

General Development Applications

(6/h) Application No: PAP/2021/0663

Land On The North East of J10 M42, Dordon/A5, Polesworth,

Outline planning permission for 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, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved, for

Mr D Hodgetts - Hodgetts Estate

1. Introduction

1.1 This application is presented to the Planning and Development Board following notification from the Planning Inspectorate that the applicant has lodged an appeal against the non- determination of the application, and this Public Inquiry will be held at the end of June 2024.

1.2 Whilst this Council is no longer able to determine this application, it is necessary for Members to confirm the case that this Council will present to the Planning Inspector appointed by the Secretary of State to hear the appeal. This report sets out all the relevant planning policies and material planning considerations and invites Members to confirm the position that the Board would have taken, had it been able to determine the planning application. This will then become the Council's case in the forthcoming appeal.

1.3 The applicant has however submitted a second "replica" application for the same proposal as described above, to run in parallel within the appeal proposal. That has the planning reference PAP/2024/0024 and consultation is under way.

1.4 Since the submission of the application, the Dordon Neighbourhood Plan has been adopted - in December 2023. It becomes part of the Development Plan

1.5 The National Planning Policy Framework was updated in December 2023 and references in this report will be to that edition.

1.6 The Bio-Diversity Net Gain Regulations that came into effect in February 2024 do not apply retrospectively to this application.

1.7 Members will be aware of the Caesarea at Junction 9 which has been dismissed, this is relevant to this application as it related to HGV parking.

2. The Site

2.1 This is just under 33 hectares of agricultural land in the north-east quadrant of Junction 10 of the M42, bounded by the Motorway to the west and the A5 to the south. There is agricultural land to the east and the village of Birchmoor is to the north.

2.2 There is a mature tree belt to the west and south-west along the route of the M42, and a mature hedgerow along the A5 boundary together with some thickets of self-set younger trees and shrubs.

2.3 It is transected by an oil pipeline, and a high pressure gas main line lies to the east. Additionally, there are two low voltage electricity lines that cross the site in an east west/ and a north/south axis respectively.

2.4 A public bridleway – the AE45 – crosses the site and a further public footpath – the AE46 – borders the north-eastern boundary of the site. They are also used for agricultural access to the land.

2.5 The site currently has an access onto the A5 frontage – being a 16 metre wide dropped kerb with an 8 metre access width entrance. A secondary point of access lies further to the east, again from the A5, opposite the Core 42 employment site and via an existing farm track – which is also the AE46.

2.6 There is a hardstanding area in the south of the site which was installed by contractors appointed by National Highways at the time as a compound associated with the maintenance of the A5 and M42 during the past years.

2.7 The site is illustrated generally at Appendix A.

2.8 In its wider context, the site is situated between Tamworth, Dordon and Birchmoor. On the western side of the Motorway within the north-western quadrant of Junction 10 are the Dordon Motorway Services and the industrial and warehousing complex at Relay Park. Similar developments are in the south-western and south-eastern quadrants – Centurian Park and St Modwen Park. The southern side of the A5 has the Birch Coppice and Core 42 distribution parks and further to the east is the built-up area of Dordon.

2.9 This wider setting is illustrated at Appendices B and C.

3. Background

3.1 The M42 Dordon Services and other commercial developments to the north west of Junction 10, together with the Centurion Park commercial development to the south west of the junction are predominantly within Tamworth Borough Council's administrative area. The land in the south-east quadrant of the M42 - the St Modwen development - is within North Warwickshire.

3.2 The Borough Council refused planning permission for the St Modwen Development but planning permission was granted at appeal. This development is now largely completed. The Council's planning reference was PAP/2014/0648 and the appeal decision letter is at Appendix D.

3.3 Members will also recall an appeal lodged by Taylor Wimpey UK Ltd for 150 dwellings on land to the north of the current site, which was dismissed in April 2019 - the decision letter and site is at Appendix E.

3.4 There is no planning history in respect of the site itself.

3.5 The proposed development would obstruct public bridleway AE45 which crosses the site. The applicant proposes to divert the public bridleway through an Order on application to the Borough Council.

4. The Proposal

a) Introduction

4.1 In general terms this is an outline planning application for the development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial) together with ancillary infrastructure and associated works including an overnight lorry parking facility with its ancillary infrastructure and associated works. Details of the proposed access arrangements are submitted for approval in full, with all other matters reserved for later determination.

b) Additional Detail

4.2 The applicant has provided more background on the scope of the proposals and this identifies the following:

- Up to 100,000 sqm of mixed Class B2, Class B8 and Class E(g) (iii) floorspace;
- A total of 100,000 square metres of floor space with a maximum of 10% being within the B2 and E(g) (iii) Use Classes;
- Up to a 150 space overnight HGV parking facility together with up to a 400 square metre amenity building;
- A new signal controlled all-movements access junction onto the A5, and
- Landscaped buffer zones around the site perimeter.

4.3 In order to “structure” this proposal on the site, a Parameters Plan has been submitted – see Appendix F. This sets out how the applicant would propose to layout the site.

4.4 Further detail has also been submitted and is set out below.

- The tallest of the units would be at the western end of the site (Plot A1 on the parameters plan) with a maximum height of up to 117.8m AOD.
- The height limits for plot A2 (closest to Birchmoor) would be up to 113 AOD and for plot B2 (at the A5 frontage) it would be up to 102m AOD.
- The lorry parking elements within B1 would be up to 111m AOD.
- The current land levels are between 95m rising up to 115m to the north adjacent to Birchmoor.
- Surplus “cut” material from the developable area would be utilised in the creation of the perimeter landscaped buffer zones which would also act as green infrastructure corridors linking together and would create transitional zone between the developable area and the perimeter. These are said to amount to 9 hectares in area. This would include open space, planting, landscaping, public rights of way, sustainable drainage and wildlife habitats.
- Public Bridleway AE45 diverted within the development site, providing an enhanced route linking Birchmoor to the proposed green infrastructure, A5 Trunk

Road and local services, such as bus stops located on the A5 Trunk Road and within St Modwen Park Tamworth.

- Creation of substantial landscaped buffer zones to the development site perimeter (in addition to the off-site areas for potential mitigation), as follows:
 - North - an extensive landscape buffer to the north of Plot A2 extending to 134m at its widest, reducing to 75m at the closest point to Birchmoor;
 - East - an extensive landscape buffer to the east of Plot A1 extending to 106m at its widest reducing to 49m to the north-east of Plot A2, and extending to 65m to the east of Plot B1 and Plot B2 and a minimum 35m to the north-east of Plot B1, where proposed building heights are lower;
 - South - a minimum 35m to the south of Plot A1 extending to 58m in the south-west corner of the plot close to M42 J10 and 35m-37m to the south of Plot B2;
 - West - a minimum 10m landscape buffer to the west of Plot A1 and Plot A2, where existing screening vegetation for the M42 motorway is extensive and mature.

4.5 Attached at Appendix G is an illustrative/indicative masterplan which shows possible development within the development parameters and an outline of the landscaping areas described above.

4.6 Attached at Appendix H is a series of images of the completed development firstly showing the existing view, then year 1 with the building and landform only with no vegetation and then at year 15 with trees shown at 8m along with all landscaping. These are all shown during winter.

4.7 Appendix I provides a series of cross sections through the site.

4.8 The applicant owns additional land to the east of the application site extending to Dordon. The proposal includes additional landscaping and bio-diversity enhancements on this land together with public access. This would amount to an extra 6.5 hectares of mitigation and would be held "in perpetuity" through a legal Agreement to prevent further expansion of built development. The areas are illustrated at Appendix A .

4.9 Additionally, the application includes:

- Over 3.5 km of new and enhanced public footpaths, bridleways and footway/cycleway routes linking the site to both Birchmoor and Dordon.
- An enhanced bus-stop on site to the south of the site on the east bound A5
- New off line footway / cycleway for the A5 trunk road, connecting east-west from M42 J10 to Dordon creating a new east-west route;
- A new fully signal controlled pedestrian crossing for the A5 to replace an existing junction staggered crossing that passes through the central reserve.
- Electric Charging points in the car parks for 10% coverage, but with ducting to enable a further 15%.
- Ducting in the HGV park for 25% coverage

4.10 Appendix J illustrates the location of the enhanced footpath proposals.

4.11 Access into the site would be from the A5 via a fully signal controlled junction. This will also include a pedestrian crossing for the A5 and a bus terminus and new bus lay-by along the A5. This is shown in Appendix K.

4.12 In terms of drainage, the proposals include a detention basin south of the site. From there, the outfall would be restricted to greenfield runoff rates to the manhole which forms part of the culverted watercourse in the south-west corner of the site. Foul flows would be collected by an independent network and discharge to the nearest foul sewer located to the east of the development adjacent to the A5.

c) Environmental Impacts

4.13 As indicated earlier, the application is accompanied by an Environmental Statement through which the applicant addresses a series of potential environmental impacts. A non-technical summary is at Appendix L. The full Statement is available on the Council's web site.

d) The Applicant's Case

4.14 Members will be aware that there are substantial issues involved with this proposal and that an assessment will have to be considered in the final planning balance, which will take account of all of the material planning considerations affecting determination.

4.15 It is thus important that the Board understands the applicant's position on these issues. To this end they have produced a Planning Statement. In order to assist Members an Executive Summary of this Statement is attached at Appendix M. In particular, it addresses the main crux of the final planning balance – the tension between Policy LP4 of the North Warwickshire Local Plan 2021 (the identification of the Strategic Gap between Tamworth, Polesworth and Dordon) and Policy LP6 (which identifies the potential for additional employment land to be recognised in decision making). Additionally the summary addresses the background to the inclusion of an HGV parking area. The full Statement is available for Members to review online.

5. Development Plan

5.1 The Development Plan relevant to this application comprises the North Warwickshire Local Plan 2021 and the Dordon Neighbourhood Plan 2023.

5.2 The relevant policies of the Local Plan are - Policy LP1 (Sustainable Development); LP2 (Settlement Hierarchy), Policy LP4 (Strategic Gap), LP5 (Amount of Development), LP6 (Additional Employment Land), Policy LP11 (Economic Regeneration), Policy LP12 (Employment Areas), LP14 (Landscaping), Policy LP15 (Historic Environment), LP16 (Natural Environment), LP17 (Green Infrastructure), LP21 (Service and facilities) LP22 (Open Spaces and Recreational Provision), LP23 (Transport Assessments), LP25 (Railway Lines), LP26 (Strategic Road Improvements A5), LP27 (Walking and Cycling), Policy LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency), LP36 (Information and Communication Technologies) and Policy LP39 (Employment Allocations)

5.3 The relevant policies of the Neighbourhood Plan are - Policy DNP1 Sustainable Development, Policy DNP2 Protecting the Natural Environment and Enhancing Biodiversity, Policy DNP4 Protecting the Landscape Character, Policy DNP5 Creating a Local Green Network, Policy DNP7 Reducing the Risk of Flooding, Policy DNP8 Achieving High Quality Design, Policy DNP10 Renewable Energy, Energy Efficiency and Low Carbon Technologies, Policy DNP12 Supporting the Local Economy, Policy DNP14 Development Contributions

6. Other Relevant Material Considerations

a) National

The National Planning Policy Framework 2023 – (the “NPPF”)
The National Planning Practice Guidance – (the NPPG”)

b) Local Policies

Air Quality and Planning - SPD 2019
Design for Lighting Schemes - SPG 2003
Draft Dordon Design Guidance and Code 2021
Local Development Scheme
Annual Monitoring Report 2022-2023

c) Landscape

North Warwickshire Landscape Character Assessment of 2010
NWBC Meaningful Gap Assessment – 10 August 2015
Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations.
LUC (2018)
Guidelines for Landscape and Visual Impact Assessment, third edition (2013)
Landscape Institute TNG 06/19 Visual Representation of Development Proposals (2019).

d) Employment

West Midlands Strategic Employment Sites Study (Phase One) – 2015
West Midlands Strategic Employment Sites Study (Phase Two) – May 2021
Draft Employment Development Plan Document – Scope, Issues and Options 2024

e) Design

The National Design Guide 2021
The National Model Design Code 2021

f) Highways

Design Manual for Roads and Bridges DMRB
Department for Transport - Building Sustainable Transport into New Developments (2008)
Department of Transport Circular 1/2022
Chartered Institution of Highways and Transportation Planning for Walking (2015)

Warwickshire Local Transport Plan 3 (2011-2026).
The National Survey of Lorry Parking – DfT 2018
The National Survey of Lorry Parking - Dft 2022

g) Appeals

Appeal Reference - APP/R3705/W/18/3196890 Land south of Tamworth Road and to west of the M42 – 150 dwellings dismissed

Appeal Reference - APP/R3705/W/15/3136495 Land south east of the M42 Junction 10, Tamworth, Warwickshire – St Modwens allowed

Appeal Reference - APP/R3705/W/23/3327296 - Land west of Hams Hall roundabout and south of Marsh Lane, Curdworth, B76 0AA – Caesarea Development – 200 HGV spaces dismissed

7. Consultations

British Pipeline Agency – No comments

Cadent – No objection.

Coventry City Council - No comments from Council in respect of planning policy, but draws attention to the matter of highway network capacity in respect of the delivery of Local Plan outcomes.

Cycling UK – It supports the application as the development will provide significant enhancements to the cycle infrastructure along the A5 and around junction 10 as well as increasing the number and safety of crossing points on the A5 and M42 for non-motorised users. This will make it easier for people cycling between Tamworth, Polesworth and Dordon, and surrounding areas.

Environment Agency – No objection.

National Highways – It recommends that planning permission is not to be granted – see Appendix N. This holding objection expires on the 22 March 2024

HS2 Ltd. - No objections to the scheme.

Lichfield District Council - No objection.

National Vehicle Crime Intelligence Service (NaVCIS) - It strongly supports the proposals for a 150 space secured overnight lorry parking facility, from a qualitative and quantitative perspective.

Natural England – It has no comments apart from referral to its Standing Advice

North Warwickshire Borough Council Environmental Health Officer – No objections subject to conditions in respect of contamination, air quality and noise.

Nuneaton and Bedworth Borough Council – No comments.

Ramblers Association – No objections to the proposal and welcome the proposed new public right of way connecting public footpath AE46 with Dordon to the east of the site as shown in Fig 3 in the Framework Travel Plan.

Rugby Borough Council – No objections.

Severn Trent Water Ltd – No objection subject to a formal section 106 connection being required.

Tamworth Borough Council – Supports the application on account of its identified shortfall in employment land. The further inclusion of a lorry park would be beneficial on account of its significant capacity to contribute towards the lack of such facilities in Tamworth.

The Coal Authority – No objection as the proposal does not fall within high risk area and therefore standing advice should be considered.

Warwickshire Fire and Rescue – No objection subject to conditions.

Warwickshire County Council as Highway Authority – At present there is insufficient information on the application to assess the impact on the public highway network.

Warwickshire County Council Local Lead Flood Authority – It initially objected to the scheme but following the receipt of additional information, it has no objections subject to conditions.

Warwickshire County Council Rights of Way – No objection subject to conditions. The proposed development would however be constructed across the route of public footpath AE45. It will be necessary to obtain consent for the temporary diversion or closure, or the rerouting of the footpath.

Warwickshire Museum – It considers that the site is within an area of archaeological potential and requests conditions to secure the appropriate archaeological investigation of the site.

Warwickshire Ecological Services – No objections to the proposal subject to conditions – there is an updated metric (WCS BIA calculator dated 31/10/2022) which shows a net gain of 16.99 units. This is based on the creation and management of off-site habitats as shown on the accompanying plans, which correspond with the landscape design plan shown in section 4.3 of the Design Guide. The proposed biodiversity net gain will be achievable if the proposed habitat creation and management is implemented, as set out in the design guide and accompanying plans. These measures must be secured through a pre-commencement condition for a LEMP as set out below, to ensure that the development results in a biodiversity net gain.

Warwickshire Police – No objections to the proposal.

8. Section 106 Matters

8.1 Warwickshire County Council has requested a contribution of £980k phased over five years to secure bus service provision to serve the proposal.

8.2 On a without prejudice basis, the applicant would include measures to secure off-site landscaping and green infrastructure together with its maintenance.

8.3 Similarly, the applicant would include measures to secure off-site infrastructure to improve off-site connectivity.

8.4 The Council will be seeking a contribution towards employment skills and training.

9. Representations

9.1 Dordon Parish Council – The Parish Council fundamentally objects citing the impact on the Strategic Gap which is in the Development Plan; the adverse change from rural agriculture, the adverse visual impact of the development, the impact on the road access and traffic generation, and the impact on archaeology. The proposal is contrary to Dordon Neighbourhood Plan in respect of being sustainable development (Attached at Appendix O).

9.2 Polesworth, with Warton and Birchmoor, Parish Council - The Parish Council strongly objects, indicating concerns in terms of the impact on the Strategic Gap indicated in the Local Plan. It also cites concerns in respect of noise pollution based on the 24 hour operation of the lorry parking; the impact of the proposal in highway safety resulting in an increase of traffic on the B5000 and concerns that the employment created would be low skilled and low waged. It also has concerns that existing units recently developed have not been let. Additionally the footpaths will be lost, there will be increased crime in the area, a loss of the distinctiveness of the area and loss of agricultural land (Attached at Appendix P).

9.3 Three hundred and sixty one representations have been received from local residents. These raise various concerns these relevant concerns cited include planning policy considerations; departure from the Development Plan, the landscape and visual impact, the need for employment land, infilling of the 'natural' gap between Tamworth and North Warwickshire and the loss of agricultural land. Other planning concerns include adverse impacts on the existing highway network and on highway safety; increased traffic levels, congestion and vehicle speeds, lorry parking, loss of privacy, adverse impact on amenity due to inappropriate character of development within an open area, disturbance due to noise, pollution due to air quality, light, dust, smell, and potential for increase in crime.

9.4 Letters of support from the following organisations and companies have also been received.

- a) JLL indicating that site is in an ideal location for large scale logistics, Capability to deliver this opportunity is rare and is generating significant interest despite not being actively marketed. The site is under control of a single developer who has significant track record of delivering high quality industrial and distribution in this locality.

- b) Logistics UK support the application Supports the planning application proposals outright, both in terms of the new, high-quality, logistics floorspace in the location adjacent to Junction 10 of the M42 and is extremely supportive of the provision of a secure overnight lorry parking facility.
- c) Maritime Transport operator of Birmingham Intermodal Freight Terminal (BIFT) and Hams Hall support the application. Indicate that there is capacity for increased freight handling at BIFT and that focusing new employment development in close proximity to the rail freight interchange is key to maximising the utilisation of this capacity.
- d) Rail Freight Group - NE J10 M42 is exceptionally well located in the West Midlands to facilitate the aims of national policy in relation to encouraging rail freight use and decarbonising transport.
- e) Road Haulage Association (RHS) highlights the importance of the need for appropriate lorry parking facilities on the A5, one of the Midlands' most important east-west road corridors at the heart of the so-called 'Logistics Golden Triangle'. The importance of appropriate lorry parking facilities on this road corridor cannot be understated. Fully supports the proposals for an overnight lorry and coach parking facility.

10. Observations

a) Introduction

10.1 This application for outline planning permission seeks approval in principle for a development which will change the use of land from agriculture to a commercial employment use on a site that is located on land explicitly identified in the adopted Development Plan as being a Strategic Gap. The purpose of this Gap as set out in Local Plan Policy LP4, is to maintain the separate identity of Tamworth and Polesworth with Dordon in order to prevent their coalescence. The proposal will close this Gap. The Board will thus have to assess what degree of harm is caused to the purpose of this spatial planning policy. Other harms may also be identified. The applicant's case is that there is a need for his proposal - both for the additional employment provision and for the HGV parking area. In this regard he refers to Local Plan Policies LP6 and LP34. The former says that significant weight will be given to supporting economic growth and productivity particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land which cannot be met via forecast supply or allocation. The latter policy says that weight will be given to lorry parking provision. The Board will thus have to assess what weight it will give to the applicant's evidence in respect of these two policies. The main issue for the Board is to come to a planning judgement on the balance between these policies.

10.2 In order to assist Members it is considered that the following issues should be addressed.

- What impact does the proposal have on the purpose of maintaining the Strategic Gap, as set out in Local Plan policy LP4.

- Whether any harms that are identified arising from the proposal, are acceptable under the terms of the relevant Development Plan policies, or if not, whether any residual harms can be mitigated.
- In particular, whether the proposal would have a detrimental impact on the strategic and local highway network.
- Whether the proposal accords with Local Plan policies LP6 and LP34.
- The final planning balance will be to address whether the applicant's case is of sufficient weight to accord with all of these policies.

10.3 Members are reminded that the Parameters plan is a relevant consideration in that it is indicative of the location and scale of the proposed buildings, the location of necessary infrastructure, the impact on the existing features and ecology and the scope for the mitigation of adverse impacts within the site.

10.4 Access is the only matter of detail included in the application. Relevant policies within the Development Plan and the consultation responses from National Highways and the Warwickshire County as Highway Authority are material to the assessment of highway impacts.

b) The Impact of the Proposal on the Strategic Gap

10.5 For the benefit of Members, Policy LP4 says that:

“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 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”.

10.6 The site is located in the Strategic Gap.

10.7 Prior to considering the potential impact of the proposal on this Gap, Members will be aware that the Spatial Vision for the Borough as set out in the Local Plan is to retain and reinforce the rural character of North Warwickshire and to ensure this distinctive character remains evident when entering the Borough from surrounding urban areas. Policy LP4 reflects this objective in seeking to protect the open area that presently separates Tamworth from Dordon with Polesworth within North Warwickshire.

10.8 This objective is not new.

10.9 This corridor of open land has been variously referred to as An Area of Restraint and a Meaningful Gap within the Polesworth and Dordon District Plan of 1989, the 1995 North Warwickshire Local Plan, North Warwickshire Local Plan 2003, the Core Strategy of 2014 and now as the Strategic Gap in the 2021 Local Plan. The overriding spatial planning objective of these Plans has not changed. It is now a defined free standing area and it has a clear purpose to maintain the gap, spatially, visually and in landscape terms between the built-up areas of Polesworth with Dordon and Tamworth.

10.10 Because the geographic extent of the Meaningful Gap within the 2014 Core Strategy was not defined, and in order to retain the integrity of this gap strategically from continuing development pressure, the Council submitted evidence to do so at the Examination in Public for the Local Plan which would be adopted in 2021. This is the 2015 Assessment referred to in Section 6 above. This led to the definition of the Strategic Gap as it appears on the 2021 Policies Map.

10.11 Within this Assessment, several parcels of land were identified. The application site is within Parcel 8 – in general terms, the land bounded by the A5, the M42 Motorway, the Birchmoor Road and the western edge of Dordon. It found that the whole of this parcel performs “very strongly” as part of the Gap by providing “a buffer and sense of separation between the three separate settlements which are very close to each other”.

10.12 The Dordon Neighbourhood Plan indicates that under policy DNP1 that Development should be located so that it can make a positive contribution towards the achievement of sustainable development. It then clearly defines under criteria b) that development proposals will be supported which maintain, the sense of space, place and separation on the land to West of the Parish taking into account the amenity of Dordon Residents. This is further echoed in policy DNP4 which aims to protect key views, retain a sense of space, place and separation. However it is caveated by the provisions of the strategic Local Plan Policies of LP4 (Strategic Gap) and LP6 (Additional Employment Land). The policy explains that the views of the Strategic Gap are long and wider and the plan indicates a number of important views shown on map 5 of the plan. Within this it concludes and demonstrates the contribution that the Strategic Gap makes to the separation of the edge of the Dordon built up area from the development of the large industrial units south of the A5 and the separation between Dordon and Tamworth.

10.13 Members will have seen this on their site visit as this parcel has firm physical boundaries. It is also self-contained visually such that it clearly separates the surrounding built-up areas. In landscape terms, it has a contiguous open agricultural character with rising levels northwards.

10.14 The proposal as a whole will impact on these characteristics. These impacts will be spatial and visual as well as impacting on the landscape. These will now be assessed.

10.15 The existing Gap measures around 1207 metres along the A5 boundary, reducing to 777 metres between Dordon and Polesworth. The size of the application site would reduce the width of the Gap along the A5 by 433 metres. It would extend northwards from the A5 along the whole of the eastern edge of the M42, such as to eliminate the whole of the western portion of the Gap between Birchmoor. The application site reduces the area of Parcel 8 by around 30% (32.36 hectares of 121 hectares). Or 7% of the whole of the Strategic Gap (32.36 hectares of 450 hectares). This is a substantial reduction.

10.16 The land within this parcel is relatively flat, although rising to the north. The proposals will introduce not only substantial building but also new earth mounds for screening which will alter the topography of the parcel by introducing height and thus a third dimension to the open character of this parcel. This is a significant change.

10.17 The landscape character of this parcel is mainly arable with occasional tree belts and hedgerows. The proposal would introduce buildings of a large scale, including lighting columns, other structures, engineering operations including hard standings and a wholly new access as well as both human and vehicular 24/7 activity. This is a fundamental change as it introduces a substantial urban influence within a presently open agricultural landscape. This is a substantial change.

10.18 Built development is found all around this parcel thus accentuating its open character and its role in separating that development. The proposal would introduce development within this parcel and thus create a new urban edge closer towards Dordon, Birchmoor and Polesworth. This is a substantial change.

10.19 The open and flat nature of the parcel enables inter-visibility from one edge to the other – both east/west and north/south. Moreover the nature of the site enables intra-visibility from within the site to its edges. The proposal will screen and reduce the views across and from within the parcel, thus altering the perception of openness and separation. This is a substantial change.

10.20 At present there is a distinct sense of leaving the surrounding built up areas when entering this parcel of land. Its character contrasts strongly with the appearance character and scale of those areas. The development would diminish the sense of leaving a place by changing the land use and character of the landscape on that journey. This is accentuated because of the cumulative impact of that surrounding development on all sides and in terms of its scale – particularly its height directly along the south side of the A5, and the development in the other quadrants of Junction 10. This is a substantial change.

10.21 These changes need to be assessed in the context of the wording of Policies LP4, DNP1 and DNP4. This parcel of the Strategic Gap performs “very strongly” as part of the Gap by providing “a buffer and sense of separation between the three separate settlements which are very close to each other”. The changes that will be caused by the proposal are substantial. The Policy particularly focusses on the visual and physical separation between the surrounding settlements. The above assessments conclude that there would be a significant adverse impact on these two criteria. The sense of space, place and separation by travelling through this part of the Gap would not be retained or maintained. There would be no clear sense of having left the first settlement and having travelled through an undeveloped area, then entering the second settlement.

10.22 The proposal introduces a strong new urban influence, which doesn't reflect the distinctive residential and rural character of Dordon, Birchmoor and Polesworth, and which will lead to a material narrowing of the Strategic Gap to the extent that it's role in preventing coalescence is significantly reduced.

10.23 This conclusion is given added weight by virtue of two appeal decisions which have addressed the issue of retaining the open corridor of land between Tamworth and Polesworth with Dordon. Members will be aware of the appeal for the St Modwen development in the south-east quadrant of Junction 10 south of the A5 and which now borders the current application site. Whilst the Inspector concluded that the proposal would maintain a meaningful gap between Tamworth and Dordon, one of the key reasons for this was due to the presence of “the open farmland to the north of the A5”,

confirming in the Council's view, that this land fulfills a vital role in the retention of the Gap. Now that the St Modwen development is constructed, the visual and landscape impact is apparent. When considered together with the current proposal both spatially and three dimensionally, the cumulative loss of the sense of space and separation in the Gap is clear.

10.24 The second appeal involved a residential proposal of 150 houses to the south of the B5000 to the north of Birchmoor. Whilst the Inspector found that the development would not significantly affect the identity of Tamworth, he did say that the site would result in a major reduction in the space between Tamworth and Polesworth to the extent that there would no longer be an adequate meaningful gap and that the separate rural identity of Polesworth with Dordon would be weakened. This decision is also significant in that it describes the identity of these settlements as being rural – in contrast to the new urban influence of the proposal.

10.25 These two appeal decisions were made before the North Warwickshire Local Plan was adopted in 2021. Not only does full weight have to be given to Policies LP4 DNP1, and DNP4 and to the definition of the Gap in that Plan and the accompanying Policies Map, it additionally carries far greater weight than the “Meaningful Gap” addressed at the time of these two decisions, because of that status.

10.26 It is in all of these circumstances that the proposal is not considered to accord with Policies LP4, DNP1 and DNP4 and that the degree of harm caused is substantial.

c) Whether any harms that are identified arising from the proposal, are acceptable under the terms of the relevant Development policies, or if not, whether any residual harms can be mitigated.

10.27 The proposal will now be considered against other relevant Development Plan policies in order to establish whether other harms are likely to be caused.

i. Landscape

10.28 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 on 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”. The Dordon Neighbourhood Plan Policies DNP1 and DNP4 are relevant in this instance too. These matters are reflected in the NPPF at para 180, which says that planning decisions should “recognise the intrinsic character and beauty of the countryside.”

10.29 The Dordon Neighbourhood plan has policies which aim to protect the landscape character. This echoes the landscape character assessment indicating that Dordon village is on a ridge and the land to the west of the built-up edge north of the A5 drops down and is open in character up to the boundary of the M42. The topography of the Parish allows medium to long range views into and out of the village. There are some key views (V1-V3 Map 5) mentioned in chapter 11 which look across the Strategic Gap

both towards and away from Dordon. Policy DNP4 aims to ensure the development proposals take into account the key views (criteria 2). There is harm from the criteria within the policy to such an extent that the proposal would be contrary to this policy. Although, criteria 6 indicates that LP4 and LP6 (indicated below) should have priority, it is still considered that there is still harm here.

Criteria 4 of this policy indicates

“Development should take account of the way in which it contributes to the wider character of the neighbourhood area. The layout, scale and boundary treatment of any applicable development should seek to retain a sense of space, place and (where relevant) separation (Foot Note - LP4 and LP6)”.

Criteria 6 of this policy indicates the following:

“As appropriate to its scale, nature and location, development proposals across the Neighbourhood Area should demonstrate they are sympathetic to the landscape setting as defined in the NWBC Landscape Character Assessment. All applicants shall show that they have taken into account the matters identified above. However, the provisions of strategic Local Plan Policies LP4 (Strategic Gap), LP6 (Additional Employment Land) and H4 (Land to the east of Polesworth and Dordon) shall have priority.”

10.30 The Borough’s 2010 Landscape and Character Assessment shows the site falling within the “Tamworth–Urban Fringe Uplands” landscape character area. This is summarised as “an indistinct and variable landscape with relatively flat open arable fields and pockets of pastoral land, fragmented by restored spoil heaps, large scale industrial buildings and busy road and bordered by the settlement edges of Tamworth, Dordon and Kingsbury and with wooded horizons to the south.” It continues by drawing attention to the mining legacy with remnant restored spoil heaps, referring to the one at Birch Coppice described as being “particularly large and a visual detractor within the local area, the base of which is now encircled by large modern industrial units”. Although farmland makes up a significant proportion of the landscape, much of this land has “a run-down character, with gappy, poorly managed hedgerows”. Another key description is that “To the north large scale modern industrial sheds at Tamworth have an urbanising influence along with the settlement of Dordon, located upon the crest of a gentle escarpment.” It then indicates that “Several smaller settlements are located within this area; these are Birchmoor close to Dordon located on elevated land, and surrounded by open arable fields.” The landscape management strategy is that industrial buildings should be sited, designed and landscaped to mitigate against further landscape impact from built development. It is also recommended that a broad landscape corridor should be maintained along both sides of the M42.

10.31 As part of the application the applicant has submitted a landscape assessment and the Council commissioned an independent assessment of the submitted Landscape and Visual Impact Assessment (LVIA) by LUC. The review found that the LVIA submitted to support the application does not conclude similar findings with respect to landscape and visual effects as their review.

10.32 The applicant has provided mitigation in the proposal which includes a design code and landscape mitigation both on and off-site. It is the applicant's view that there is a gradient of character across a very large site. The proposal is based on an area directly adjacent to the motorway junction which is influenced by large-scale commercial form. Any harm would be localised and any significant negative effects would be limited to the public rights of way. Any further effects from the site would be moderate or less as the buildings would be seen in the context of existing buildings to the south and west. The mitigation proposed will be able to reduce the impact of the development visually, however this will not mitigate any spatial landscape harm.

10.33 LUC does not agree with the magnitude or significance of visual effects identified for several of the viewpoints included in the LVIA, particularly immediately after construction when there would be limited screening provided by mitigation planting. Uncertainty remains, particularly given the nature of the visualisations provided. The assessment, and planning balance, should also consider effects of the proposed lighting on and around buildings and car parks, given the effects of this within surrounding developments which have similarities to that proposed. The provision of further cross sections and long sections through the site and the proposed development would assist in better explaining the landscape and visual effects, and particularly how the development would relate to the existing levels across the site. The need to create large flat development platforms will result in substantial permanent modifications to the existing landform, and associated landscape character. LUC does not agree with the cumulative visual effects identified within the LVIA, particularly in relation to the St Modwens Park industrial estate to the south of the Site.

10.34 The landscape impact needs to be considered against the development plan. As such the impact has to be assessed against Local Plan policies LP1 and LP14. The development does not "improve the environmental quality of the area" and neither does it "conserve, enhance or restore landscape character." In terms of the Dordon Neighbourhood Plan there is harm caused here on viewpoints and changes to the landscape. Considering the site is currently greenfield and would experience a large scale permanent change due to the proposed development, it is considered highly unlikely that no significant negative effects would be identified in relation to landscape receptors. It is considered that the proposal will have moderate landscape harm.

ii. Visual

10.35 As with the landscape character issue, it is agreed that visual amenity impacts would be local in extent. Both the amenity of residents and visitors travelling past the site will need to be addressed.

10.36 It is agreed that the number of "receptors" include the residential properties on the edge of Birchmoor, Polesworth and Dordon, the users of the network of the Public Rights of Way, vehicular users and those using the open space including Kitwood Avenue Recreation Ground and the services. Pedestrians using the paths over the site and would experience adverse visual impacts because the proposal would be clearly visible as the paths adjoin or pass through the development.

10.37 At present the application site and the surrounding area has attractive landscape qualities associated with it being undeveloped, open arable land, with hedgerows and hedgerow trees, and which is accessible for people to see and enjoy, through the PRow

network, or through the views across this landscape from neighbouring communities. Despite the urban influences such as the motorway corridor and the nearby employment development it does form a sizable part of a visually pleasant stretch of gently undulating open, undeveloped land, where rural qualities and an open outlook remains.

10.38 The harm would be relatively localised in extent, but nevertheless important to those who will be affected, particularly the local communities who live and work adjacent to this stretch of undeveloped landscape. It is the residual impacts and changes that will cause the harm – the built development, the road works and the lighting, as well as the permanent changes to the landform to create a very large development platforms, requiring extensive cut and the creation of bunds. The landscape and visual character and appearance of this corridor of land will materially change. As above, this would not accord with the requirements of Local Plan Policies LP1 and LP14 as set out above, nor with Policy LP30 which says that development, “should harmonise with both the immediate setting and wider surroundings”. Also, there is discord with policies DNP1 and DNP4 too. This would be minor environmental and social harm arising from the acknowledged adverse visual effects of the proposal. It cannot be argued that the development would not be visible within the general vicinity of the site and thus when all of the above matters are taken together it is considered that the proposal will have moderate visual harm.

iii. Historic Environment

10.39 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 as set out in Section 16 of the NPPF. It is acknowledged that there are no assets on the site and neither is there a Conservation Area nearby. The nearest Listed Building is Hall End Hall to the south of the A5 around 450 metres to the east of the site. This is a Grade 2 Listed Building. The Council is under a statutory duty 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. In this case the significance of the former farmhouse is that it retains the architectural character and appearance of its late 17th early 18th Century construction. The proposals have no direct impact on the fabric of the building. Its current setting however is already substantially lost because of the surrounding large scale industrial buildings on three sides. The proposal would not further reduce the remaining setting because of the separation distances and the very small degree if any, of intervisibility. It is considered that there would be no harm caused. In respect of any underground assets, it is of substantial weight that the County Planning Archaeologist has not raised objection subject to standard conditions requesting pre-commencement site evaluation. In these circumstances it is considered that the proposal would accord with Local Plan Policy LP15.

iv. Flooding

10.40 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 para 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. It is of substantial weight that the Lead Local Flood Authority has not objected to the proposed drainage strategy. It is also of weight that the Environment Agency and Severn Trent Water Ltd have neither objected. It is thus considered that the proposal does accord with Local Plan policy LP33.

v.Natural Environment

10.41 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 Board is also aware of the new Regulations introduced in February this year. 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, in order to accord with Policy LP16. It is of substantial weight that the Warwickshire County Ecologist has not objected to the enhancement proposals both on and off-site. It is thus considered that subject to appropriate planning conditions, the proposals do accord with Local Plan policy LP16.

vi.Other Issues

10.42 Local Plan policy LP29 identifies a number of considerations which should be addressed by all new development proposals. It is considered that the proposal would accord with point (5) of this policy – namely by encouraging sustainable forms of transport through the public transport, pedestrian and bike facilities and arrangements. It is of weight that Active Travel England has no comment to make. Additionally, in the absence of an objection from the Environmental Health Officer, there is considered to be compliance with point (9) in that there would not be unacceptable impacts on neighbouring residential amenities because of separation distances, the proposed screening and the character and appearance of the adjacent built-form opposite the site on the A5 and on the other side of the Motorway.

10.43 Notwithstanding the conclusions above in section (b) in respect of the impact of the Strategic Gap, it is acknowledged that as an outline planning application, suitable planning conditions could be included to address the mitigation to the design of the buildings, the range of facing and roofing materials to be used and similarly to reserve the specification and detail of the lighting strategy for the site.

10.44 It is also agreed that through suitable planning conditions, the objectives of Policy LP35 for the energy efficiency of the built-form can be achieved, as can the provision of electric charging points, so as to accord with that requirement in Policy LP34.

d) In particular, whether the proposal would have a detrimental impact on the strategic and local highway network.

10.45 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.

10.46 A single signalised vehicular access is proposed directly onto the A5. The relevant Highway Authority is thus National Highways. Its interest is not only in the safety, specification and operation of that access, but also the capacity of the wider Strategic Highway Network. In this case that would particularly be the impact of the traffic generated by the proposal on the functioning of Junction 10, but also on the A5 itself between this junction of the M42 and the M69 Motorway to the east. National Highways has responded to the proposal since its submission through a series of holding objections. The applicant has been engaged with National Highways in order to remove the concerns, but the latest response from National Highways dated September 2023, is to recommend that planning permission is still not to be granted. Its last letter is at Appendix N.

10.47 It is clear from this letter that National Highways consider that there are still matters to be resolved in respect of the modelling of the increased traffic on the network and thus it is not in a position to assess the potential impacts.

10.48 Warwickshire County Council as Highway Authority for the non-strategic highway network has also objected citing its reliance on National Highways, as the impact on “its” highways is secondary to the impact on the strategic network.

10.49 Given this background, officers are unable to recommend that the proposals would accord with Local Plan policy LP29 (9) as supplemented by the NPPF. The final position of National Highways is of particular significance to the Council, as Members are aware that the majority of the strategic housing allocations within the Local Plan are dependant upon the delivery of substantial improvements to the A5 itself. Development that is not allocated in the Local Plan, whether residential or commercial, may well take up capacity on the A5 such that the delivery of these allocated sites is prejudiced. It would thus not be appropriate to consider challenging the National Highway’s position at this time. As such the Board is advised that the proposal does not accord with Local Plan policy LP29(9).

10.50 Members will be updated if National Highways re-issues a response between the time of publication of this report and the date of the Board meeting.

e) Whether the proposal accords with Local Plan policies LP6 and LP34.

10.51 Members will be aware that the proposal has to be considered as a whole. However there are two elements within it, which to a certain extent are complimentary, but require separate assessment – namely the employment use and the HGV parking area. Each has a relevant Local Plan policy which will need assessment.

10.52 Dealing with the first of these, then the site is not inside any settlement boundary as defined by Local Plan policy LP2 which identifies a settlement hierarchy whereby new development may be supported in proportion to the facilities and services within the named settlements. It is neither a site that is an allocated employment site as identified in Local Plan policy LP39. As such it has no policy support. However, the site is being promoted by the applicant under Local Plan Policy LP6 as “additional employment land”. The policy says that:

“Significant weight will be given in decision-making 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 West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations. The relevant scheme will be required to demonstrate that:

- 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 into account the living conditions of those nearby”.

10.53 Prior to looking at the policy in more detail it is worthwhile at this stage to say that the proposal, or scheme as referred to above, does not accord with point (i) above and neither does it accord with point (iii) because of the harm caused to the Strategic Gap.

10.54 The Policy is designed to address employment proposals beyond local needs. It is made up of two parts – to meet an immediate need for employment land, or, to meet a certain type of employment land within a general location identified by a 2015 Study. Each will be taken in turn.

10.55 This is an outline application for a range and mix of generic employment uses – B2, B8 and E(g)(iii). There is no floorspace figure included in the application description, nor indeed an indication of the proportion the different uses or split between them. A general parameters plan and a Design Code are submitted to show how that generic mix of uses might be set out on the site. The site would presumably be placed on the market in these circumstances. It is considered that in these circumstances this is a “speculative” proposal and as such it does not reflect an “immediate need for employment land.” There is no named or identified occupier and the individual operational requirements of a prospective occupier are not identified within the proposal.

10.56 The application particularly focusses on the second part of LP6 – in that the proposal would meet a certain type of employment land within an identified general location set out in the 2015 Strategic Employment Sites Study. In other words the immediate need is as expressed through this Study. It is acknowledged that the application site is within the general location identified by Policy LP6. Members will be aware too that the 2015 Study was updated in 2021 and that the site remains within the general location identified in that update. That 2021 Study is being further updated, but has not yet been published. The reason for the subsequent reviews is that the 2021 Study did not adequately provide the evidence to understand, in the absence of regional planning, how a wider than local need could be delivered.

10.57 There are concerns as to whether this proposal as submitted would fall squarely into this provision. Firstly, the proposal includes a generic mix of uses. Secondly, as indicated above, it is not considered that the proposal accords fully with the three requirements set out in Policy LP6. Any weight to be given to the Study, has to be balanced against the policies in the Development Plan as a whole. An identified need does not “trump” other spatial planning policies.

10.58 The policy refers to additional employment land to meet wider than local needs. It is considered that this should be resolved through regional and sub-regional arrangements and in accordance with the core planning principle set out in the para 15 of the National Planning Policy Framework that planning should be genuinely plan led and based on co-operation to address larger than local issues. The Council is one of the commissioning Local Planning Authorities for the Employment Studies. Up to date evidence will be available in the forthcoming Study. The Council is preparing for this as in September 2023 and then in January 2024 it resolved to commence consultation on a “Draft Employment Development Plan Document – Scope, Issues and Options” paper. Consultation commenced in February 2024 with a deadline for comments of 9th May 2024 (12 week consultation period). It is one of a number of other Documents which will be available for consultation. Accompanying the consultation is a “call-for-sites”.

10.59 In respect of Policy LP6 therefore it is considered that the applicant’s case does carry weight by virtue of its location within the identified Area. However that case is weakened because of the concerns raised above.

10.60 Turning to the HGV provision, the relevant part of Local Plan policy LP34 says 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. 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-making”.

10.61 It is the second sentence here that is relevant. It is acknowledged through the wording in this policy that there is a need for lorry parking in the area and that weight should be given to this part of the current proposal. It however does not follow that that should lead to support for the proposal as a whole. As indicated above, the HGV park may be complimentary to the employment proposal, but they are not essentially linked and the main purpose of the application is that of an employment site. Moreover the harms caused by the whole proposal include the cumulative uses on this site.

f) Section 106 matters

10.62 As indicated above the Warwickshire County Council has requested a financial contribution towards securing improvements to local bus services to support the forecasted demand arising from this development. This would amount to £980K spread over five years from the date of the first occupation for business purposes of the first building to be completed under this planning permission. Members are aware that there is an existing hourly service running from Tamworth through Atherstone to the existing and into Nuneaton. The request would be to enable an extension of this service through the application site. It is considered that this request is compliant with the appropriate Regulations as it is necessary to make the development acceptable given the content of Policies LP1, LP23, LP27 and LP29 as well as the content of the NPPF – paragraph 89 and paragraphs 114 to 117 – and to the Warwickshire Local Transport Plan 2011-26. It is also directly related to the development and is proportionate to the scale of the development as calculated by the County Council.

10.63 As indicated, on a without prejudice basis, the applicant would include measures to secure off-site landscaping and green infrastructure together with its maintenance.. The applicant has also indicated that the additional off-site. It is considered that this requirement is compliant with Local Plan policies, LP1, LP4, LP14, LP30 as well as the policies within the Dordon Neighbourhood Plan too. Paragraph 180 of the NPPF also provides justification for this approach too. It would be directly related to the development, and it would be proportionate to the size of the development.

10.64 It is understood that National Highways will be seeking a contribution towards improvements of A5. At the present time the extent of mitigation is not fully known. It is considered that if requests are sought, then these requests could well be policy compliant with Local Plan policies LP1, LP23, LP27 and LP29 (6) together with the NPPF at paragraph 115. An assessment will need to be considered as to whether these are directly related to the development if it addresses adverse highway off-site impacts arising from the additional traffic generated by the proposal and should also be proportionate.

10.65 The applicant has indicated that they would wish to be involved in promoting access to manufacturing skills and training. This is likely to be provided through a legal agreement. Such arrangements would be policy compliant with Local Plan policies LP11 as well as the NPPF – paragraphs 85 to 87. It would be directly related to the development, and it would be proportionate to the size of the development.

g) The Final Planning Balance

10.66 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the starting point for the determination of planning applications:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”

10.67 Significantly, the policy consideration of the proposal on the Strategic Gap due to the location and scale would result in substantial harm to the identity of the settlements of Dordon and Polesworth to maintaining a Strategic Gap between it and Tamworth.

10.68 The location is within open countryside and the development would detract from the open appearance of this relatively flat open agricultural area. Overall, there is moderate harm in respect of this issue.

10.69 The visual harm of the proposed development is also a matter that weighs against the proposal. Overall, it is concluded that there is moderate harm in respect of this issue.

10.70 As yet there is no agreement that the proposal does not have a severe impact on the A5 and M42. Overall, it is considered that there is moderate harm in respect of this issue.

10.71 On the other hand, the weight to be given to the case for supporting the proposal has significantly increased given the changes to the national and local planning background against which the proposal has to be considered. Along with the economic benefits of the scheme put forward in support. From the evidence submitted, there is moderate to substantial weight given to the need for the development, however there is not an end user identified for the site. The other factors in terms of the economic impacts too put forward in support of the application these are not of sufficient weight to outweigh the significant and moderate harms caused in this instance.

10.72 On balance taking into account all of the factors for and against the proposal, it is considered that the proposal would be contrary to the Development Plan and the NPPF when taken together as a whole.

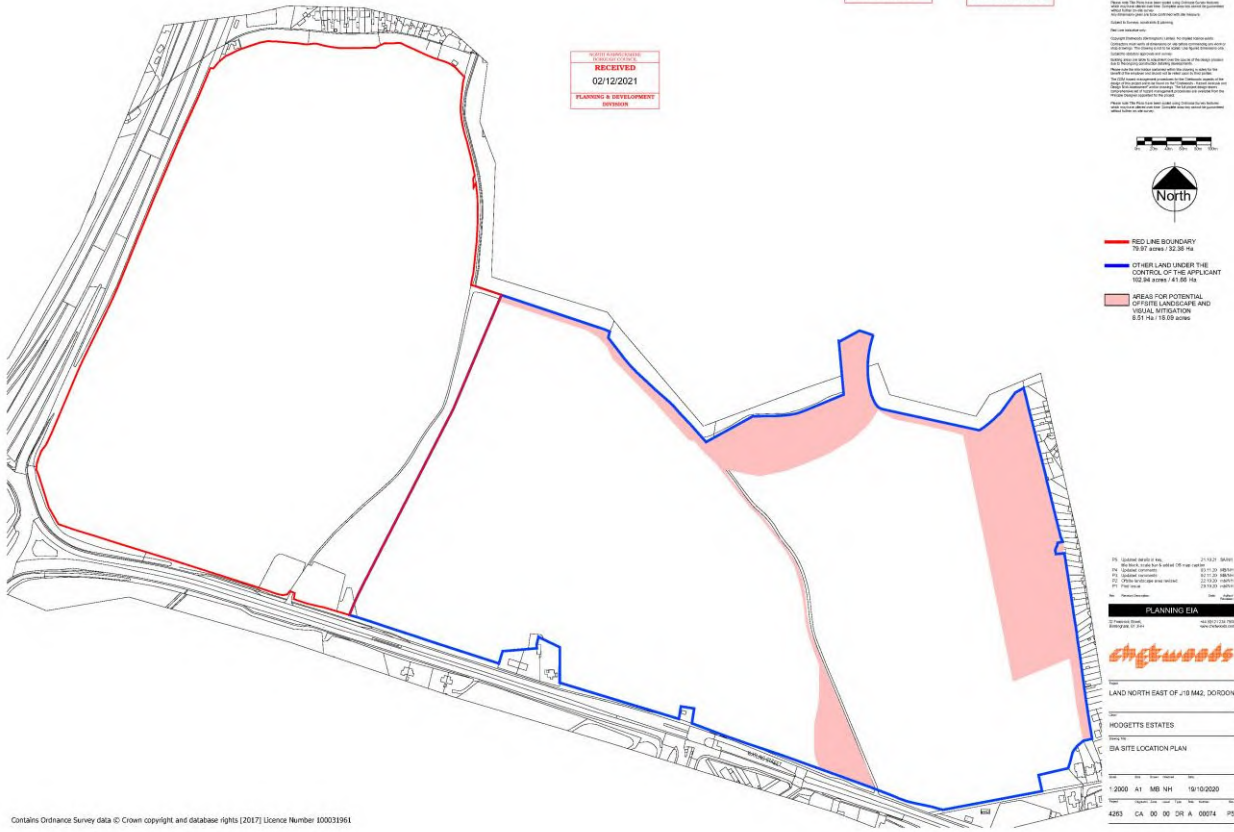
10.73 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused.

Recommendation

Members confirm that had they been able to determine the planning application they would have resolved to REFUSE PLANNING PERMISSION for the following reasons:

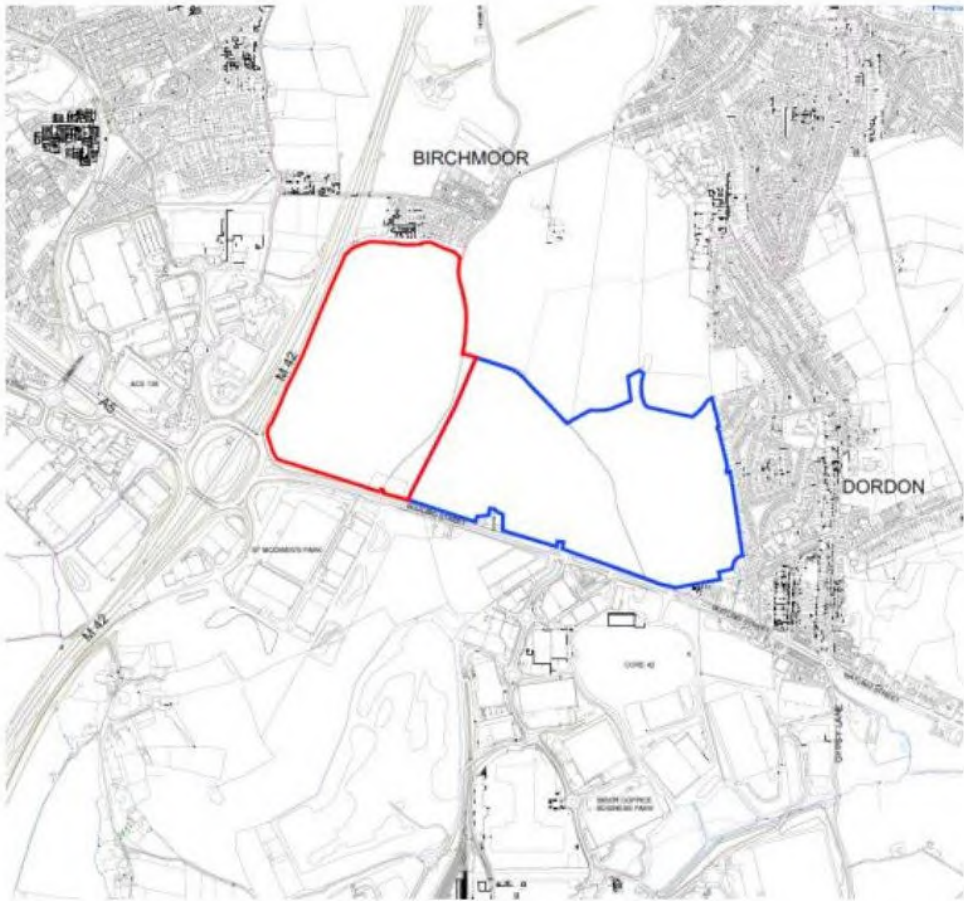
1. The proposal does not accord with Policy LP4 of the North Warwickshire Local Plan 2021 together with policies DNP1 and DNP4 of the Dordon Neighbourhood Plan 2023 in that it does not maintain the separate identities of Tamworth and Polesworth with Dordon. This is because its scale, character and appearance significantly reduces the physical and visual separation between these settlements. It is considered that the benefits of the proposal as outlined by the applicant do not outweigh this significant harm as the requirements of Local Plan Policy LP6 and LP34 are not fully demonstrated.
2. The application site lies outside of any settlement boundary as defined by Policy LP2 of the North Warwickshire Local Plan 2021 and is thus within the open countryside. The proposed development would result in a range of significant adverse landscape and visual effects which fail to respect or respond positively to the key characteristics of the surrounding area. The proposal is this contrary to Local Plan policies LP1, LP14 and LP30 together with Policies DNP1 and DNP4 of the Dordon Neighbourhood 2023 as supplemented by the National Planning Policy Framework 2023.
3. The applicant has failed to demonstrate that the development would not result in an unacceptable impact on both the strategic and local highway networks or that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would result in a severe impact on the road network contrary to policies LP23, LP27 and LP29(6) of the North Warwickshire Local Plan 2021 and paragraph 115 of the National Planning Policy Framework 2023.

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APPENDIX B



APPENDIX C

PAP/2021/0663

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Appeal Decision

Inquiry held on 20-22 September 2022

Site visit made on 23 September 2016

by **Matthew Birkinshaw BA(Hons) Msc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2016

Appeal Ref: APP/R3705/W/15/3136495

Land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by St Modwen Developments Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2014/0648, dated 17 December 2014, was refused by notice dated 11 August 2015.
 - The development proposed is the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution), demolition and removal of existing structures and associated works. Details of access submitted for approval, all other matters reserved.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution) and demolition and removal of existing structures and associated works on land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY in accordance with the terms of the application, Ref PAP/2014/0648, dated 17 December 2014, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. The application was submitted in outline with all matters reserved except for access. I have therefore determined the appeal on the same basis, treating the layout, landscaping, scale and appearance of the scheme as indicative.
 3. After the deadline for submissions the appellant provided a Supplementary Proof of Evidence on behalf of Peter Leaver. Although this introduced new information it responded to the Council's *Addendum to the 2013 Employment Land Review* which had only become available in late July 2016. It was therefore not possible for the appellant to address its content any sooner. The addendum also represents the most up-to-date evidence concerning employment land in the area and is directly relevant to the appeal. For these reasons, and considering that the Proof responded to the issues in dispute, was made available to the Council prior to the Inquiry, and discussed throughout, taking it into account would not prejudice the interests of other parties.
-

4. The appellant also provided a copy of a Council Board Report concerning new commercial development under consideration at Hams Hall, Coleshill (Ref PAP/2016/0399). As the report was dated 5 September 2016 it was not possible to include this information either. The report is also a public document, raises issues relevant to the appeal proposal and was discussed at the Inquiry. I have therefore taken it into account in my decision.
5. In response to the appellant's late submissions the Council provided additional material of their own. As this evidence relates directly to the points raised by the appellant, in the interests of fairness I have considered it as part of the appeal. Furthermore, appeal decision APP/R3705/W/16/3150719 is dated 9 September 2016, and could not have been submitted any sooner.
6. On the final day of the Inquiry a signed and dated Section 106 Agreement and a signed and dated Unilateral Undertaking were submitted. Both documents had previously been provided in draft and did not introduce any substantive new information that had not already been available. On this basis, and because it would not prejudice the interests of any party, I have considered both documents in reaching my decision.
7. Finally, following the Inquiry the Council confirmed that it had reached a unanimous decision to support the approval of planning permission at Hams Hall subject to referral to the Secretary of State (Ref PAP/2016/0399). In the interests of fairness additional comments have been sought from the appellant in response to this latest position, which I have taken into account.

Background and Main Issues

8. The appeal site comprises an area of agricultural land located to the south-east of the M42 at Junction 10. Bisected by Trinity Road it extends to roughly 25.4ha and falls outside the settlement boundaries of Tamworth to the west and Polesworth and Dordon to the east. In such areas Policy NW2 of the *North Warwickshire Local Plan Core Strategy* states that development will be limited to proposals necessary for agriculture, forestry or other uses which require a countryside location.
9. The Council's reasons for refusing planning permission are twofold. Firstly, it is claimed that the proposal would harm the separate identity of Dordon and undermine the meaningful gap between Polesworth and Dordon and Tamworth. The second reason for refusal states that the need for additional employment land is not evidenced, and that the scheme would compromise the objectives of the development plan contrary to one of the Core Planning Principles of the National Planning Policy Framework ('the Framework') which advocates that planning should be genuinely plan-led.
10. However, on the first day of the Inquiry the Council accepted that there are not currently enough allocated sites, or sites with planning permission to meet employment needs and that more land is required¹. It was also confirmed that the proposal would not prejudice the local plan-making process. Instead, the second reason for refusal was presented on the grounds that allocations in the emerging *North Warwickshire Local Plan* would provide sufficient land to meet the identified need, and subsequently, the weight which can be attributed to this factor in the planning balance is reduced².

¹ ID10

² *Trusthouse Forte* (1987) 53 P&CR 293

11. Taking this into account, and after having heard the Council's case in full at the Inquiry, the main issues are:

- The effect of the proposal on the separate identity of Dordon, and whether or not it would maintain a meaningful gap between Polesworth and Dordon and Tamworth; and
- Whether or not there is a requirement for additional employment land in the area, having particular regard to the emerging *North Warwickshire Local Plan*.

Reasons

The Separate Identity of Dordon and the Maintenance of a Meaningful Gap

12. The development boundary for Dordon is identified on the policies map carried forward from the *North Warwickshire Local Plan*. It defines an urban area focused primarily to the north of the A5. Dordon is a broadly linear settlement and is separated from the M42 by open fields and Birchmoor. This swathe of countryside, which continues south to encompass the appeal site and Freasley, divides Dordon to the east, from Tamworth to the west.

13. The maintenance of a strategic gap between Polesworth and Dordon and Tamworth has been a longstanding planning policy objective for the Council, and is very important locally. This is undisputed and is referred to in Core Strategy Policy NW19. It states that proposals "*...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.*"

Separate Identity of Dordon

14. Dordon and Tamworth are two clearly separate towns. Tamworth is located predominantly to the west of the M42 and is a considerably larger urban area. Dordon is approximately 1–1.7km to the east and is situated on higher ground rising up from the motorway. It is physically and visually divorced from Tamworth. This relationship is particularly evident from the A5 looking north-east, and from the public open space off Kitwood Avenue facing west/south-west. From both locations the expanse of farmland between the M42 and the main body of the settlement north of the A5 differentiates each settlement. This area of open land would be unaffected by the appeal scheme.

15. The Council argues that the proposal would erode an area of undeveloped land to the south of the A5 which also contributes to the separation of the two settlements. Combined with new sites proposed and under construction around the Birch Coppice Business Park it is suggested that the appeal scheme would result in an almost continuous form of development that would dilute the separate identity of Dordon.

16. However, Dordon and Birch Coppice vary in their role, form, function, layout, scale and appearance. Dordon is a small town characterised by a mix of predominantly terraced and semi-detached housing focused to the north of the A5. In contrast, Birch Coppice is situated south of the dual-carriageway and comprises a large business park with substantial commercial buildings accessed from a series of roundabouts. The settlement of 'Dordon', the separate identity of which Policy NW19 seeks to protect, is therefore materially different to Birch

Coppice, and is not currently read in the same context as the industrial development to the south.

17. Furthermore, the indicative design does not seek to act as an extension of the existing employment area. On the contrary, to the east of the appeal site (and on land controlled by the current owners) would be a substantial area of planting around the easement of a gas pipeline. Combined with the siting of the former spoil heap this would provide a physical and visual separation between the nearest proposed buildings and Birch Coppice. The plans also illustrate how a substantial landscape buffer measuring roughly 20-50m would run along the site frontage. Whilst not intended to screen the proposal, this would nonetheless limit its visual impact from the A5 and provide some relief to the built form along this side of the road.
18. In summary therefore, I consider that by reason of the large area of farmland that would remain to the north of the A5, the location of Dordon on higher ground to the east, and its materially different character and appearance to Birch Coppice, subject to an appropriate final design the proposal would respect the separate identity of Dordon. As a result, there is no conflict with the first requirement of Core Strategy Policy NW19.

Maintenance of a 'Meaningful Gap'

19. At the Inquiry the Council confirmed that there is no definition of what constitutes a 'meaningful gap' within the Core Strategy, or any other adopted development plan document. Instead, it was put to me that a judgement is required based on the evidence available, which includes the Council's 2015 *Meaningful Gap Assessment* ('MGA').
20. The MGA identifies the appeal site within Area 9. It establishes that the area is part of a significant gap between Dordon and the M42, forms part of the rural gateway to the Borough and that significant development would effectively merge the settlements of Tamworth and Dordon from Wilnecote to Birch Coppice. The Council asserts that because it would no longer be possible to ascertain where Tamworth ends and Dordon begins, there would no longer be a meaningful gap between them.
21. However, in response to suggestions that the scheme would be a logical extension of Tamworth Mrs Barratt took a different view at the Inquiry, describing how it would be read as a free-standing, separate development due to the intervening motorway. Given the size of the M42, which runs through a tree-lined cutting in this location, I agree that it provides a definitive boundary and clear separation to Tamworth beyond. On this basis the tree-lined motorway would limit the perception of any harmful coalescence from Wilnecote to Birch Coppice.
22. Furthermore, although the MGA has been subject to consultation and is a material consideration used to support the emerging Local Plan, the starting point is the adopted Core Strategy. Policy NW19 is entitled "Polesworth and Dordon". It states that development must maintain a meaningful gap between Polesworth and Dordon on one side, and Tamworth on the other.

23. With the exception of a single row of houses on the southern side of the A5 Polesworth and Dordon are concentrated to the north of the dual-carriageway. This is illustrated on the Council's policies map. In contrast, Birch Coppice is a large free-standing employment allocation to the south. Although recent expansion has brought development close to the existing row of houses accessed from the pedestrian footbridge, for the purposes of the Core Strategy it does not form part of either settlement.
24. Thus, the relevant test is whether or not a meaningful gap would be maintained to the west of Polesworth and Dordon, excluding Birch Coppice. Without encroaching on the land north of the A5 there would continue to be a large, central area of open space separating the two towns. This area and the role that it plays in separating Dordon from Tamworth are evident on the aerial photographs provided by the Council³. The photographs demonstrate that in quantitative terms, a substantial gap would be maintained.
25. That being the case, given its size, scale and proximity to Birch Coppice I have also considered the qualitative effects of the proposal. As guidance⁴ referred to by Mr Williams' points out, relying solely on a 'scale rule' approach to maintaining separation between settlements should be avoided, and the character of a place, and the land in between needs to be taken into account.
26. The only landscape/visual assessment relied upon by the Council is the MGA. This uses a traffic-light scoring system and concludes that development of the appeal site and its immediate surroundings would undermine the gap. Although the traffic-light system is easy for members of the public to follow, there is no indication how the scores have been reached in a transparent and consistent manner. The MGA also relies on the 'geographic proximity/narrowness of the gap' in each sub-area without any detailed qualitative assessment of how the character of the area would change, or how it would be perceived from any locally important viewpoints.
27. On the other hand the appellant has provided a qualitative and quantitative assessment, in addition to the Landscape and Visual Impact Assessment (LVIA) submitted with the planning application. This evidence identifies that the appreciation of the gap between Dordon and Tamworth is not only based on cartographic geometry, but how it is perceived from the A5, surrounding public footpaths and from the respective settlements.
28. One of the main viewpoints of the site is from the A5 travelling east after leaving the roundabout at Junction 10. At present the open fields in front of the spoil heap are clearly visible to drivers and passengers. At the Inquiry it was argued that eroding this part of 'the gap' would change the approach into North Warwickshire and undermine the concept of leaving an urban area and travelling into a rural one, contrary to the spatial vision of the Core Strategy.
29. However, after a very short distance, and just beyond the 'Welcome to Warwickshire' sign referred to by the parties the fields north of the A5 come into view. Because the farmland drops down below the road before rising up, combined with its open character and proximity to the east-bound carriageway this area of countryside dominates the foreground. Dordon becomes visible at a higher level and there is an unequivocal gap in between. The undulating,

³ ID11

⁴ Planning on the Doorstep: The Big Issues – Green Belt

open character of the farmland to the north of the A5 would therefore ensure that drivers entering the Borough and heading east would still be faced with a predominantly rural setting to Dordon. Based on the evidence provided the scheme would not conflict with the spatial vision of the Core Strategy.

30. Travelling further east the main public viewpoint from Dordon is taken from the sports pitch beyond Kitwood Avenue. From this elevated position views of Birch Coppice and the large commercial buildings beyond the M42 are possible. Due to the size and scale of the appeal proposal it would introduce a highly visible form of development into the swathe of countryside which follows the M42 to the south, especially at night from street lights, buildings and vehicles.
31. Nevertheless, the expanse of farmland between the M42 and Dordon would extend beyond the sports pitch for some considerable distance down to the motorway. Due to the openness of this area, its lack of significant built form and the change in level, residents on the western edge of Dordon would continue to experience an unequivocal sense of separation from Tamworth.
32. Elsewhere clear views of the appeal site are possible from the public right of way to the north of the A5. In this location the scheme would result in one of the greatest changes to the countryside separating Dordon and Tamworth. Although the scale of development would erode the open fields between the spoil heap and Trinity Road, members of the public looking towards the site would do so from open agricultural land, with Dordon above and Tamworth on the other side of the M42. Walkers would therefore still be able to easily ascertain that there was a large, clear gap between the two settlements.
33. Similarly, from land south of the A5 there would be a demonstrable change to the local environment viewed from Trinity Road and/or public footpaths AE55 and AE52. Despite the foreground becoming dominated by development, when looking north-east from footpath AE52 views of the open land beyond the A5 would continue to be possible along the landscaped eastern site boundary with the majority of Birch Coppice screened behind the spoil heap. When passing through the site along footpath AE55 the open area of farmland north of the A5 would come into view and the appreciation of a strategic gap between Dordon and the motorway would remain.
34. In reaching this view I have taken into account that other developments have been granted planning permission in the area, and that additional sites are proposed for allocation in the emerging Local Plan. Nevertheless, there is nothing to suggest that the open land north of the A5 would be eroded. Even in the event that proposed allocation DOR22 is completed, this area would continue to provide a clear separation between the two towns. As identified above, the indicative layout also illustrates that buildings would be set-back from the A5 behind a formal area of planting, in addition to a generous landscape buffer along the eastern site boundary. Combined with the partial screening of Birch Coppice afforded by the spoil heap from the south and west this would prevent the creation of a continuous line of built development along the road frontage.

Summary

35. Based on the evidence provided I therefore conclude that due to the open farmland to the north of the A5, combined with the location of Dordon on higher ground, it's different character and appearance to Birch Coppice and the

inclusion of a landscaped buffer along the eastern site boundary, the proposal would respect the separate identity of Dordon, and, maintain a meaningful gap between Polesworth and Dordon and Tamworth. As a result, there is no conflict with Core Strategy Policy NW19. Subject to a high quality design at the reserved matters stage the proposal would also accord with Core Strategy Policy NW12 which, amongst other things, requires developments to demonstrate a high quality design that positively improves the character, appearance and environmental quality of an area.

36. Draft Policy LP5 in the emerging *North Warwickshire Local Plan* includes a third criterion that all new development in the 'gap' should be small in scale, not intrude visually into the gap, or physically reduce its size. However, the plan is only at the draft stage and consultation is still on-going. Bearing in mind that they may be subject to change, I have not given Policies LP5 and LP2 any significant weight in reaching my decision.

The Need for Employment Land

37. The Core Strategy was adopted in 2014 and states that between 2011 and 2029 a minimum of 60ha of 'local employment land' will be provided. It also seeks to direct employment towards settlements appropriate to their size and position in the hierarchy.
38. The Inspector's Report into the Examination of the Core Strategy made clear that it only relates to 'local' employment land. Although the September 2013 Employment Land Review (ELR) identified a requirement for regional logistics sites, the Core Strategy does not seek to meet this need. The Inspector found insufficient evidence to set a requirement for North Warwickshire when sub-regional work was still on-going. Rather than increase the number of allocated sites it was therefore considered more appropriate to adopt the Core Strategy and include a mechanism for an early review.
39. Since adoption of the Core Strategy various studies concerning employment land have been published, both regionally and locally. Some of the most up-to-date include the *West Midlands Strategic Employment Sites Study* (WMSESS, September 2015) and the *Addendum to the 2013 Employment Land Review* (ELR Addendum, April 2016). Evidence relating to the scale of unmet housing and employment needs from neighbouring authorities has also emerged. Prompted by this change in circumstances the Council has committed to an early review of the Core Strategy and produced a new draft Local Plan reflecting the higher housing and employment land requirements.
40. The Council has not stood back and by committing to the preparation of a new local plan has clearly 'grasped the nettle' when it comes to positively planning for growth. It is accepted that there is a need for additional employment land and this is what the emerging Local Plan seeks to achieve⁵. A considerable amount of Inquiry time was therefore spent assessing the draft allocations in the emerging Local Plan against the requirement to provide up to 97ha of employment land. In summary, the Council identifies a supply of between roughly 88.38ha and 111.98ha, whereas the appellant suggests that around 63.58ha is more accurate⁶.

⁵ ID29

⁶ ID8

41. However, assessing proposed allocations in the emerging Local Plan is not a matter for me. With the exception of a letter⁷ received on the final day of the Inquiry from Hodgetts Estates the submitted evidence has been predominantly provided by the two main parties. Testing whether or not the allocation of particular sites is justified, effective and consistent with national policy is for the examination process to consider when all of the relevant factors, including representations from all relevant parties, can be taken into account.
42. Instead, paragraph 216 of the Framework advocates that the weight decision-takers should give to relevant policies in emerging plans depends on their stage of preparation and the extent to which there are unresolved objections. In this case the emerging Local Plan is only at draft stage and the consultation period is on-going. The plan may be subject to change, and assessment of the appeal scheme has already identified an increase in employment land arising from discrepancies in the methodology used. The weight which can be attributed to potential employment allocations is therefore only limited.
43. In reaching this view I have taken into account that the proposed allocations include land at Centurion Park (which has planning permission) and Birch Coppice (which is an established business park). Such sites have a greater degree of certainty than others given their existing/permitted uses. The Council has also identified an additional 24.8ha in reserve at 'MIRA'.
44. Nonetheless, some of the other proposed allocations include sites which are within the Green Belt, have not been considered before and involve the relocation of allotments. Although the Council supports the release of Green Belt land at Hams Hall, permission has not yet been granted. Discussions with allotment holders in respect of land adjacent to the A5 are also at a relatively early stage. There are also other factors which need to be resolved through the consultation and examination processes. For example, the figures in ID8 include roughly 8.5ha of land allocated at Centurion Park, yet this has been considered in the supply as an extant planning permission.

Tamworth's Needs

45. In addition to the Council's needs it is also necessary to consider the requirements for additional employment land arising from Tamworth. In January 2015 the Head of Planning and Regeneration confirmed that only roughly 18ha of employment land was available, leaving a shortfall of some 14ha to be met elsewhere. Representations confirmed that;
- "...To date there has been no progression on preparing any joint work between the three local authorities, specifically with consideration of meeting the 14ha of unmet employment need arising from Tamworth. As there has been no wider, strategic work which considers a range of potential sites in North Warwickshire or Lichfield, this site currently presents the only option of meeting this need."*
46. The position has moved-on since January 2015 and a draft Memorandum of Understanding (MoU)⁸ has been provided between Tamworth Borough Council, Lichfield District Council and North Warwickshire Borough Council. It confirms that North Warwickshire has identified 8.5ha to the south-west of Junction 10 (at Centurion Park) to deliver part of the 14ha which cannot be accommodated

⁷ ID24

⁸ ID12

in Tamworth. Correspondence from Lichfield District Council⁹ also states that it will 'investigate' providing the remaining 6.5ha¹⁰ through its local plan process.

47. However, whilst this confirms that the three Councils have been actively working together on a cooperative basis, the MoU has not been signed. Furthermore, a Statement of Common Ground between the appellant and Tamworth Borough Council was produced for the Examination of the *Tamworth Local Plan*. This was dated May 2015, after planning permission was granted at Centurion Park, and confirmed that:

"The planning permission for 8.5 hectares gross (5.3 hectares net) has been allocated by North Warwickshire Borough Council in its draft Site Allocations Plan (DOR24) and forms part of the employment supply to meet its own local employment needs, as justified by NWBC in its report of the application to Planning Committee."

48. There also remains approximately a further 5.5ha to find with no concrete commitment from Lichfield to provide this anytime soon. Given the appeal site's proximity to Tamworth, the proposal would therefore be ideally placed to satisfy this requirement.

Wider than Local Needs for Large Sites

49. Paragraph 7.48 of the emerging Local Plan confirms that since the preparation of the Core Strategy studies have identified a wider than local need for large sites. Despite this, because such sites coming forward elsewhere it is not an issue that the Local Plan seeks to address. The Council adopted a similar argument at the Inquiry, namely, that the emergence of Peddimore, Magna Park and the East Midlands Gateway, combined with extensions to Birch Coppice and the 20ha of land proposed at Hams Hall point to a healthy supply of strategic sites.
50. It is appreciated that there are other large sites across the region which *could* contribute to the need cited in paragraph 7.48 of the draft Plan. Nevertheless, no site specific assessment has been undertaken to consider where this need should be met, and the Council confirms that this work has not yet been commissioned.
51. On the other hand the WMSESS identifies 'functional market areas' throughout the West Midlands based on factors such as proximity to motorways and the workforce. When considering past annual take-up against immediately available floorspace it confirms that along the M42 corridor the supply of large sites is the tightest, amounting to only roughly 3.7 years. One of the reasons for this is due to the length of time sites such as Peddimore are likely to take coming forward.
52. It is appreciated that there is no policy requirement to provide 5 years' worth of employment land. This is reflected in the appeal decisions referred to by the Council¹¹. The assessment in the WMSESS is also based on annual take-up and "immediately" available supply, which is different to Footnote 11 of the Framework which the parties referred to throughout the Inquiry.

⁹ ID20

¹⁰ Inspector's Note: Notwithstanding 14ha – 8.5ha in North Warwickshire leaves only 5.5ha to find in Lichfield

¹¹ Appeal Refs APP/U2235/A/14/2224036 and APP/U2235/A/14/2229271

53. Nevertheless, the WMSESS represents one of the most up-to-date studies available and points to a demonstrable need for additional strategic sites in the area. I am also mindful that the Coventry and Warwickshire Chamber of Commerce advise¹² that a fundamental barrier to business expansion and growth in the sub-region is the shortage of premises for offices, industry and warehousing. Although the Chamber of Commerce has not assessed the different type of land requirements in the same way as the main parties, the current situation is described as *"...particularly acute and, if not addressed in the very near future, will mean that plans for growth, change and investment by SMEs and major employers will be severely hampered."*
54. Furthermore, the lack of available strategic sites was identified as one of the material considerations in the Council's decision to support the principle of development in the Green Belt at Hams Hall (Ref PAP/2016/0399). Whilst it was put to me that the 20ha proposed for allocation at Hams Hall would satisfy this requirement, the draft Local Plan makes it clear that it does not consider regional needs for large sites (paragraph 7.48).

Summary

55. New evidence has emerged which points to the need for additional employment land in North Warwickshire over and above the adopted Core Strategy. The Council's November 2016 Board Report concerning proposed development in the Green Belt at Hams Hall describes this evidence as up-to-date, relevant and carries 'significant weight'. Although the Council has sought to argue that this need would be met by allocations in the emerging Local Plan, this is only at a draft stage and may be subject to change. I also find no persuasive evidence that either Tamworth's requirements, or the need for strategic sites has been adequately met (or if it has, that additional land has been identified). In this context the contribution that the scheme would make towards the provision of employment land weighs heavily in its favour.

Other Material Planning Considerations

Heritage Assets

56. Situated approximately 40-150m to the south-west of the appeal site are four Grade II listed buildings and structures. They include Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House. In considering the proposal I have therefore had special regard to the desirability of preserving their setting.
57. The gardens and private curtilages of the properties are important attributes which form part of their setting. So does the wider settlement of Freasley and its surrounding fields and woodland, which contribute positively to their significance as designated heritage assets.
58. Although the proposal would result in the loss of agricultural land around Freasley, the indicative layout illustrates significant areas of parkland to the south-west corner of the site. Landscaped buffers measuring a minimum of 6m deep are also shown around the southern edge of the site, whilst wildflower grassland would retain the views of open fields from Freasley Hall. Combined with the degree of separation that would be maintained between Freasley and the nearest built development, I agree with the main parties that the setting of

¹² ID1

Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House would be preserved.

Traffic Generation and Highway Safety

59. On the final day of the Inquiry it was put to me that the data contained in the Highways Statement of Common Ground was flawed. It was also claimed that the data had not been made available, and that the scheme would significantly increase traffic on Trinity Road, the roundabout at Junction 10 and on the A5. At the planning application stage local residents identified similar issues with traffic volumes, congestion and highway safety on Trinity Road in particular.
60. In terms of the reliability and availability of data the planning application was accompanied by a Transport Assessment and Framework Travel Plan which formed part of the appellant's submission. In response to this the County Council Highways Officer and Highways England concluded that the scheme would be acceptable subject to certain mitigation measures. This is reflected in the submitted Highways Statement of Common Ground.
61. Whilst I empathise with local residents and appreciate the difficulties in assimilating large technical documents, no contradictory evidence or objective analysis has been submitted to suggest that these conclusions are incorrect. Consequently, there is no robust information before me to reach a different view. Although traffic would undoubtedly increase on Trinity Road, the A5 and around Junction 10, the parties agree that that this would not be hazardous to road safety, or significantly undermine network capacity.
62. Concerns have also been raised that the lay-by on the west-bound side of the A5 would become used as a drop-off point for potential future employees causing traffic to back-up to the detriment of safety, that the footpath on this stretch of the A5 is too narrow, and that there is no bus stop.
63. In terms of the lay-by and its relationship to the site entrance and/or public right of way this would be a matter for the final detailed design to consider. Given the space available I am satisfied that the internal layout and landscaping could be configured in a way that would prevent the lay-by becoming used as a popular drop-off area for employees. Aside from the upgrades to the A5 proposed as part of the scheme there is also no request from the relevant Highways Authority to make any further changes to the footpath on the A5. Based on the evidence provided and observations at my site visit I find no reasons to disagree.
64. With regard to public transport provision there is currently a bus-stop on the east-bound side of the A5. As set out in the Highways Statement of Common Ground, it has been agreed that the appellant would either provide a new bus-stop on the southern, west-bound side of the road, or, fund the diversion of a service into the site with a suitable bus-stop and turning area in the design. Both options are included in the signed Section 106 Agreement and would negate the need for potential future employees to cross the A5 in order to access public transport provision.
65. In summary therefore, I find no conflict with the Framework which advocates that development should only be refused on transport grounds where the residual cumulative impacts are severe.

Character and Appearance of Freasley

66. Freasley is a small hamlet accessed from Trinity Road to the south-west of the appeal site. Given the scale of development proposed the approach to the hamlet from the M42 would change. Upon leaving the roundabout at Junction 10 and travelling south-west residents would be faced with new industrial development on either side of Trinity Road, rather than open fields.
67. However, this would only be for a relatively short distance. The indicative layout illustrates new parkland adjacent to Trinity Road around the south-west corner of the site providing a landscaped buffer to the hamlet. Generous separation between built development and Freasley would therefore remain.
68. Furthermore, there is no vehicular access through Freasley to the appeal site or Birch Coppice. As such, it has a materially different character to Trinity Road. When driving through the hamlet the combination of traditional buildings, mature trees and open spaces create an attractive, rural feel to the area. Due to the degree of separation from the appeal site and the indicative use of landscaping proposed this would be unaffected. The distinction between the character and appearance of Freasley and the industrial and commercial development around Junction 10 would be maintained.
69. Although some local residents fear that allowing the appeal would set a precedent for more development around Freasley, which in turn would affect its character and setting, each proposal must be considered on its own merits. Further development to the south of the site would require planning permission, and the cumulative effects would therefore be considered as part of any potential future planning application process.

Living Conditions of Neighbouring Resident

70. Nos. 17 and 18 Watling Street are situated to the north-east of the appeal site. Despite being the nearest residential properties to the proposal they would be separated from the nearest development by the landscaped buffer along the eastern boundary and the easement for the gas pipeline. An even larger area of open space would separate the nearest houses in Freasley. Subject to an appropriate lighting strategy, consideration of the site layout and controls over finished floor levels, the intervening landscaped areas would ensure that no unacceptable harm would occur to residents' outlook, privacy or levels of available sunlight. For the same reasons no harmful disturbance would occur from the headlights of HGVs within the site. Bearing in mind the amount of traffic already using the A5 and the change in vehicle numbers that would be perceptible to residents, headlights from additional vehicles on the highway network would not give rise to a noticeable, harmful level of disturbance either.
71. With regard to noise and vibration the appellant has conducted surveys at various locations across the site, including to the north-east corner nearest the A5 and the south-west corner closest to houses in Freasley. In summary the report found that the predicted noise levels from activities on the site would be below a level likely to cause sleep disturbance. It also concluded that the effects on nearby properties from plant noise would be negligible, and that traffic increases would generate "*barely perceptible changes in noise level on the surrounding network...*" As this is the only site specific assessment that has been carried out, I find no reasons to reach a different conclusion.

Human Rights

72. Representations at the planning application stage claim that the rights of the occupiers of Hall End Cottages, under the Human Rights Act 1998 (Article 8), would be violated should planning permission be granted. The claims are made on the grounds that occupiers would be affected by disturbed coal seams, from radon and argon gases, air pollution and illumination from security lights, vehicles and street lighting.
73. For the reasons given above I have already concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring residential properties having regard to their outlook, privacy, available levels of sunlight, or from illumination, noise and vibration. Thus, the degree of interference would be insufficient to give rise to a violation of rights under Article 8.
74. With regard to coal seams the appellant has provided a Preliminary Geo-environmental Interpretative Report which confirms that the site is in a zone of influence from 6 seams at depths of between 170m and 320m, last worked in 1973. However, reference is made to confirmation from the Coal Authority that any ground movement from coal mining should have stopped, and that there is no record of gas emissions requiring action on site. The report also deals specifically with radon and confirms that protective measures are not considered necessary as the site is located in a lower-intermediate probability radon area. In addition, no evidence has been provided to indicate a harmful presence of argon, and given the degree of separation between the nearest buildings and residential properties, there is nothing to suggest that any structural damage would occur as a result of building works.
75. The potential for air pollution and dust has also been considered by the appellant. The submitted assessment establishes that air quality in the area is currently acceptable based on objectives in *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland* (DEFRA, 2007). Against this baseline consideration has been given to pollutants associated with traffic (nitrogen dioxide and fine particulate matter) and the construction process. In summary the report concludes that air quality at existing properties nearby would be affected, but that the changes would represent imperceptible increases in the concentrations of nitrogen dioxide and fine particulate matter. The impacts would therefore be negligible.
76. The Environmental Statement submitted with the planning application also recognises that construction works would have the potential to create dust. The local community may therefore experience occasional, short-term adverse impacts. Nevertheless, this could be mitigated by adhering to a management plan which would limit the short-term effects of construction. Such measures could be controlled and enforced through the use of a suitably worded planning condition.
77. Based on the information provided I therefore find no evidence to suggest that there would be any significant harm caused from structural damage, the presence of coal seams, gases or from air pollution. Consequently, the Human Rights of the occupiers of 15 and 17 Hall End Cottages would not be violated.

Biodiversity and Protected Species

78. The appeal site does not contain any statutory designated sites of nature conservation interest. The nearest is the Kettle Brook Local Nature Reserve (LNR), approximately 0.3km away.
79. As the LNR is on the opposite side of the motorway the proposal would have no direct impact on its wetland habitat, wild flower meadows and woodland. The use of measures to stop any petrochemical contamination of surface water from machinery or stored fuels could also be controlled and enforced by a suitably worded planning condition. This would prevent contaminated surface water discharging into Kettle Brook and reaching the LNR.
80. With regard to protected species the appellant's surveys found no evidence of bats or great crested newts (GCN) on the site. Although a GCN breeding pond was identified approximately 200m to the south-west it would be unaffected by the development. Based on the illustrative plans the nearest built development would also be roughly 550m from the pond, and the arable habitat of the site is only of very limited value to GCN in their terrestrial phase. Thus, no offence would be likely to occur.
81. In terms of other species three badger setts were recorded within the site boundary. Despite seeking to retain the setts, the Environmental Statement found that it would be necessary to temporarily close Sett 3 given its proximity to new buildings. Whilst the report does not suggest that such practices would be inappropriate, I am mindful that the application was submitted in outline. Given the size of the site there are no reasons to indicate that development could not come forward without damaging the sett. Subject to an appropriate landscaping scheme the proposal would provide enhanced foraging resources for Badgers and result in a net gain to their habitat.

Use of Agricultural Land

82. The appeal site comprises Grades 2 and 3a agricultural land, defined as 'the best and most versatile'. I have therefore borne in mind paragraph 112 of the Framework. It states that consideration must be given to the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, decision-makers should seek to use areas of poorer quality land in preference to that of a higher quality.
83. In reaching a balanced view this harm must be considered in the context of local area and the other benefits that the scheme would deliver. In this case the Council acknowledges that there is a need for additional employment, and the draft allocations in the emerging Local Plan include the use of agricultural, and even some Green Belt land. A substantial swathe of agricultural land would also be retained to the north of the site providing a meaningful gap between Dordon and Tamworth. Furthermore, no evidence has been provided to suggest that the scheme would have any adverse impact on the wider availability of the best and most versatile agricultural land in the area. The loss of the appeal site to agricultural uses must therefore be considered in this context, and the wider socio-economic benefits that it would provide.

Public Right of Way Network and Other Considerations

84. Public footpaths AE55 and AE52 cross the appeal site. Although the indicative layout shows the diversion of AE55, the County Council's Rights of Way Officer has not objected to the scheme. Based on the evidence provided I agree that an adequate route could be maintained through the appeal site which would not prejudice users of the local public right of way network.
85. Finally, I have also taken into account concerns that the proposal would devalue properties and lead to vandalism, crime and anti-social behaviour. However, no evidence has been provided to substantiate these comments. As a result, I have not given them any significant weight in reaching my decision.

Planning Obligations

86. The submitted Section 106 Agreement includes a commitment to either provide a new bus-stop on the A5, or, include a stop within the site and contribute to the diversion of the 766/767 services as required. A training and skills contribution of £60,000 is also included. Alongside this is a Unilateral Undertaking which makes provision for landscaping works to the east of the site, a commitment to comply with the Considerate Constructors Scheme, and to promote training for employees in the construction phase.
87. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.
88. Policy TPT3 of the *North Warwickshire Local Plan* states that development will not be permitted unless it maximises practicable opportunities for the use of sustainable modes of transport, including travel by bus. One of the Framework's Core Planning Principles also advocates that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. The provision of an additional bus stop on the A5, or contributions to divert existing services to a new stop within the site are therefore necessary to make the development acceptable in planning terms, and are directly related. They are also fairly and reasonably related in scale and kind to the size and scale of development proposed.
89. Core Strategy Policy NW22 also states that planning obligations will be used to secure four key priorities, one of which is the provision of training and up-skilling opportunities. The inclusion of a contribution in the Section 106 Agreement towards a programme of careers advice and engagement aimed at people not in education, employment or training is therefore necessary to make the development acceptable in planning terms. It is also directly related to the development proposed and is fairly and reasonably related in scale and kind.
90. In terms of the Unilateral Undertaking landscaping to the east is necessary to make the development acceptable in planning terms by maintaining separation to Birch Coppice. The promotion of localised training opportunities is also necessary in accordance with Core Strategy Policy NW22, and to mitigate the effects of building work on local residents' living conditions adhering to a considerate constructors' scheme is required. Moreover, all the provisions are directly related, and fairly and reasonably related in scale and kind.

91. In summary therefore, the provisions in both the Section 106 Agreement and Unilateral Undertaking meet the requirements of the CIL Regulations, and I have taken them into account in reaching my decision.

Conclusion and Balancing Exercise

92. The proposal conflicts with Core Strategy Policy NW2 which limits development outside Category 1-4 settlements. It is also contrary to Core Strategy Policy NW9 which directs employment uses to settlements appropriate to their size and position in the hierarchy, and would result in the loss of an area of best and most versatile agricultural land.
93. However, the Framework confirms that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case there are several material considerations which justify departing from Core Strategy Policies NW2 and NW19.
94. Firstly, new evidence has emerged since adoption of the Core Strategy which points to a need for additional employment land. Although it is suggested that there are other, more suitable sites available to meet this need, consultation on the draft allocations is still on-going. Moreover, the emerging plan does not intend to meet wider than local needs for large sites, and neighbouring Tamworth has a requirement of 14ha which it cannot provide. This was identified after planning permission was granted at Centurion Park and the MoU has not been signed, with Lichfield District Council only committing to investigate providing their 'share'.
95. In resolving to support the approval of planning permission for new development in the Green Belt at Hams Hall the Council described the latest evidence concerning employment land as up-to-date, relevant and carrying significant weight. This need exists now and is described by the local Chamber of Commerce as 'particularly acute'. Situated close to Tamworth and the Birmingham Intermodal Freight Terminal (BIFT) the appeal scheme would be ideally placed to make a significant contribution to meeting this need, and the indicative mix of building sizes would offer employment space for a range of local and regional operators.
96. Secondly, the principal reason why the appeal site has not been included as an option to help meet this need is due to its location within a strategic gap separating Polesworth and Dordon from Tamworth. However, in response to the Council's concerns the appellant has provided a qualitative and quantitative assessment on the effect of development within this gap, in addition to a LVIA submitted as part of an Environmental Statement.
97. Based on the evidence provided I agree that the retention of the farmland to the north of the A5 is critical, and by reason of its topography and open character this area of land would continue to provide a meaningful gap between Polesworth and Dordon and Tamworth. Because Dordon is a town characterised by twentieth century housing and is located on higher land predominantly to the north of the A5, subject to an appropriate design at the reserved matters stage its separate identity would also be respected. As a result, there is no conflict with Core Strategy Policy NW19, which is the only adopted development plan policy relating to the 'gap'.

98. Thirdly, paragraphs 18 and 19 of the Framework confirm that the Government is committed to securing economic growth in order to create jobs and prosperity, and ensuring that the planning system does everything it can to support sustainable economic growth. With this in mind the proposal would generate between roughly 1,170 and approximately 1,550 FTE jobs, with around 290 temporary roles provided in the construction process. These jobs would be created in an area where within 5km of the appeal site 9 Lower Super Output Areas are ranked in the lowest 20% nationally against the Index of Multiple Deprivation. Additional jobs would also be created as a result of the positive knock-on effect from the proposal, estimated to peak at around 1,650. In total the net impact on the local economy would be in the region of £70m-£90m, and the socio-economic benefits of the scheme would be substantial.
99. When considered against the Framework taken as a whole the proposal would therefore resonate with the principles of sustainable development. It would contribute towards building a strong, responsive and competitive economy whilst supporting growth and innovation in an area where demand is high. Although there would be some loss of countryside that separates Polesworth and Dordon from Tamworth, the evidence provided demonstrates how the scheme has taken account of the different roles and character of the different areas, and would maintain a meaningful gap between the two towns. In environmental terms it would also be consistent with one of the Framework's Core Planning Principles which seeks to ensure that planning actively manages patterns of growth to make the fullest possible use of public transport, walking and cycling, and focuses significant development in locations which are or can be made sustainable.
100. When taking all these factors into account I consider that the other material considerations are of such significance that they warrant a decision not in accordance with Core Strategy Policies NW2 and NW9. The proposal would represent a sustainable form of development as defined by the Framework, and combined the benefits of allowing the appeal would be substantial. Based on the evidence provided in this particular case these factors justify granting planning permission.

Overall Conclusion and Conditions

101. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
102. In order to define the permission, and because the application was submitted in outline it is necessary to list the reserved matters for which approval must be sought, and define any relevant phases. Considering the scale of the development, and the fact that the design of individual plots may progress at different rates, I agree that it is necessary to require submission of the first reserved matters within 2 years, and all reserved matters within 5 years. A condition is also required to ensure that development takes place within 3 years of the approval of the final reserved matters.
103. To ensure that the development is carried out as approved it is necessary to list the relevant plans. However, this is only necessary in relation to the access as the remaining details are indicative. In the interests of highway safety, and because there are other openings along Trinity Road a condition is also required to specify that access for motor vehicle must only be taken from the locations identified on plan Ref 1148-12/H.

104. In the interests of highway safety and the efficient operation of the highway network conditions are necessary to restrict the total amount of floorspace permitted as part of the final design, and the amount of floorspace in Use Classes B1(c) and B2 (industrial processes). To define the permission it is also necessary to refer to the parameters plan for subsequent reserved matters submissions to follow.
105. The interests of preserving any potential archaeological remains necessitate a condition requiring the submission, approval and implementation of a written scheme of investigation (WSI), and any fieldwork as necessary. As discussed at the Inquiry, in order to be precise I have amended the proposed wording to require the WSI to be submitted and approved in writing prior to the commencement of development. To avoid any uncertainty it is also necessary to refer to fieldwork 'as required', and specify that the written report is submitted in accordance with the agreed programme.
106. The same reasons also necessitate a condition requiring the approval of a mitigation strategy as required. Given the nature of buried remains the written scheme of investigation and mitigation strategy would both be required prior to the commencement of development. Ensuring that the investigations and mitigation strategies are adequately completed, along with any post-excavation analysis also necessitates the imposition of condition no.11.
107. Although the parties suggest that a condition is required to restrict work starting until details of landscaping, boundary treatments and drainage along the M42 and A5 frontages are approved, landscaping is a reserved matter. Issues relating to drainage are also addressed by proposed condition no.26.
108. To protect the living conditions of neighbouring residents and in the interests of highway safety a construction management plan is required. However, as discussed at the Inquiry protecting features of 'ecological interest' is unclear and is unnecessary given the need to adhere to mitigation measures referred to in Condition 16. Defining 'extraneous material' is also imprecise and I have therefore reworded the condition to require the construction management plan to include wheel washing facilities. This is more precise and allows the local planning authority to ensure that appropriate practices are still put in place.
109. In the in interests of the character and appearance of the site and surrounding area a condition is required relating to the approval of site levels. To be more precise I have reworded the suggested condition by referring to the finished floor levels of the proposed buildings, and not just 'ground levels'. For the same reasons a condition relating to the approval of external lighting is also necessary. Given that site levels and lighting are directly related to the construction of buildings, roads and public areas their approval is required before any development starts on site.
110. The interests of protecting biodiversity and ecology require the approval and implementation of a Habitat Creation, Enhancement and Management Plan and Programme. In order to provide adequate drainage and reduce the risk of flooding the approval of details relating to foul and surface water management are also necessary, along with their implementation. Because both requirements relate to the construction of the development their approval is necessary prior to the commencement of development.

111. For reasons of highway safety and providing adequate access it is necessary to ensure that the proposed signalised junction, Non-Motorised User Link connection, pedestrian and cycle paths, and means of accessing individual plots are provided prior to the occupation of the development. The interests of promoting more sustainable modes of transport also require approval of a travel plan. However, in the absence of any details relating to the current 'Highway Authority specifications' I have reworded proposed condition no.12 to require the details to be first submitted to and approved in writing by the local planning authority. This is more precise and still allows for relevant standards to be met. I have also reworded proposed condition no.20 to remove the ability to amend the proposed link through submission of subsequent designs, which would not have been subject to the same consultation as the details accompanying the appeal scheme.
112. In the interests of the living conditions of neighbouring residents it is necessary to restrict the use of external sound amplification equipment unless the details have been first submitted to and approved in writing by the local planning authority.
113. In the interests of the character and appearance of the site and surrounding area it is necessary to ensure that all landscaped areas are appropriately managed. For the same reasons a condition is required to ensure that any trees or plants which, within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority. This flexibility allows for other suitable alternative species to be used in the event that one fails.
114. Condition no.26 is necessary in the interests preventing the spread of unexpected contamination during construction. In order to be more effective, precise and enforceable I have reworded the suggested condition by requiring the suspension of development on the part of the site affected, and, specifying that remediation and verification schemes are carried out before the development or relevant phase of development is resumed or continued.
115. Finally, in the interests of safety a condition is required to ensure that adequate facilities for fire fighting are made available, although I find no reasons why the details should be provided prior to the commencement of development. I have therefore reworded the suggested condition by requiring water supplies and fire hydrants for fire fighting purposes to be in place for each phase prior to first occupation.

Matthew Birkinshaw

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Isabella Tafur of Counsel She called	Dorothy Barratt BA(Hons), DUPI, MRTPI Forward Planning & Economic Strategy Manager, North Warwickshire Borough Council
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FOR THE APPELLANT:

Paul G Tucker of Queen's Counsel He called	Andrew Williams BA(Hons), DipLA, DipUD, CMLI Director, Define Peter Leaver BA MRICS Director, JLL Robert Barnes MA BA(Hons) MRTPI Director, Planning Prospects Ltd.
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INTERESTED PERSONS:

Mr Pritchard	Local Resident
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INQUIRY DOCUMENTS

ID1	Representation from Coventry and Warwickshire Chamber of Commerce
ID2	Plan of Manor Park, Coleshill, Warwickshire
ID3	Representation to planning application PAP/2016/0399 on behalf of St Modwen Developments Ltd
ID4	Plan Ref CT-06-133 – Proposed HS2 route at Coleshill Manor Office Campus
ID5	Plan Title – Coleshill Manor Consent – Impact by HS2
ID6	Plan Title – Additional Area owned by IM and unaffected by HS2
ID7	GL Hearn's Rebuttal Note to 'Note on GL Hearn Addendum Report to 2013 ELR' by Regeneris, September 2016
ID8	Statement of Common Ground concerning Figures for Employment Land Need and Supply
ID9	Opening Submissions on behalf of the Appellant
ID10	Opening Statement on behalf of North Warwickshire Borough Council
ID11	Aerial Photographs of the M42 Junction 10 and area around Dordon
ID12	Unsigned Memorandum of Understanding relating to the delivery of housing and and Employment arising from Tamworth Borough Council
ID13	Unsigned Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
ID14	Letter from Jeff Brown regarding Rush Lane, Dosthill, dated 19 March 2013
ID15	Undated email from Nick Ireland, GL Hearn
ID16	Site Visit Itinerary
ID17	Response to Rebuttal Note, Regeneris

- ID18 Media Release
- ID19 Signed Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
- ID20 Email from Patrick Jervis, Lichfield District Council
- ID21 Letter from Brandon Lewis MP, dated 18 March 2015
- ID22 Allotment disposal guidance: Safeguards and alternatives, DCLG, January 2014
- ID23 Meeting Minutes and email correspondence between Tamworth Borough Council, North Warwickshire Borough Council and Lichfield District Council
- ID24 Letter and enclosures on behalf of Hodgetts Estates, dated 21 September 2016
- ID25 Composite plan showing land in IM ownership around Coleshill Manor
- ID26 Email from Peter Leaver to Dorothy Barratt concerning the supply of employment land
- ID27 Signed and dated Section 106 Agreement
- ID28 Signed and dated Unilateral Undertaking
- ID29 Closing Submissions on behalf of North Warwickshire Borough Council
- ID30 List of Abbreviations
- ID31 Closing Submissions on behalf of the Appellant

Conditions Schedule

General Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) If the development hereby permitted is to be constructed in more than one phase, details of the proposed phases of construction shall be submitted to the local planning authority for approval prior to, or at the same time as the first application for approval of the reserved matters. Development shall be carried out in accordance with the approved phasing details, or such other phasing details as shall subsequently be submitted to and approved in writing by the local planning authority.
- 3) The first application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission. All applications for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 3 years from the date of approval of the last of the reserved matters to be approved.
- 5) Insofar as it relates to the access, the development hereby permitted shall be carried out in accordance with the following approved plans: Ref DE128A/007, 1148-12/H and 1148-13/A.
- 6) Access for motor vehicles to the development hereby permitted from the public highway on Trinity Road shall not be made other than at the positions identified on approved drawing Ref 1148-12/H.
- 7) The development hereby permitted shall provide no more than 80,000m² of floorspace (GIA) for use within Use Class B1(c), Use Class B2 or Use Class B8 of the Town and Country Planning (Use Classes) Order (as amended).
- 8) No more than 20,000m² of floorspace (GIA) within the development hereby permitted shall be used for uses falling within Use Class B1 (c) or Use Class B2 of the Town and Country Planning (Use Classes) Order (as amended).
- 9) The reserved matters shall be designed within the parameters contained in plan Ref DE128A_006.

Pre-Commencement Conditions

- 10) No development shall take place until a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work across the site, including phasing where appropriate, has been submitted to and approved in writing by the local planning authority. The programme of archaeological evaluative work and any associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be carried out as required in accordance with a programme specified in the WSI. A written report with details of the

results of the fieldwork undertaken shall also be submitted to the local planning authority in accordance with the agreed programme. The findings from the archaeological evaluative work shall inform each reserved matters submission.

- 11) Where necessary, and as informed by the archaeological evaluative work undertaken in the WSI, no development shall take place until an Archaeological Mitigation Strategy (AMS) has been submitted to and approved in writing by the local planning authority. This shall detail the strategy devised, including phasing where appropriate, to mitigate the archaeological impact of the proposed development; either through further archaeological fieldwork, for which a further WSI may be required, and/or through the preservation in situ of any archaeological deposits. The AMS shall inform each reserved matters submission.
- 12) No development within any phase shall take place until the fieldwork relevant to that phase detailed in the WSI and AMS has been completed in accordance with the programme(s) specified therein. Any post-excavation analysis, publication of results and archive deposition shall be undertaken in accordance with the approved WSI and AMS.
- 13) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by the local planning authority for the relevant phase. The Plan shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) the routing for vehicles accessing the site associated with the construction of the development and signage to identify the route;
 - iii) the manoeuvring of vehicles within the site;
 - iv) loading and unloading of plant and materials used in constructing the development, including top soil;
 - v) the location of site compounds;
 - vi) storage of plant and materials;
 - vii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) wheel washing facilities;
 - ix) measures to control the emission of dust and dirt during construction;
 - x) measures to control and mitigate disturbance from noise;
 - xi) a scheme for recycling/disposing of waste resulting from construction works;
 - xii) any on-site lighting as required during construction; and
 - xiii) measures to protect existing trees and hedgerows proposed for retention;
 - xiv) delivery, demolition and construction working hours; and
 - xv) means by which the terms will be monitored, details of a contact person and the procedure for reporting and resolving complaints.

The approved Plan shall be adhered to throughout the construction period of the development.

- 14) No development within any phase shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 15) No development within any phase shall take place until details of all external lighting relevant to that phase has been submitted to and approved in writing by the local planning authority. The lighting shall be installed, operated and maintained in accordance with the approved details.
- 16) No development within any phase shall take place until a Habitat Creation, Enhancement and Management Plan and Programme for that phase has been submitted to and approved in writing by the local planning authority. This should be informed by the mitigation measures set out in Chapter 9 ("Ecology and Nature Conservation") of the Environmental Statement (Ref 23809/A5/ES2014, dated December 2014) submitted with the planning application. The approved Plan shall be implemented in full in accordance with the approved Programme.
- 17) No development within any phase shall take place until drainage plans for the disposal of surface water and foul sewage for that phase have been submitted to and approved in writing by the local planning authority. The plans shall incorporate principles of Sustainable Urban Drainage Systems (SUDS) and include details of surface water run-off attenuation measures and management. The plans shall be implemented as approved before the relevant phase of development is first brought into use.

Pre-Occupation Conditions

- 18) No phase of the development hereby permitted shall be occupied until the proposed signalised junction shown on plan Ref 1148-12/H has been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 19) No phase of the development hereby permitted to the east of Trinity Road shall be occupied until the proposed Non-Motorised User Link connection from the site to the A5 trunk road has been constructed in accordance with details first submitted to and approved in writing by the local planning authority in consultation with the highway authority for the strategic road network. The detailed design shall be based on submitted plan Ref 1148-20 Revision C. Thereafter it shall be retained in its approved form.
- 20) No phase of the development hereby permitted shall be occupied until the pedestrian and cycleway works shown on plan Ref 1148-13/A and 1148-12/H have been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 21) No phase of the development hereby permitted shall be occupied until the roads serving that phase, including footways, private drives, means of accessing plots, car parking and manoeuvring areas have been laid out and substantially constructed in accordance with details first submitted to and approved in writing by the local planning authority. Areas for the parking and manoeuvring of vehicles shall be retained for their intended use at all times thereafter.

- 22) None of the buildings hereby permitted shall be occupied until a Sustainable Travel Plan (STP) relevant to the occupier of that building has been submitted to and approved in writing by the local planning authority. The STP shall be based on the Framework Travel Plan (Phil Jones Associates, Project Code 1148, dated December 2014). The STP shall then be implemented as approved.
- 23) No external sound amplification equipment shall be installed as part of the development hereby permitted unless in accordance with details first submitted to and approved in writing by the local planning authority.
- 24) No phase of the development hereby permitted shall be occupied until a Landscape and Open Space Management Plan for that phase, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped and open space areas, has been submitted to and approved in writing by the local planning authority. The Plan shall include details of the mechanisms to secure its implementation and shall be carried out as approved.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with a programme first submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority.
- 26) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.
- 27) No phase of the development hereby permitted shall be occupied until adequate water supplies and fire hydrants necessary for fire fighting purposes relevant to each phase have been provided in accordance with details first submitted to and approved in writing by the local planning authority.