

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 Brough 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.