilst the proximity to BIFT would give future site occupiers easy access to rail-freight facilities. Flexible building design is also proposed, including connected battery technology, which would facilitate up to 100% of EV charging from on-site renewable energy sources, and in this regard I note the appellant's aspiration to create the 'Greenest Business Park in the West Midlands' through sustainable design measures although, again, this is difficult to quantify.
186. Overall, these measures would help towards minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy. Many of these points are not seriously disputed by the Council, and whilst

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<sup>101</sup> CD B44

I acknowledge the Council's scepticism regarding the amount of use which would actually be made of BIFT, and therefore consider that this element only warrants modest weight, I nevertheless consider that taken overall, the environmental benefits detailed above should, again, attract significant weight.

187. The proposal would, however, also result in a number of significant disbenefits. Primarily, the size and scale of the very large building or buildings which would be permitted if this proposal was allowed, coupled with the atypical land form changes and dense tree planting, would have an adverse impact on the character and appearance of the surrounding area. This would harmfully impinge on the current rural character of this important entrance into the Borough, bringing the urban, developed character of Tamworth much closer to Dordon.
188. As such it would substantially alter and adversely impinge upon the countryside setting of Dordon, thereby being at odds with the Community Vision for the village set out in the DNP, and with NWBC's Spatial Vision. This means that the proposal would not accord with those elements of the NPPF's social objective of sustainable development which seek to support strong, vibrant and healthy communities and support communities' health, social and cultural well-being.
189. Furthermore, the size, scale, positioning and composition of the proposed development would mean that it would result in the loss of an appreciable amount of this clearly defined and important part of the Strategic Gap between Tamworth and Polesworth with Dordon. Allied with the change to the character of the area detailed above, this would result in a clear and significant adverse impact on the distinctive character and identity of Polesworth with Dordon. As a result, the proposed development would be at odds with that part of the NPPF's environmental objective of sustainable development which seeks to protect and enhance the natural environment. Overall I consider that these matters weigh significantly against the proposal.
- 190.** In light of these points there is also a clear tension with that aspect of the NPPF's economic objective which requires that the land available to help build a strong, responsive and competitive economy should be in the right place. It is self-evident that there are aspects of the appeal site's location adjacent to the SRN which are favourable for this proposed development, as evidenced by the array of similar development located around M42 Junction 10 and the A5. But as clearly set out above, this particular site is part of a longstanding meaningful gap, and is now protected by a Strategic Gap policy. This weighs significantly against the proposal, and for this reason I do not consider that the appeal scheme could be said to fully accord with the economic objective of sustainable development.

### ***Summary, planning balance and overall conclusion***

191. Summarising the various matters detailed above, under the first main issue I have concluded that the proposed development would have an adverse impact on the character and appearance of the surrounding area, would fail to maintain an effective Strategic Gap between Tamworth and Polesworth with Dordon, and as a result would have a clear and significant adverse impact on the distinctive character and identity of Polesworth with Dordon. It would therefore be at odds with NWLP Policies LP1, LP4, LP14 and LP30, and with DNP Policies DNP1 and DNP4.
192. On the second main issue, development on the appeal site itself would result in the permanent loss of some 29ha of BMV agricultural land, and further agricultural land within the blue-edged area would also be taken out of active arable production.

However, the loss of this second element would not be permanent and the evidence is that poorer quality land is not generally available in this area. With these points in mind, I have concluded that the loss of agricultural land should only carry limited weight against this proposal.

193. On the third main issue, following agreement being reached between the appellant and NH, I have concluded that the appeal proposal would not have an adverse impact on the nearby strategic and local highway network, or on the safety and convenience of users of these highways. Moreover, as well as resulting in a safe site access and safe conditions for cars and other vehicles, it would also give rise to significant benefits for bus travellers as a result of specific bus improvements and a substantial bus service subsidy, as well as benefits for cyclists and pedestrians through measures to promote Active Travel set out in the Vision Based Travel Plan.
194. Any adverse impacts on residents of Birchmoor, as a result of increased parking or HGVs becoming 'lost' in the settlement could be adequately addressed through specific financial contributions offered through the UU towards a parking scheme and/or highway signage improvements. Accordingly, I find no conflict with any relevant NWLP policies, or with paragraph 115 of the NPPF.
195. Consideration of the fourth main issue resulted in the submission of a significant amount of information by both the Council and the appellant, and highlighted the different approach each side took to the interpretation of NWLP Policy LP6. Much discussion centred on determining whether there can be said to be an identified need for a certain type of employment land and, if so, whether that need could be said to be immediate. For reasons set out earlier, my assessment of the submitted evidence is that there is a need for land for strategic Big Box logistics development, and that on balance the evidence demonstrates that this is an urgent need. As such I am satisfied that this need should be considered to be 'immediate'.
196. I also acknowledge that there are many factors which point to the appeal site as being in a suitable location to accommodate this need, and I recognise that it is one of the top 3 identified sites for such development in the 'policy off' world of WMSESS 2021. However, in the real, 'policy on' world, it is necessary to read Policy LP6 in full, and take proper account of the last part which sets out criteria which any proposal for such development must be able to satisfy. That the proposal would be able to satisfy the first 2 of these criteria has already been established, above.
197. However, the proposal would not satisfy the third criterion. The harm which would be caused to the character and appearance of the surrounding area, to the integrity of the Strategic Gap, and the resulting significant adverse impact on the distinctive character and identity of Polesworth with Dordon means that the proposal is not 'otherwise acceptable'. The identified conflict with a number of adopted development plan policies, set out above, reinforces this point. This means that the appeal proposal would not satisfy the requirements of Policy LP6 and therefore does not attract the significant weight that accordance with this policy would have carried. This clearly weighs heavily against the proposed development.
198. On the fifth main issue I have concluded that a demand for secure, overnight lorry parking facilities has been demonstrated and so this part of the proposal would attract positive weight from NWLP Policy LP34. However, when taken in combination with the main industrial building element of the proposal – the only way in which I was requested to consider this matter – I have concluded that the appeal site would not be an appropriate location for the provision of an overnight

lorry parking area and associated facilities. Overall this part of the appeal proposal cannot therefore attract weight.

199. Insofar as the sixth main issue is concerned, I am satisfied that the suggested conditions and the submitted S106 UUs would accord with all relevant guidance and requirements and would have been necessary to make the appeal proposal acceptable in planning terms, if all other matters had been in its favour.
200. Turning to the NPPF's 3 overarching objectives for achieving sustainable development I have already concluded that significant benefits would arise from the proposed development in economic, social and environmental terms, but that there would also be significant disbenefits under each of these headings. This means that taken in the round, the proposal would fail to fully accord with these objectives, such that it could not be considered to represent sustainable development.
201. In terms of the overall planning balance, whilst I have acknowledged that the appeal proposal would give rise to a number of economic, social and environmental benefits, I have found against this proposal on key aspects of the first main issue, and this carries significant weight against the appeal proposal. Moreover, and importantly, this means that the proposed development would be in conflict with a number of up-to-date policies in both the NWLP and the DNP. The proposal does not represent sustainable development and in my assessment the policy conflicts I have identified means that the appeal proposal would not accord with the development plan when taken as a whole. Taking all of these points together, my overall conclusion is that the benefits do not outweigh the disbenefits, and that this appeal should therefore not succeed.
202. Whilst I have given some consideration to whether or not a split-decision could be issued, the fact that the principal harms arise from the main industrial building element of the proposal means that a split decision to only allow this element would not be appropriate.
203. I have had regard to all other matters raised, but find nothing sufficient to outweigh the considerations which have led me to conclude that this appeal should be dismissed.

*David Wildsmith*

**INSPECTOR**

## APPEARANCES

### FOR THE COUNCIL

Mr Christopher Young KC - counsel for the Local Planning Authority	instructed by Steve Maxey, solicitor and Chief Executive, NWBC
<b>He called:</b>	
Miss Sam Oxley <i>BSc MSc CMLI</i>	Director, LUC
Mrs Dorothy Barratt <i>BA(Hons) DUPI MRTPI</i>	Forward Planning & Economic Development Manager, NWBC
Mr Moises Muguera Espino <i>BSc PGDip MSc MRTPI MCIHT MICE MTPS</i>	Principal Transport Planner, WCC
Mr Andrew Collinson <i>BTP BA(Hons) MRTPI</i>	Principal Development Control Officer, NWBC

### FOR THE APPELLANT

Mr Paul Tucker KC – counsel for the appellant	instructed by Hodgetts Estates
<b>He called:</b>	
Mr Jeremy Smith <i>BSc(Hons) DipLA CMLI</i>	Director, SLR Consulting Limited
Mr David Binks <i>MRICS</i>	Head of Industrial and Logistics, Cushman & Wakefield
Mr Jon Turner <i>MRICS</i>	Chartered Surveyor, Cushman & Wakefield
Mr Mike Hatfield <i>BSc(Hons) MSc</i>	Director, MDS Transmodal Ltd
Prof Jim Coleman <i>PhD MA MSc</i>	Head of Economic Advisory, WSP
Dr Nick Bunn <i>BSc(Hons) MSc PhD MCIHT CMILT</i>	Director, Tetra Tech Ltd
Mr Doug Hann <i>BA(Hons) MTPL MSc MRTPI</i>	Director, WSP

### FOR NATIONAL HIGHWAYS (NH) (RULE 6(6) PARTY)

Ms Constanze Bell – counsel for NH	instructed by NH Legal Services
<b>She called:</b>	
Mr Patrick Thomas <i>MSc</i>	Spatial Planner, NH

### FOR DORDON PARISH COUNCIL, POLESWORTH PARISH COUNCIL AND BIRCHMOOR COMMUNITY ACTION TEAM ('THE LOCAL RULE 6 PARTY')

Mr Howard Leithead – counsel for the Local Rule 6 Party	Instructed by Odette Ghent, Parish Clerk, Polesworth Parish Council
<b>He called:</b>	
Mr Jonathan Weekes <i>BSc(Hons) MA MRTPI</i>	Technical Director, Aitchison Raffety, Chartered Town Planning Consultants

**INTERESTED PERSONS OPPOSING THE APPEAL PROPOSAL**

Mr Steve Ridley	Local resident
Mrs Angela Mann	Local resident
Mr John Winter	Dordon Parish Councillor and local resident

**PROOFS OF EVIDENCE** (PoE - contained in Section D of the Core Documents)

<b>Appellant's Documents</b>	
CD D28-A	Mr Hann's PoE
CD D28-B	Appendices to Mr Hann's PoE
CD D28-C	Mr Hann's Summary PoE
CD D29-A	Mr Turner's PoE
CD D29-B	Mr Binks's PoE
CD D29-C	Joint Appendices to Mr Turner's and Mr Binks's PoE
CD D29-D	Mr Turner's Summary PoE
CD D29-E	Mr Binks's Summary PoE
CD D30-A	Mr Smith's PoE
CD D30-B	Appendices to Mr Smith's PoE
CD D30-C	Mr Smith's Summary PoE
CD D30-D	Mr Smith's Supplementary PoE
CD D31-A	Prof Coleman's PoE
CD D31-B	Prof Coleman's Summary PoE
CD D32-A	Dr Bunn's PoE
CD D32-B	Appendices to Dr Bunn's PoE
CD D32-C	Dr Bunn's Summary PoE
CD D33-A	Mr Hatfield's PoE
CD D33-B	Appendices to Mr Hatfield's PoE
CD D33-C	Mr Hatfield's Summary PoE
CD D39	Mr Hann's Rebuttal PoE
CD D40	Mr Turner's Rebuttal PoE
CD D41	Mr Binks's Rebuttal PoE
CD D42	Mr Hatfield's Rebuttal PoE
<b>Council's Documents</b>	
CD D23-A	Mr Collinson's PoE
CD D23-B	Appendices to Mr Collinson's PoE
CD D35	Mr Collinson's Rebuttal PoE
CD D24-A	Mrs Barratt's PoE
CD D24-B	Appendices to Mrs Barratt's PoE
CD D36	Mrs Barratt's Rebuttal PoE
CD D25	Miss Oxley's PoE
CD D37	Miss Oxley's Rebuttal PoE
CD D38	Mr Espino's Rebuttal PoE
<b>National Highways' Documents</b>	
CD D26	Mr Thomas's PoE
CD D43	Addendum to Mr Thomas's PoE
<b>Local Rule 6 Party's Documents</b>	
CD D27-A	Mr Weekes's PoE
CD D27-B	Appendices to Mr Weekes's PoE
CD D27-C	Mr Weekes's Summary PoE
CD D34	Mr Weekes's Rebuttal PoE

**OTHER CORE DOCUMENTS REFERRED TO IN THIS DECISION**

<b>Appellant's Application Submission</b>	
CD A3	Red and Blue Line (Site Location) Plan
CD A7	ES Vol 1: Non-Technical Summary
CD A8	ES Vol 2: Main Statement
CD A9	ES Vol 3: Technical Appendices
CD A9.3	ES Chapter 7 (Noise) Appendices
CD A9.4	ES Chapter 8 (Air Quality) Appendices
CD A9.6	ES Chapter 10 (Landscape and Visual Impact) Appendices
CD A10	ES Vol 4: Figures and Illustrations
CD A10.3	Chapter 7 (Noise) Figures
CD A10.4	Chapter 8 (Air Quality) Figures
CD A12	Employment Land Statement
CD A15	HGV Parking Facility Need Assessment
<b>Submissions made during Application Determination Period</b>	
CD B1	ES Volume 2 - Main Statement
CD B4	ES Vol 3 - Appendix 10.1 - LVIA Appraisal Plans ES Vol 3 - Appendix 10.2 - LVIA Methodology ES Vol 4 - Figure 3.1 - Parameters Plan
CD B15	Illustrative Landscape Sections
CD B16	Proposed Connectivity Plan - Route Type and Surface
CD B25	Revised Transport Assessment
CD B30	Landscape and Visual Impact Assessment Drawings: REV D Section A Drawing REV D Sections B+C+D Drawings
CD B31	Landscape and Visual Appraisal Drawings: Wirelines DB REV E Type 3 Photomontages Viewpoint Photography
CD B34	Design and Access Statement
CD B35	Revised Design Guide
CD B37	Amended Parameters Plan
CD B44	Zero Emission Goods Vehicles Statement
CD B45	Employment, Skills and Training Statement
CD B50	NaVCIS - Letter of Support dated 10.06.22
CD B57	SLR response to LUC Indicative Bund Location Plan Photosheets Walking Routes Plan Wirelines ZTV Plan
<b>Appeal Submission Documents</b>	
CD D13	SoCG - Appellant and NWBC
CD D14	ES Addendum
CD D15	Landscape SoCG - Appellant and NWBC
CD D18	Highways SoCG - Appellant and NH
CD D19	Highways SoCG - Appellant and WCC Highways
CD D20	Highways SoCG - Appellant and SCC Highways
<b>Committee Reports including Statutory Consultations</b>	
CD E31	Consultations Response - NWBC Environmental Health



CD E55	Consultations Responses - Stagecoach
CD E59	NWBC - Report – Planning and Development Board
CD E60	NWBC - Report – Planning and Development Board - Supplementary Report
<b>Planning Policy including Development Plan Documents</b>	
CD F1	North Warwickshire Local Plan Adopted September 2021
CD F2	Air Quality SPD
CD F3	A Guide for the Design of Lighting Schemes SPD
CD F7	Draft Employment DPD - Scope, Issues and Options 2024
CD F9	Dordon Neighbourhood Plan Adopted December 2023
CD F11	National Planning Policy Framework
CD F14	Adopted North Warwickshire Core Strategy 2014
CD F15	North Warwickshire Local Plan 2021 Inspector's Report
<b>Strategic Gap and Landscape Evidence Base</b>	
CD G1	North Warwickshire Landscape Character Assessment and Capacity Study - August 2010
CD G2	NWBC Meaningful Gap Assessment – 10 August 2015
CD G3	Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations - January 2018
CD G9	Warwickshire Landscape Guidelines (1993): Arden Landscape Character Area
<b>Highways Evidence Base</b>	
CD H22	Public Transport Strategy - October 2022
CD H25	Vision Based Travel Plan v2 - December 2023
CD H30	Warwickshire Local Walking and Cycling Infrastructure Plan – February 2024
<b>Employment Land including Lorry Parking Evidence Base</b>	
CD I1	West Midlands Strategic Employment Sites Study (Phase One) – WMSESS 2015
CD I2	WMSESS (Phase Two) – May 2021
CD I3	National Highways Lorry Park Demand Assessment - September 2023
CD I4	Coventry and Warwickshire Housing & Economic Development Needs Assessment (HEDNA) – November 2022
CD I20	Cushman & Wakefield Employment Land Study
CD I99	North West Leicestershire District Council - Committee Report
<b>Relevant Appeal Decisions</b>	
CD K1	Appeal Reference - APP/R3705/W/18/3196890 - Land south of Tamworth Road and to west of the M42
CD K2	Appeal Reference - APP/R3705/W/15/3136495 - Land south-east of the M42 Junction 10, Tamworth, Warwickshire

**DOCUMENTS SUBMITTED AT THE INQUIRY AND SHORTLY BEFORE** (Inquiry Document numbers given in brackets, where applicable)

Document	1	Opening submissions on behalf of the Appellant (ID1)
Document	2	Opening submissions on behalf of the Council (ID2)
Document	3	Opening submissions on behalf of NH (ID3)
Document	4	Opening submissions on behalf of the Local Rule 6 Party (ID4)
Document	5	Statement and speaking note submitted by Mr Steve Ridley (ID5)
Document	6	Statement submitted by Mr Adam Archer – dated 31 Jan '22
Document	7	Statement submitted by Anne & Malcolm Jones - dated 24 Jan '22
Document	8	Statement submitted by Mr Daniel Hancocks – received by the Planning Inspectorate on 12 Feb '24

Document	9	Errata Sheet submitted by Ms Oxley
Document	10	A0 versions of proposed cross-sections, taken from the SLR LVIA, from CD B30
Document	11	A0 versions of photomontages, taken from Mr Smith's Supplementary PoE
Document	12	A3 version of Figure 13 'Landscape Sensitivity, Polesworth/ Dordon', from CD G1
Document	13	Agenda for Round Table Session dealing mainly with NH matters
Document	14	Agenda for Round Table Session dealing mainly with WCC matters
Document	15	Parameters Plan, with dimensions (ID8)
Document	16	Representation from Rapleys on behalf of Moto Hospitality Limited, dated 18 June 2024 (ID9)
Document	17	Bundle of 3 Committee Reports relating to land south of the A5, Padge Farm, Hinckley (ID10A-C)
Document	18	Table of sites from Appendix G in CD D24-B, with NWBC and Appellant's comments (ID11)
Document	19	Draft Policy Ec4 from the Draft North West Leicestershire Local Plan 2020-2040 (ID12)
Document	20	Bundle of 3 documents relating to a proposal for development on land south of Junction 1 of the A50, Castle Donington, Leicestershire (ID13A-C)
Document	21	Bundle of 2 documents relating to a proposal for development on land at Netherfields Lane, Sawley, Leicestershire (ID14A-B)
Document	22	Certificate of Lawfulness of Existing Use or Development relating to development at land off, Netherfields Lane, Hemington, North West Leicestershire (ID15)
Document	23	Update of Figure 44 from Appendix 1 in CD D29-C, submitted by Prof Coleman (ID16)
Document	24	North Warwickshire Economic Development Strategy and Action Plan (2023-2030) Final Draft (ID17)
Document	25	Bundle of 18 documents relating to a planning application submitted on behalf of Richborough Commercial for proposed development on land at Lichfield Road, Junction 9 of the M42, including written comments from the Appellant and NWBC on some of the submitted reports (ID18)
Document	26	Tables giving details of determined applications and sites where decisions are still pending (ID19)
Document	27	Tables giving details of Pre and post 2017 decisions on named sites (ID20)
Document	28	Emailed comments from Mr John Webb on behalf of the Local Rule 6 Party, dated 8 July 2024 (ID22)
Document	29	Plan showing 10 mile and 20 mile radii distances centred on BIFT (ID23)
Document	30	Plans showing details of Existing Industrial Estates at Dordon and Hams Hall (ID24)
Document	31	Bundle of 3 documents relating to the 'Call for Sites' as part of the preparation of the emerging EDPD (ID25)
Document	32	Phides Estates (Overseas) Limited v SoS for Communities and Local Government, Shepway District Council, David Plumstead – [2015] EWHC 827 (Admin), 2015 WL 1310647 (ID26)

Document	33	Bundle of documents detailing the accompanied site visit itinerary and various locations which the parties invited the Inspector to view on an unaccompanied basis (ID27)
Document	34	CIL Compliance Statement relating to the proposed Birchmoor Parking Scheme and the proposed Birchmoor Highway Signage Scheme, submitted by the Local Rule 6 Party (ID28)
Document	35	Schedule of suggested conditions and associated plans (ID6)
Document	36	Schedule of suggested conditions and associated plans – Split Decision (ID21)
Document	37	Bundle of 2 completed Section 106 Unilateral Undertakings, between the First and Second Owners to NWBC; and between the First and Second Owners to WCC
Document	38	Closing Submissions on behalf of NH (ID29)
Document	39	Closing Submissions on behalf of the Local Rule 6 Party (ID30)
Document	40	Closing Submissions on behalf of the Council (ID31)
Document	41	Closing Submissions on behalf of the Appellant (ID32)



# Appeal Decision

Hearing held on 9 July 2024

Site visit made on [ ]

**by A Veevers BA(Hons) PGDipBCon MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 August 2024**

**Appeal Ref: APP/R3705/W/24/3341147**

**Lucky Tails Alpaca Farm, Dexter Lane, Hurley CV9 2JG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ms S Booth, Lucky Tails Alpaca Farm, against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2021/0222.
- The development proposed is described as 'siting of a timber cabin to replace caravan to provide seasonal rural workers accommodation'.

## Decision

1. The appeal is allowed and planning permission is granted for the siting of a timber cabin to replace mobile home to provide rural workers accommodation at Lucky Tails Alpaca Farm, Dexter Lane, Hurley CV9 2JG in accordance with the terms of the application, Ref PAP/2021/0222, subject to the conditions in the attached schedule.

## Applications for costs

2. An application for costs was made by Ms S Booth against North Warwickshire Borough Council. This is the subject of a separate Decision.

## Preliminary Matters

3. The description of development as stated on the application form is set out in the banner heading above. The Council on its decision notice has described the development as the 'siting of a timber cabin to replace mobile home to provide rural workers accommodation'. At the Hearing, both parties confirmed orally that the proposal is for permanent rural workers accommodation rather than seasonal and was the basis upon which the Council made their decision. I have considered the appeal on this basis and used the revised description in my formal decision above.

## Background and Main Issues

4. Personal planning permission was granted to the appellant in 2015 for the temporary siting of a rural workers dwelling in relation to the use of the land at Dexter Lane for the keeping and breeding of alpacas<sup>1</sup>. The permission was for three years. Following this, planning permission was refused in 2020 for a permanent rural workers dwelling on the site to replace the temporary

<sup>1</sup> LPA Ref: PAP/2015/0227

dwelling<sup>2</sup>. An appeal against this decision was dismissed in 2021<sup>3</sup> (the 2021 appeal).

5. In 2023, planning permission was granted in relation to the land at Dexter Lane for the 'change of use of land to a mixed use including agriculture and alpaca walking events including alterations to access and formation of customer parking area and yard including animal shelter'<sup>4</sup>. Collectively, this use forms the appellants' business at the site, which is known as Lucky Tails Alpaca Farm. Also in 2023, a further planning application for the siting of a timber cabin to replace the (now expired) temporary rural workers home on the site was refused. The current appeal seeks to overcome the reasons for refusal in that application.
6. Although the parties agree that the 2021 appeal decision is a material consideration and I have had regard to the previous Inspector's findings, I have reached my own conclusions in this appeal based on the circumstances of the present case.
7. The proposal is for a permanent new dwelling within the Green Belt, albeit restricted to a rural worker. Paragraph 154 of the National Planning Policy Framework (the Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. As the proposal does not meet any of the exceptions within paragraph 154, the parties agree that it is inappropriate development. Based on all that I have read including interested party representations, and the discussions at the hearing, the main issues in relation to this appeal are:
  - the effect of the proposal on the openness of the Green Belt;
  - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including whether there is an essential need for a permanent dwelling to accommodate a rural worker at the site, so as to amount to very special circumstances necessary to justify it.

## Reasons

### Openness

8. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Case law in *Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466* has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect, as set out in Planning Practice Guidance (the PPG)<sup>5</sup>.
9. The appeal site is located within an approximate 3.85 hectare field, close to the village of Hurley. It consists of a parcel of land currently occupied by a static caravan which provides temporary living accommodation for the appellant, as well as an access from Dexter Lane. The field within which the appeal site sits includes a parking area laid with crushed hardcore and grazing paddocks

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<sup>2</sup> LPA Ref: PAP/2019/0490

<sup>3</sup> Appeal Ref: APP/R3705/W/20/3259888

<sup>4</sup> LPA Ref: PAP/2021/0221

<sup>5</sup> Paragraph: 001 Reference ID 64-001-20190722.

divided by timber post and rail fences. Several small timber animal shelters are located around the periphery of the field and strips of matting laid on the grass provide pathways for the animal walking activity. Along the western edge of the field, between the access and the caravan are several single storey buildings predominantly used to accommodate animals such as rabbits, guinea pigs, tortoise, ferrets, meerkats, birds and pigs. A small shop and café serving drinks and snacks is accommodated within a timber shed and a gazebo provides cover for an area of outdoor seating.

10. The surrounding area is relatively flat, open countryside that rises slightly towards the north-east. Mature hedging and scattered groups of trees exist along the site boundaries, and provides some screening of the appeal site. However, there are gaps along the southern boundary where the existing caravan on the site and other buildings are visible from a public footpath which runs adjacent to the edge of the field towards Blythe Cottage.
11. The site is relatively close to the village of Hurley and there are equestrian businesses between the village and the appeal site that contain stable buildings. Due to the relatively undeveloped surrounding open countryside, the proposed timber cabin, particularly the southern elevation, would be visible in localised views above and between boundary hedging. I observed at the site visit that many of the trees and hedgerows are deciduous. Therefore, glimpses of the appeal site would also be apparent from Dexter Lane and in longer views from Knowle Hill and the surrounding countryside during the months when trees would not be in leaf.
12. The scale of the proposed dwelling would be modest and it would replace a static caravan currently on the site. I also acknowledge the proposed dwelling would not be constructed with traditional materials and have had regard to guidance in the PPG in relation to the duration of the proposal as well as the potential remediability of the site. Nonetheless, even as a timber cabin designed to comply with the definition of a caravan as set out in the Caravan Sites Act 1968 in terms of size, materials and manoeuvrability, the proposal would have a high degree of permanence and introduce a larger building on land in the countryside.
13. Furthermore, although the proposed dwelling would be seen against the backdrop of other buildings, fencing and outdoor activity at the Lucky Tails complex, it would result in a noticeable form of built development in the countryside that would also include a garden and parking area. It would thereby give rise to a loss of both spatial and visual openness in the context of the locality.
14. At the hearing, the parties agreed that the proposed development would not conflict with 4 of the 5 purposes of the Green Belt as set out in paragraph 143 of the Framework. However, the proposed introduction of domestic-related parking and garden areas together with the built form of the timber cabin would encroach on the countryside. Thus, it would conflict with one of the purposes of the Green Belt, paragraph 143c) of the Framework.
15. I conclude on this main issue that the proposal would result in harm to the spatial and visual openness of the Green Belt. It would also result in the encroachment of development into the countryside. In the context of the existing buildings and activities at Lucky Tails Alpaca Farm, the harm to openness arising from the proposal would be moderate. Nonetheless, the

Framework requires that substantial weight is given to that harm to the Green Belt. Consequently, the proposed development would conflict with paragraphs 142, 143c and 154 of the Framework.

### Other Considerations

#### *Essential need*

16. There is no dispute that the appeal site is located outside of the development limit for Hurley and in the countryside for planning purposes. Policy LP2 of the North Warwickshire Local Plan 2021 (NWLP) states there are some instances where development may be appropriately located outside development boundaries. One such instance is for homes to meet the needs of rural workers, provided special circumstances exist to justify such homes in the countryside. The thrust of this policy is consistent with paragraph 84 of the Framework which seeks to avoid the creation of isolated new dwellings in the countryside unless particular circumstances apply.
17. Neither national nor local planning policy specifically defines 'essential need'. However, the PPG sets out what may be relevant to take into account when considering the need for an isolated home in the countryside for essential rural workers. It suggests, amongst other things, this could include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural business, for instance, where farm animals or agricultural processes require on-site attention 24-hours a day, and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of products.
18. Evidence indicates that an alpaca farm was established by the appellant some time in 2015 on a 2.1 hectare agricultural holding owned by the appellant on Dexter Lane. It is now known as Lucky Tails Alpaca Farm. Since then, additional land has been purchased adjacent to the original holding at Dexter Lane as well as land at Brick Kiln Lane, resulting in the enterprise extending to some 5.45 hectares.
19. The appellant explained at the hearing that the current business is run by the appellant and her son, along with 2no full-time staff, 1no part time staff and 2no apprentices. It is centred around the breeding, rearing and selling of animals and fleeces, primarily alpacas, but also donkeys, sheep and goats. Other activities take place on the site such as year-round alpaca and donkey walks, as well as the handling and feeding of other animals. A notable part of the business is the provision of a 'care farm'. This involves the therapeutic use of animals at the farm to help provide the health, social and educational needs of individuals. I am also aware that animal care qualifications are offered by the appellant. Given the varied elements of the business, I note planning permission has been granted for the mixed use of the site.
20. The parties agree that the enterprise is based on a sound financial basis with confidence that it will remain viable for the foreseeable future. It is also agreed by both parties that there is no existing lawful accommodation at the site that would meet an essential need for a rural worker to live on the site. From the information available to me, in relation to these matters, I have no reason to disagree.

21. While it is agreed between the parties that there is an essential need for rural workers accommodation on the site, the Council argue that this need is only required for the spring/summer months when occasional overnight accommodation may be necessary to assist in the birthing and aftercare of cria. Thus, the Council contend, this limited need could be fulfilled by temporary accommodation for part of the year or by a caravan under permitted development rights. I note the previous Inspector also found an essential need for overnight attendance on occasion, but that it would be limited to spring and summer months and that there was no requirement to live permanently at the site<sup>6</sup>. It is necessary for me to consider, on the basis of the evidence now provided with this appeal, whether there is an essential need for a permanent rural workers dwelling on the site.
22. At the hearing the appellant confirmed there are currently 35 breeding female alpacas and 30 males on the farm, 4 of which are stud males. There are also several cria, whose numbers vary throughout the year. In addition to alpacas, there are 8 breeding donkeys, 10 breeding Valais sheep, 8 breeding goats, Gottingen miniature pigs, Kune Kune pigs and other pigs (8 in total) and several other small animals, chickens and ducks. On the evidence of my site visit, I have no reason to dispute these numbers. Even though I heard minor conflicting oral evidence in relation to the numbers of alpacas on the farm at the time of the 2021 appeal, it is clear that since that time, the appellants have increased the number of breeding females. When taken together with the other breeding animals, particularly the breeding of rare Poitou donkeys, I am satisfied breeding forms a significant part of the business.
23. The appellant's core argument is that, due to the animal welfare and security requirements of the animals kept on the farm, a worker is required to be on site and available overnight throughout the year to monitor the birthing process of different groups of livestock, intervene as necessary and prevent theft.
24. This is disputed by the Council who contend that there is not a need for a worker to live on site at all times of the year because alpaca mating can be scheduled with an aim of grouping birthing during the spring and summer months. Overnight attendance to deal with occasional births and immediate aftercare of cria during this period would be required but for the remainder of the year, only a daytime presence would be required when a worker would be likely to be on site anyway, without having to live there. It is also asserted that modern security arrangements would suffice and that there are properties for rent or sale at a reasonable price close by that could serve the needs of the enterprise.
25. To support the Council's case, my attention has been drawn to the husbandry elements of an alpaca farm in relation to an appeal elsewhere which was dismissed in 2013 with significant weight given to guidance provided by the British Alpaca Society (BAS)<sup>7</sup>. However, an update in relation to this appeal has been supplied by the appellant. The update includes details of a subsequent planning permission granted for a temporary rural workers dwelling at the site<sup>8</sup> and details of a planning permission granted for a permanent rural workers

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<sup>6</sup> Appeal Ref: APP/R3705/W/20/3259888

<sup>7</sup> Appeal Ref: APP/P2114/A/13/2199921

<sup>8</sup> Isle of Wight Council Ref: P/00608/14 – TCP/30601/L



- dwelling at the site 3 years later<sup>9</sup>. Officer reports have been provided for these decisions which indicate that a targeted seasonal birthing programme is difficult to achieve for alpacas for several reasons such as varying conception rates, gestation periods, pregnancy failures and periods between birth and re-breeding, which all impact on the viability of a business.
26. I was told at the hearing by the appellant that, provided conditions are right, there would be no reason why alpacas could not give birth during the winter. It was claimed that there had been winter births at the farm during the last 3 years, although no figure was provided as to how many related to alpacas. Nevertheless, it was explained that if a mating was unsuccessful or an early pregnancy was unviable, a second mating could occur. Therefore, the general birthing schedule could slip, which could result in birthing during later months of the year. This would be more likely to occur with the increased herd number compared to 3 years ago.
  27. The appellant also explained that since the spring of 2024, 8no cria have been born at the site, one of those was at 4am. I am aware from the submitted information the process following birth is time critical with mother and cria needing careful attention. At times early intervention may be necessary. I heard that there were 15 alpaca births during 2023 and 2 of those resulted in still-births, although no indication of how many interventions took place that year was provided. In any event, I am informed that alpacas do not show obvious signs of illness, either during pregnancy or in general, so require regular monitoring. In addition, the cria remain prey for predators such as foxes.
  28. It has been further highlighted in written and oral evidence that cria can often require artificial rearing involving regular feeds day and night for the initial first weeks. From the information before me, I have no robust reasons to dispute this. It is therefore conceivable that there would need to be a sustained on-site overnight presence for a prolonged period after birthing has occurred, especially if there are several cria that require hand-rearing.
  29. In addition to alpaca, the appellant clarified at the hearing that 16 lambs were born in December 2023 and January 2024 and 8 kids were born in January. It was also asserted that 90% of pigmy goat births required intervention and there had been 4 breach births amongst the sheep flock and 2no lamb rejections during the latest season which also required intervention. While I consider that birthing and general animal welfare requirements of animals such as sheep, goats, pigs and donkeys, in the limited numbers kept on the site, would not justify on-site rural workers accommodation, it is apparent that such births could take place throughout the year, some of which could also require assistance from a worker. I was told that the loss of one donkey foal would be the equivalent to the loss of approximately 200 lambs in monetary value.
  30. Alongside breeding, the business is reliant upon activities that are not directly related to agriculture. However, it is the appellant's position that the various elements of the enterprise would be inseparable from one another. In my view, the alpaca herd, and therefore the agricultural element of the business, remains the driving force behind the enterprise. Furthermore, the farm is open to the public all year round. From the information presented to me, I agree that activities such as alpaca/donkey walking, grooming and feeding, and

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<sup>9</sup> Isle of Wight Council Ref: P/00342/18

particularly the care farm including those people working towards an animal husbandry qualification, are somewhat dependent upon animals at different stages of life. Therefore, part of the business depends upon the availability of well cared for young animals throughout the year.

31. Concern has been expressed by the Council's agricultural advisor as to the size of the agricultural holding and stock ratios. I understand that is the case in respect of the amount of grazing land available and the reliance on bought in feed. At the hearing, the Council confirmed there would be no impact in this regard in the short to medium term. I note that higher stocking densities are considered acceptable on farms so long as supplementary feeding is provided through haylage. The appellant advised that feed was bought in bulk and sold to visiting members of the public to help with costs. Haylage was bought locally, although it is the intention of the appellant to take haylage from the land owned at Brick Kiln Lane. This land could also accommodate lesser value livestock. In the absence of evidence to the contrary, I am satisfied that sufficient land is available to support the business at present.
32. Although animal welfare is a primary consideration, the PPG also recognises crime is an important consideration in the assessment of need for a rural worker to live on-site. The monetary values of the various animals at the farm were given at the hearing, as was the rarity value of the Poitou donkeys. Given the number of animals kept and the high value of alpacas and the Pitou donkeys, and that they only give birth to one cria or foal respectively, their loss (of either mother or young) could have a significant financial and succession impact on the enterprise.
33. Even though modern surveillance methods such as CCTV are available, I have not been made aware of a method that would provide a reliable or effective means of monitoring the site or the condition of livestock, particularly during hours of darkness. This is due to the likely extent of coverage required across the farm and the level of close attention needed to spot behavioural changes in the alpacas. Whilst there has been no evidence of theft since the farm began, this is most likely due to the continuous presence of the appellant or her son on the site.
34. I was told at the hearing that a neighbouring equestrian site had recently been subject to theft of equipment. However, no evidence has been provided to demonstrate the area is generally subject to criminal behaviour. Nevertheless, I appreciate that the animals are bred to be friendly towards people, which increases the likelihood that they could be easily stolen. I also note that the location of the proposed dwelling would be closer to the road than that considered in relation to the 2021 appeal, which would allow for better surveillance of activities along Dexter Lane. These factors weigh in favour of an on-site presence.
35. The Council have provided details of several properties for sale in the area which it is argued would provide accommodation for the needs of Lucky Tails Alpaca Farm. A number of the properties are located in Hurley, which the Council assert is within sight and sound of the appeal site. I observed at my site visit that there were properties for sale at the time of the hearing which were within a 10 to 15 minute walking distance of the site. Nevertheless, the Council also accept that the care of cria could not reasonably be carried out from a dwelling away from the farm on occasions overnight during the spring and

summer months. It therefore follows that if that need to care for cria extended throughout the year, it could also not reasonably be carried out from a dwelling away from the farm.

*Conclusion on essential need*

36. Even if there were properties available to rent or buy at a reasonable cost in Hurley and much of the care and management of the animals can be undertaken within the working day, the specific circumstances evidenced in this appeal as set out above, represent convincing justification that there is an essential all year round need for a rural worker to live at the farm.
37. I have reached this view as a consequence of the numbers and value of breeding animals on the site, the wide seasonal birthing events that take place, and the extended period beyond birthing where cria may require particular care. Such factors exacerbate instances where action might be needed at very short notice, including at night throughout the year. Added to that is the difficulty in the use of mobile electronic surveillance that would cover the whole unit to prevent theft, and for welfare purposes bearing in mind that alpacas, being prey animals, hide their illnesses and warnings of predators from the noise of animals on the farm would not be able to be acted upon quickly. It is therefore not apparent that the essential need identified could be fulfilled by another existing dwelling within the local area.
38. It is not in dispute between the parties that the size of the proposed timber cabin would be commensurate with the needs of the enterprise, and I agree. Given the nature of the business operations, I am satisfied that a small office incorporated within the building would be necessary.
39. For the reasons given above, I conclude that there is an essential need for a rural worker to live permanently at the appeal site. The proposal would therefore comply with Policy LP2 of the NWLP which requires, amongst other things, that special circumstances are demonstrated in order to justify new isolated homes in the countryside. It would also comply with Policy LP1 in so far as this policy sets out the strategy for sustainable development.
40. The proposal would comply with guidance in Paragraph 84 of the Framework that requires an essential need to be demonstrated for a rural worker to live permanently at or near their place of work and with advice contained within the PPG in this regard.

**Other Matters**

41. Local residents have raised several other concerns including in relation to highway safety, parking, littering and drainage. However, based upon the responses from the relevant consultees and upon the information available to me, there is no substantive evidence that harm would arise with respect to these matters in terms of the proposed rural workers dwelling. Many of the highway related concerns raised relate to the mixed use of the land, which has planning permission. Whether or not the use is taking place at present in contravention of that permission is not a matter within my jurisdiction in determining this appeal. Furthermore, I am satisfied that, where necessary, any additional measures required in relation to the proposed development could be adequately secured by planning conditions were I to allow the appeal.

42. Concern has been expressed that the granting of permission at the appeal site would set a precedent for other similar development in the area. However, my decision is based on the specific characteristics and circumstances of this case. Therefore, a precedent concern is unconvincing since each proposal is assessed on its own merit.

### **Green Belt Balance**

43. The proposal would be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be a moderate reduction in the openness of the Green Belt and encroachment of development into the countryside. The totality of the Green Belt harm attracts substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
44. In favour of the development, I have identified an essential need for a rural worker to live at the site all year round to ensure the effective operation of the business. In addition, paragraph 88b of the Framework states that planning decisions should enable the development and diversification of agricultural and other land-based rural businesses. I recognise that Lucky Tails Alpaca Farm makes a positive contribution to the rural economy. Collectively, I accord very substantial weight to these matters.
45. Whilst protecting the Green Belt is a matter of great importance, in this instance, the other considerations amounting to very special circumstances sufficient to outweigh the totality of identified harm to the Green Belt exist to justify the development. Consequently, the proposal accords with the Framework and Policy LP3 of the NWLP.

### **Conditions**

46. I have had regard to the agreed conditions in the Statement of Common Ground and discussion at the hearing. I have considered these against the advice in the Framework and PPG. I have amended some conditions in the interests of precision and clarity. Pre-commencement conditions were agreed with the appellant.
47. In addition to the standard time condition relating to the commencement of development, clarification was provided at the hearing in relation to the relevant plans. Therefore, a condition specifying the plans is necessary as it provides clarity.
48. A condition is necessary in relation to landscaping, including hard surfacing, in the interests of the character and appearance of the area. However, having regard to the context of the site, I consider there is no essential reason for the condition to be pre-commencement. It is also necessary to impose the suggested condition in relation to access and details of gates in the interests of highway safety and the character and appearance of the area.
49. It was agreed at the hearing that suggested condition 5 is necessary insofar as it relates to outbuildings (Class E) to ensure the dwelling remains a size commensurate with the enterprise and to protect the character and appearance of the area. Due to the construction of the proposed timber cabin, it is unlikely that a restriction relating to the other suggested classes is reasonable or necessary.

50. As set out above, any residential use of the land is only acceptable to support the agricultural business. Suggested condition 6 is therefore necessary to ensure that the proposal complies with national and local policies for developments in open countryside.

**Conclusion**

51. For the reasons set out above, I am satisfied that very special circumstances exist which justify the development and the scheme should be determined other than in accordance with the development plan. I conclude that the appeal should be allowed.

*A Veivers*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

Sarah Booth	Appellant
Connor Booth	Appellant's son
Leanne Buckley-Thomson	Counsel
Marc Willis BTP MRTPI FBIAC	Willis & Co. (Town Planning) Limited
Peter Williams BSc FBIAC	Reading Agricultural Consultants

### FOR THE LOCAL PLANNING AUTHORITY

Andrew Collinson	Principal Development Control Officer
Lewis Bullock	Planning Officer

## **Documents Submitted at the Hearing**

Court of Appeal Judgment *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
Site Plan 3045/101 stamped received by the Local Planning Authority 24 October 2023;  
Details of Hobby mobile home stamped received by the Local Planning Authority dated 9 April 2021;  
Seasonal accommodation block stamped received by the Local Planning Authority dated 16 December 2021; and,  
Location plan 3045/101 dated March 2021 and stamped received by the Local Planning Authority dated 9 April 2021
- 3) The dwelling hereby approved shall not be occupied until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the domestic extent of the dwelling, garden and parking area and the materials to be used for the access track.  
The approved scheme shall be carried out within the first planting season following the occupation of the dwelling. Any trees or plants which within a period of 5 years from the occupation of the dwelling die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) The dwelling hereby approved shall not be occupied until details of the access and gates to the site, together with a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as such thereafter.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Schedule 2, Part1 (Development within the curtilage of a dwellinghouse) Class E other than those expressly authorised by this permission.
- 6) The occupation of the rural workers dwelling hereby permitted shall be limited to a person (or their spouse or partner, widow or widower, children or dependents) solely or mainly working, or last having worked, on the Lucky Tails Alpaca Farm enterprise or in the locality in agriculture or forestry, as defined in Section 336(1) of the Town and Country Planning Act 1990 (as amended).

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