



# North Warwickshire Borough Council

## Proof of Evidence

**Appeal by Hodgetts Estates**

**Land north-east of Junction 10 of the M42 Motorway / north of the A5  
Dordon, North Warwickshire, B78 1TB**

**PINS Ref: APP/R3705/W/24/3336295**

**LPA Ref: PAP/2021/0663**

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Principle Development Control Officer – North Warwickshire Borough Council**

## Contents

	<b>Title</b>	<b>Page Number</b>
<b>A</b>	<b>Qualifications and Experience</b>	<b>4</b>
<b>B</b>	<b>Summary Proof</b>	<b>6</b>
<b>1</b>	<b>Introduction – The Principal Issues</b>	<b>13</b>
<b>2</b>	<b>Planning Policy Background</b>	<b>17</b>
<b>3</b>	<b>Effect on the Strategic Gap</b>	<b>28</b>
<b>4</b>	<b>Effect on the landscape and visual amenities of the surrounding area</b>	<b>57</b>
<b>5</b>	<b>Effect on the Best and most versatile agricultural land</b>	<b>65</b>
<b>6</b>	<b>Effect on the nearby strategic and local highway network and on safety and convenience of users</b>	<b>68</b>
<b>7</b>	<b>The immediate need or certain type of employment land and whether it is an appropriate location</b>	<b>70</b>
<b>8</b>	<b>Appropriate location for overnight lorry parking area and associated facilities</b>	<b>74</b>
<b>9</b>	<b>How development would perform against sustainable development</b>	<b>77</b>
<b>10</b>	<b>Planning obligations and/or planning conditions address impacts</b>	<b>84</b>
<b>11</b>	<b>Benefits and Disbenefits in Overall planning balance</b>	<b>86</b>

<b>Table and Figures</b>	<b>Detail</b>	<b>Page</b>
<b>Figure 1</b>	<b>Plan of Dordon and Polesworth Neighbourhood Plan areas</b>	<b>22</b>
<b>Figure 2</b>	<b>Key Views from Dordon Neighbourhood Plan</b>	<b>25</b>
<b>Figure 3</b>	<b>Extent of Strategic Gap</b>	<b>29</b>
<b>Table 1</b>	<b>Agricultural Land Classification</b>	<b>66</b>

## Appendices

Appendix	Title
Appendix A	Map showing sites around Appeal site with and without Strategic Gap
Appendix B	SLAA sites history

## **A. Qualification and Experience**

- A.1 My name is Andrew Collinson. I have been a Principal Development Control Officer at North Warwickshire Borough Council since September 2019. I hold a Postgraduate Diploma in Town Planning, a Degree in Planning Studies from the Sheffield Hallam University. I also hold a Diploma in Leadership and Management from Staffordshire University. I am a member of the Royal Town Planning Institute.
- A.2 I have over 26 years' experience of working in town planning both in local government development management/strategic planning delivery. Prior to my employment by North Warwickshire Borough Council, I was the Team Leader for Development Control at Tamworth Borough Council for 3 years, prior to that I was a Principal Planning Officer in both Development Control and Planning Policy for Nuneaton and Bedworth Borough Council for 10 years. Prior to that I was an Area Planning Officer at Hinckley for 3 years and prior to that a Planning Officer at Tamworth Borough Council for 5 years. I therefore have a widespread knowledge of the area surrounding North Warwickshire including Staffordshire, Warwickshire and Leicester and the wider sub-region.
- A.3 In my current role, I am currently employed as a Principal Development Control Officer for North Warwickshire Borough Council within a team responsible for dealing with planning applications. During my career, I have given evidence at a number of Section 78 Appeals, Compulsory Purchase Order Appeals and Local Plan Inquiries, and West Midlands Regional Spatial Strategy Examinations on a range of town planning matters.

A.4 I have been case officer for the application since it was originally submitted in December 2021. I have visited the appeal site on a number of occasions and examined the relevant national planning policy, guidance and development plan policies. I have read the application, it's supporting documents, and correspondence received from consultees and representations.

A.5 The evidence which I have prepared and provide for this appeal (in this Proof of Evidence) is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions. I understand my duty to the Inspector, and I have complied with that duty to help the Inspector on matters within my expertise. My evidence is accurate and complete as to relevant facts and represents my honest and objective opinion.

A.6 The substance of all materials facts and instructions to me (whether written or oral) which are material to my opinions expressed in this statement or upon which those opinions are based are set out below.

A.7 In this proof I shall address the planning matters relating to the appeal.

## B. Summary Proof

B.1 This Proof of Evidence addresses planning matters that are relevant to the determination of the appeal lodged by Hodgetts Estates against the Council's non-determination of the outline planning application referenced PAP/2021/0663.

B.2 The application was submitted in December 2021, following a number of extensions of time the appellant decided to appeal against non-determination in December 2023. Following the submission of the appeal the Council formally considered the planning application at its Planning and Development Board meeting on 4<sup>th</sup> March 2024 as if it had been the determining Authority. It resolved that it would have refused planning permission. A copy of this report and addendum are attached at CD-E59 and CD-E60.

B.3 Three reasons were identified.

- 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 para 115 of the National Planning Policy Framework 2023.*

B.4 My evidence focusses on the planning assessment of the appeal proposal relative to the development plan and other material considerations. I will make reference to matters in relation the planning policy for employment land which will be addressed by Dorothy Barratt of North Warwickshire Borough Council. I will also make reference to and draw on the conclusions from the Proof of Evidence prepared by Sam Oxley of LUC in relation to the Strategic Gap, landscape character and visual impact matters. Since we understand there has been very late agreement with National Highways, the Council reserves the right to submit a Proof of Evidence from Warwickshire County Council in relation to highway matters in due course. My evidence will assess the development plan, other material consideration and overall planning balance.

B.5 Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for assessing development proposals is the Development Plan, which comprises the North Warwickshire Local Plan

September 2021 (CD-F1) and the Dordon Neighbourhood Plan December 2023 (CD-F9).

- B.6 My evidence considers the Development Plan, other material considerations, the principle of the development and in particular whether the proposal accords with policy LP4 of the adopted North Warwickshire Local Plan and DNP1 and DNP4 of the Dordon Neighbourhood Plan.
- B.7 Dorothy Barratt's evidence indicates having considered the evidence prepared by the appellant, they have not provided evidence to comply with policy LP6 in terms of the immediate need nor of the certain type of employment land. Therefore, it is considered from the evidence prepared by Dorothy Barratt that only limited weight should be attributed to the delivery of new employment land through the appeal proposal.
- B.8 The landscape impact of the appeal proposal on the site and local context is described in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposal development would introduce large scale industrial development into a currently undeveloped area and would negatively affect the character and appearance of the open agricultural land between Tamworth and Dordon. This area is currently separated from industrial development to the south and west due to the position of the A5 and M42. The proposed development would expand this influence to the north of the A5 and east of the M42, introducing buildings which are incongruous with the rolling farmland. It would erode the existing pattern of open fields, introducing uncharacteristic landscape elements, including large bunds and trees. This



would adversely impact on the rural nature of the landscape to a moderate extent.

B.9 One of the key features of the site is its agricultural use and pastoral fields. The proposed development would represent a significant encroachment and intrusion of industrial scale which would adversely affect the character of the site and the area, which cannot be effectively be assimilated into the existing landscape without causing unacceptable harm.

B.10 A permanent change to the landscape character of the area would result as the agricultural fields make a positive contribution to the rural landscape and the landscape setting of around Polesworth with Dordon and Birchmoor. Furthermore, the visual perception of the Strategic Gap is distinctively different and more susceptible to change. The proposed development would significantly adversely affect the existing landscape reducing the sense of openness and affecting the longer distance views present across this semi-rural landscape. In the overall balance of the proposal it is considered that there is moderate harm in respect of the landscape harm.

B.11 The visual effects of the appeal proposal on site are described in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposal development will have a significant negative visual effects on the recreational users of the well used footpaths within the Strategic Gap. There are significant negative effects from viewpoints 1, 3, 4, 5, 8 and 10. There is also the introduction of lighting to the north of the A5 which would have impacts on both the landscape and views experienced by receptors on the footpaths and the

nearby settlements. It is also concluded that it would have a significant negative effect on the residential receptors in Birchmoor and Dordon. The proposed mitigation planting on the bunding around the site will have little effect for a considerable number of years. Based on the proposed heights of the buildings, the upper extents and roofs will still be clearly visible above the proposed bunding and planting at Year 15. The visual harm of the proposed development is a significant matter weighing against the proposal. It is concluded that there is moderate harm in respect of this issue.

B.12 The impact on the Strategic Gap from the appeal proposal is also expressed with evidence by Sam Oxley. It is concluded that the proposal will have an adverse impact on the spatial function of the Strategic Gap by developing the open field with up to 100,000m<sup>2</sup> of warehousing and industrial buildings. The purpose of the Strategic Gap is to maintain the distinctive, separate identity and character of Tamworth and Polesworth with Dordon. This development will extend the development to the east of the M42 and north of the A5. There is a physical and visual impact of the proposal, reducing the physical gap by around 430m to only 777m. This reduction will severely reduce the effectiveness of the separation between Dordon and Tamworth. The Strategic Gap at the appeal site consists of a substantial undeveloped area compared to the built-up industrial area to the south of the A5. The lack of vegetation with large open fields currently allows for unrestricted views across the Strategic Gap. The edges of the gap are noticeable, particularly the western edge of Dordon which is at a higher level. The reduction in the gap will reduce the sense of separation between Tamworth and Polesworth with Dordon the settlements as people move between them along the A5 and the Public Rights of Ways (PRoW) within

the Strategic Gap. It is concluded that due to the effects in terms of the physical and visual separation between Tamworth and Polesworth with Dordon that the proposal would result in substantial harm to the identity of these settlements contrary to the development plan policies.

B.13 The impact in terms of highways has altered during the appeal process and now there looks to be agreement in principle that the proposal is unlikely to have a severe impact on the A5 and M42. It considered that there is neutral harm in this respect as the mitigation proposed is required for the development and would not be acceptable without it. The unallocated proposal if developed would impact on the Strategic Road Network, but mitigation could be provided to ensure that the proposal would not lead to a severe impact.

B.14 In terms of the impact on loss of agricultural land, the proposal will lead to the loss of a significant amount of best and most versatile (BMV) land, this is exacerbated by the off-site mitigation which would also lead to an additional loss. Overall, in the planning balance it is considered that this holds limited negative weight in the planning balance, compared to the other major negatives factors weighing against the development. That said, the Government has shown an increasing concern about the loss of agricultural land.

B.15 I have considered whether the appeal proposals are in accordance with the development plan as a whole and conclude that they are not.

B.16 This Proof of Evidence also considers whether there are any material

considerations in this case which indicate the appeal should be determined other than in accordance with the Development Plan.

B.17 A planning balance is considered in respect of the benefits and disbenefits of the scheme. Whilst there are benefits associated with the appeal proposals, related to the provision of additional employment land and job creation, these are considered insufficient material considerations to suggest a decision otherwise than in accordance with the Development Plan. The appeal should therefore be dismissed.

## 1. Introduction - The Principal Issues

1.1 This Proof of Evidence addresses planning matters that are relevant to the determination of the appeal in the context of the Council's consideration of the planning application reference PAP/2021/0663 for the development of land north-east of Junction 10 of the M42 Motorway, North Warwickshire.

1.2 As well as addressing the overall planning balance, having regard to the main issues identified by the Inspector the following matters are addressed in turn in my evidence following those matters raised by the Inspector in the Case Management Conference (CD-D12). Firstly, the primacy of the development plan will be considered. Then the following matters:

- (i) the effect on the Strategic Gap between Tamworth and Polesworth with Dordon;
- (ii) the effect on the character and appearance of the surrounding area;
- (iii) its effect on the best and most versatile agricultural land;
- (iv) its effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways;
- (v) whether the proposal would address an immediate need for employment land, or a certain type of employment land and, if so, whether the appeal site is an appropriate location to meet such a need;
- (vi) whether the proposal represents an appropriate location for the provision of an overnight lorry parking area and associated facilities;
- (vii) how the proposed development would perform against the objectives for achieving sustainable development set out in the National Planning Policy Framework;

- (viii) whether any submitted planning obligations and/or planning conditions would adequately address the impacts of the proposed development; and
- (ix) how any benefits and disbenefits of the proposed development should be considered in the overall planning balance.

- 1.4 The application was submitted on the 2<sup>nd</sup> December 2021 and was accompanied by an Environmental Statement. In accordance with policy and procedures site notices were displayed and a press notices published. Copies of all the relevant correspondence were submitted with the appeal questionnaire.
- 1.5 It 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.
- 1.6 The application was submitted in December 2021, the application was reported to the Planning and Development Board on the 22<sup>nd</sup> March 2022 (CD-E58). A site visit was arranged so members could see the site and surroundings. A presentation was arranged in May 2022 by the appellant and a number of meetings with members to discuss the progress and outstanding issues with the appeal site, including one in December 2023. Officer meetings have also been held further to discuss highways and landscape issues. Following a number of extension of times, the appellant decided to appeal against non-determination in December 2023, ahead of the development plan process seeking to select the best sites.

1.7 Following the submission of the appeal the Council formally considered the planning application at its Planning and Development Board meeting on 4<sup>th</sup> March 2024 as if it had been the determining Authority. It resolved that it would have refused planning permission. A copy of the report and addendum are provided in the Core Documents reference CD-E59 and E60.

1.8 Three reasons for refusal were identified if the Council had been the determining authority. These are cited below:

*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 para 115 of the National Planning Policy Framework 2023.*

- 1.9 It is my understanding that the highway matters have been satisfactorily resolved prior to the commencement of the inquiry with the main issues being covered within Highways respective Statements of Common Ground with National Highways, Warwickshire County Council and Staffordshire County Council (CD-D-18-20).
- 1.10 The site context and history, the details of the proposed development, and the planning policy context are all set out in the Statement of Common Ground (CD-D13 E20-25 and F) and are not repeated here. There is a current live planning application reference PAP/2024/0024 which was submitted by the appellant, there is an agreed extension of time on this application until the end of July 2024.



## **2 Primacy of the Development Plan - Legal and Policy Context**

- 2.1 Section 70(2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that proposals are determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.2 Paragraph 12 of the National Planning Policy Framework (NPPF) also confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. A decision maker may take decisions that depart from the development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 2.3 This section of my proof sets out the relevant planning policy framework for the consideration of these appeals. The relevant planning policy is set out in section 3 of North Warwickshire Borough Council's (the LPA) Statement of Case (CD-D9) and addressed in Section G of the Statement of Common Ground (SoCG) (CD-D13). The starting point for assessing development proposals is the development plan for the area which consists of the adopted North Warwickshire Local Plan (adopted September 2021) and the Dordon Neighbourhood Plan (adopted December 2023).

2.4 Also relevant to this appeal is the emerging Employment Development Plan Document (EEDPD). The NPPF is also a material consideration in all planning decisions. The following policies are particularly relevant to the issues at this inquiry. I consider that further elaboration is required in order to explain the Council's case.

## **The Development Plan for the Site**

### North Warwickshire Local Plan 2021

2.5 As indicated above, the development plan for the site consists of the adopted North Warwickshire Local Plan (NWLP) (CD-F1) (adopted September 2021), and the Dordon Neighbourhood Plan (DNP) (CD-F9) (adopted December 2023). The NWLP was adopted in September 2021 having being found to be sound and consistent with national policy following a Public Inquiry. The NWLP is therefore plainly up-to-date and full weight should be given to the policies of the plan. The DNP was made in December 2023 following examination and a referendum, it is therefore up-to date. The policies in the neighbourhood plan are consistent with the NWLP and the NPPF and therefore carry full weight.

2.6 The adopted NWLP sets out the long-term spatial vision (CD-F1 page 15) and Strategic Objectives (CD-F1 page 16-20) for the Borough over the plan period to 2033 and contains strategic policies for steering and shaping development. The NWLP identifies specific locations for new strategic housing and employment land.

2.7 The settlements of Dordon and Polesworth, the east of Tamworth and Atherstone are identified as major housing allocations in the NWLP; namely, site allocations H1 (620 dwellings) and H2 (1,280 dwellings) at Atherstone, H4 (1,675 dwellings) at Polesworth and Dordon, H5 (1,270 dwellings) to the east of Tamworth within the plan period which is until 2033. The NWLP also identifies employment site “E2 land west of Birch Coppice Dordon” for approximately 5.1 hectares of employment development, part of which is owned by the appellant and NWBC (allotments) and “E3 Land including site of playing fields south of A5 Dordon” for approximately 3.45 hectares of employment development. These allocations E2 and E3 involve the relocation and replacement of allotments and open space on land to the north of the A5 (which is owned by the appellant). Contiguous with the Borough is a site in the Tamworth’s Local Plan HG2 (up to 1,100 dwellings) at Tamworth Golf Course is currently being built out and is in the adopted Tamworth Local Plan (these shown on plan Appendix A).

2.8 Since the adoption of the NWLP development sites, including housing and employment, have come forward, evolving through extensive pre-application discussions, followed by the submission of outline and then detailed planning applications or in some instance full application. There has been significant progress for both housing and employment development with the local plan period being up to 2033. The Annual Monitoring Report (AMR) 2022-2023 indicates that the total supply of employment land stands at nearly 150 hectares, with nearly 23 hectares of sites with planning permission (CD-F6 policy LP5 – page 24). As an indication of this for example, permission has been granted for 6.8 hectares of land south of Rowlands Way (allocation E1) and it has been resolved to approve 59 hectares of land at

Horiba (allocation E4 – 42 hectares), so an additional 17 hectares of employment land (AMR CD-F5 and F6). The housing allocations have also progressed too with either application having been approved (H1 Holly Lane, H6 Lindridge Lane, H14 Manor Farm, H15 Manor Farm Shuttington, H16 Orton Road and H17 Islington Farm), applications submitted (H5 Robeys Lane, H7 Church Farm, H9 Church Road, H11 Former School site, H12 Village Farm) or continuing extension pre-application discussions (H1 Holly Lane, H2 North west Atherstone, H4 Land east of Polesworth and Dordon, H8 Community Hall Grendon, H10 Coleshill Road) (CD-F6 page 78-79).

2.9 The Spatial Portrait within the NWLP in chapter two (CD-F1 page 9-10) para 2.4 and 2.7 indicates the importance of the A5 and that the impact on the delivery of the Local Plan allocations is of a fundamental concern. A Strategy has been prepared for the A5 and the Borough Council will work with partners (National Highways and Warwickshire County Highways) including the private sector to deal with issues along its route. The capacity of the A5 is an on-going concern which may impact on how development takes place in the Borough. This development of an unallocated site therefore needs to be considered in this context ensuring that it does not impact on the delivery of the local plan and the allocated sites identified and selected for development through the democratic process.

2.10 The Council's Rule 6 Statement (CD-D9) identifies the most important policies of the NWLP in the context of this appeal. However, policies LP4, LP6 and LP34 require specific regard here.

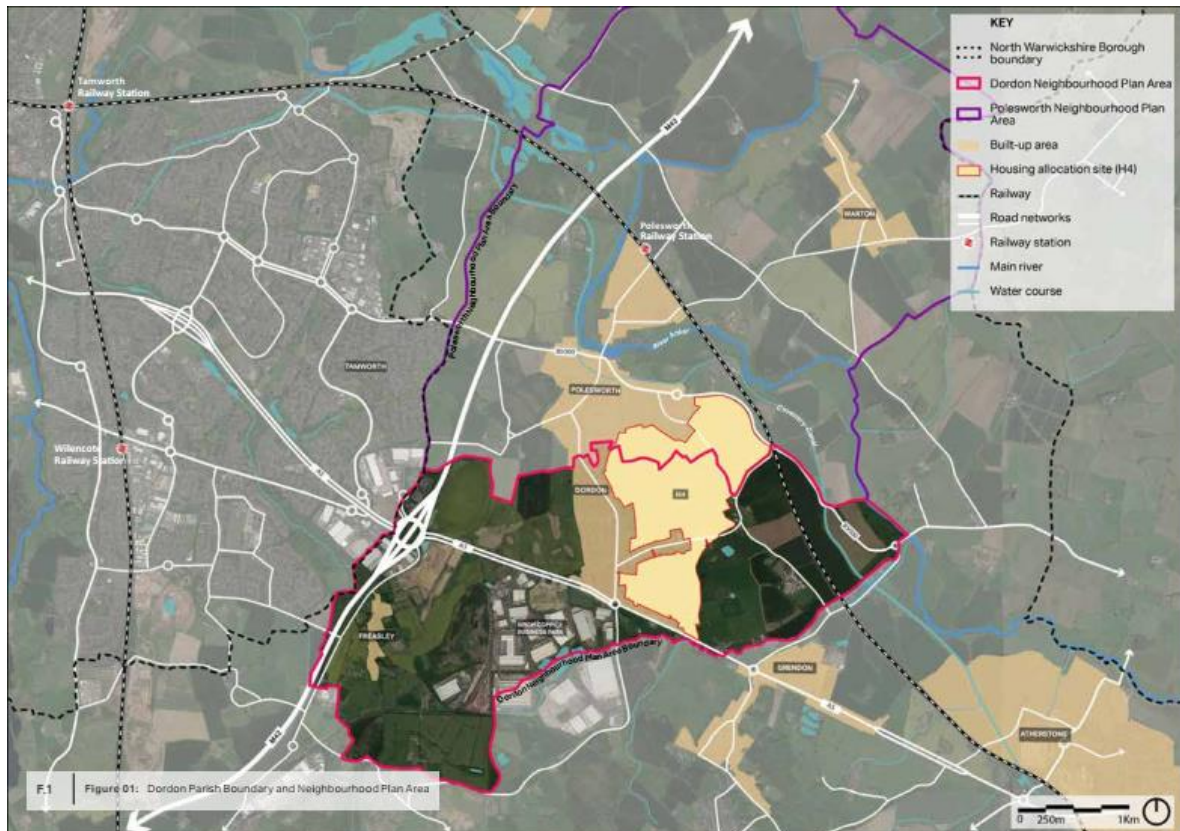
- 2.11 Policy LP4 defines a Strategic Gap on the Local Plan Policies Map (CD-F1 page 32 and Strategic Gap plan). The purpose of this gap as set out in the policy, is to maintain the separate identity of Tamworth and Polesworth with Dordon in order to prevent their coalescence. The policy states that development which has a significantly adverse effect on the distinctive, separate characters of Tamworth and Polesworth with Dordon will not be permitted. Any effects will be considered in terms of the physical and visual separation between these settlements.
- 2.12 Policy LP6 indicates 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 of A of the West Midlands Strategic Employment Sites Study 2015 (or successor Study) which cannot be met by forecast supply or allocations. It identifies three pre-requisites - achievable and appropriate access to the strategic highway network; reasonable accessibility by a choice of modes of transport and that it is otherwise acceptable, taking account of nearby living conditions. This policy does not include an amount of land that is expected to come forward but seeks evidence of immediate need or to be a certain type of employment land. As stated in the policy justification “any weight accorded to proposed employment provision by virtue of this policy will be considered in the context of the policies in the plan as a whole in arriving at a balanced assessment.” (CD-F1 page 36)
- 2.13 Policy LP34 contains a section on lorry parking and indicates that in recognition of the Borough’s strategic location and demand for lorry parking, weight should be given to lorry parking provision and facilities in decision making.

2.14 Whilst the vision and objectives of the development plan include provision for employment and are supportive of employment development, the local development plan clearly focus on also protecting the area’s natural assets. This balance of ensuring the economic growth and prosperity of the area sits along with the need to ensure protection of existing natural assets is reflected in the approach that the Council has taken in the allocation and identification of new employment land and is fundamental to sustainable development.

### Dordon Neighbourhood Plan (DNP)

2.15 The appeal site sits with the DNP, however the boundary with Polesworth lies to north and includes the small settlement of Birchmoor which is bisected by the M42. The extent of the areas of the DNP is shown below, along with the defined area of Polesworth Neighbourhood Plan area to the north.

Figure 1 - Plan of Dordon and Polesworth Neighbourhood Plan area (CD-F10 page 7).



2.16 In terms of the DNP (CD-F9) this includes a key vision and objectives of the plan, the policies are then based on this vision and objectives. The Community Vision (page 13) for the DNP provides the following aim:

*“In 20 years’ time Dordon will have retained its village identity and its heritage will have been preserved. Expansion to the west will have been limited and new development to the east of Dordon Village will be integrated with the existing built-up area.” (my emphasis)*

2.17 Community Objective 7 relating to Community Identity (page 14) indicates the following:

*“Community Objective 7: Village Identity - Any development to the west will ensure there is a sense of space, place and separation between the western edge of the built-up area of Dordon and mainly the M42, in accordance with Local Plan policy LP4.”*

2.18 There is a clear development plan policy for Dordon which expressly and very clearly seeks to protect the Strategic Gap from development. The local community has had significant large scale industrial employment development imposed upon it in recent years. This has significantly eroded the gap between Tamworth and Dordon. But this has all been south of the A5 and west of the M42. There is understandable and significant community concern about the scale and location of development within the Parish. This concern is noted clearly in para 14 (page 9) of the plan, which indicates the importance of protecting the open spaces, the Strategic Gap and protection of the countryside. During the preparation of the DNP there was significant support at the consultation stage (90%) for the policies. At the DNP referendum 90% voted ‘yes’ to the neighbourhood plan and it was Made in December 2023.

2.19 As indicated above, the Vision and Objectives follows through into policies DNP1 and DNP4 of the DNP. Policy DNP1 sets the policy framework for development in Dordon and identifies eleven criteria on which this should be assessed so as to achieve sustainable development. Pertinent to the appeal site are the following criterion:

- *Criterion (b) indicates 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.*
- *Criterion (f) says that it should be well located in relation to public transport and local services; and*
- *Criterion (g) says there should be the promotion of active travel.*

2.20 DNP4 Protecting Landscape Character is based on further landscape analysis by the Neighbourhood Plan Working Group and AECOM and provides a clear policy framework to show how to assess the impact of development proposals on the landscape. The context of the policy indicates the position of Dordon on a ridge leading to medium and long views into and out of the village (CD-F9 page 25 para 63-65). Part 1 of policy DNP4 echo's this and states that:

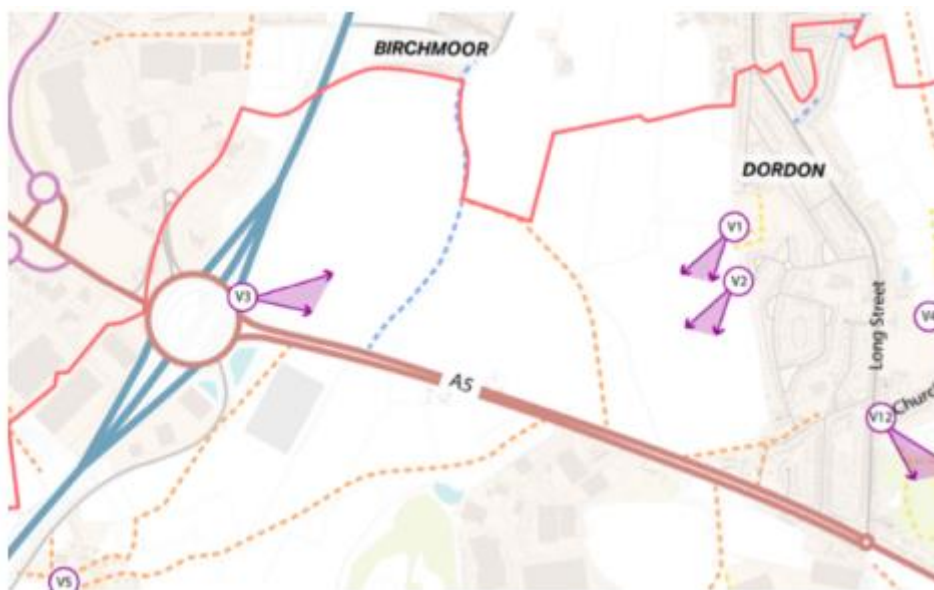
*“Development proposals, as appropriate to their scale, nature and location, should be designed to take account of the landscape, the landscape character and topographical setting of the neighbourhood area and its urban environment which contribute to the distinctive character of the Parish.” (my emphasis)*

2.21 Part 2 of DNP4 aims to protect key views, retain a sense of space, place and separation. Key views are identified within the plan and the policy says that the views



of the Strategic Gap are long and wide (CD F10 - map 5 page 24 shown below). Key views are identified to support the policy approach of DNP 4 in relation to the land west of Dordon where separation is relevant. Key views V1 and V2 look east from the edge of Dordon and V3 looks west from the roundabout with the A5.

Figure 2 Key Views from Dordon Neighbourhood Plan



2.22 Part 4 of policy DNP4 identifies the need to seek to retain the sense of separation, place and (where relevant) separation. The contextual reference to the sense of separation being relevant to land west of Dordon is in the Vision, objective 7 and the DNP1. Part 4 also requires development to take account of its contribution to the wider character of the area.

2.23 Part 6 of the DNP4 acknowledges that applicants should take into account the matters above, however the provision of Strategic Local Plan policies LP4 (Strategic Gap), LP6 (Additional Employment Land) and H4 (Land to east of Polesworth and Dordon) shall have priority.

2.24 Policy DNP12 Supporting the Local Economy and the policies reasoned justification indicates that there is support for future development on the south of the A5 especially employment allocations E2 and E3, subject to the scale and appearance reflecting their location. The policy echo's and references the exceptions in LP6 and Part 2 of this policy indicates that:

*“Business development will be supported where it is located in accordance with Local Plan Policy LP6 (Additional Employment Plan) criteria e) where evidence demonstrates an immediate need for employment land that will support economic growth which cannot be met via forecast supply or allocations where this takes into account the living conditions of Dordon Parish Council residents living nearby or f) located in accordance with LP6.”*

## **OTHER MATERIAL CONSIDERATIONS**

### **The Emerging Employment Development Plan Document (EEDPD)**

2.25 The North Warwickshire Emerging Employment Development Plan Document (EEDPD) Issues and Options consultation has taken place and ended on the 9<sup>th</sup> May 2024 (CD-F7). As indicated in the Local Development Scheme July 2023 (CD-F4) it is proposed to be submitted before 30<sup>th</sup> June 2025. The EEDPD consultation was accompanied by a “call for sites”. Following an analysis of the submitted sites a Draft Employment DPD will identify sites for employment including reasonable alternatives. As part of the process, from the “call for sites” and other sites that the Council is aware this evidence will be used in the Sustainability Appraisal process to filter into the submission Employment DPD.

2.26 The NWLP indicates the intention of the LPA to progress the employment land allocations via the EEDPD throughout the Borough. The LDS and current EEDPD both indicate that this will ensure a development plan-led approach to accord to paragraph 15 of the NPPF. At this stage it carries no weight.

### **The Draft Polesworth Neighbourhood Plan (PNP)**

2.27 The Draft Polesworth Neighbourhood Plan regulation 14 is dated March 2023 (CD-F8) this has not been **submitted** for Examination and therefore this carries limited weight in the determination of the **appeal**. In terms of the Polesworth Neighbourhood Plan it is agreed that the regulation 14 plan is currently not sufficiently advanced to be material consideration in the determination of this appeal.

### **Other Material Considerations**

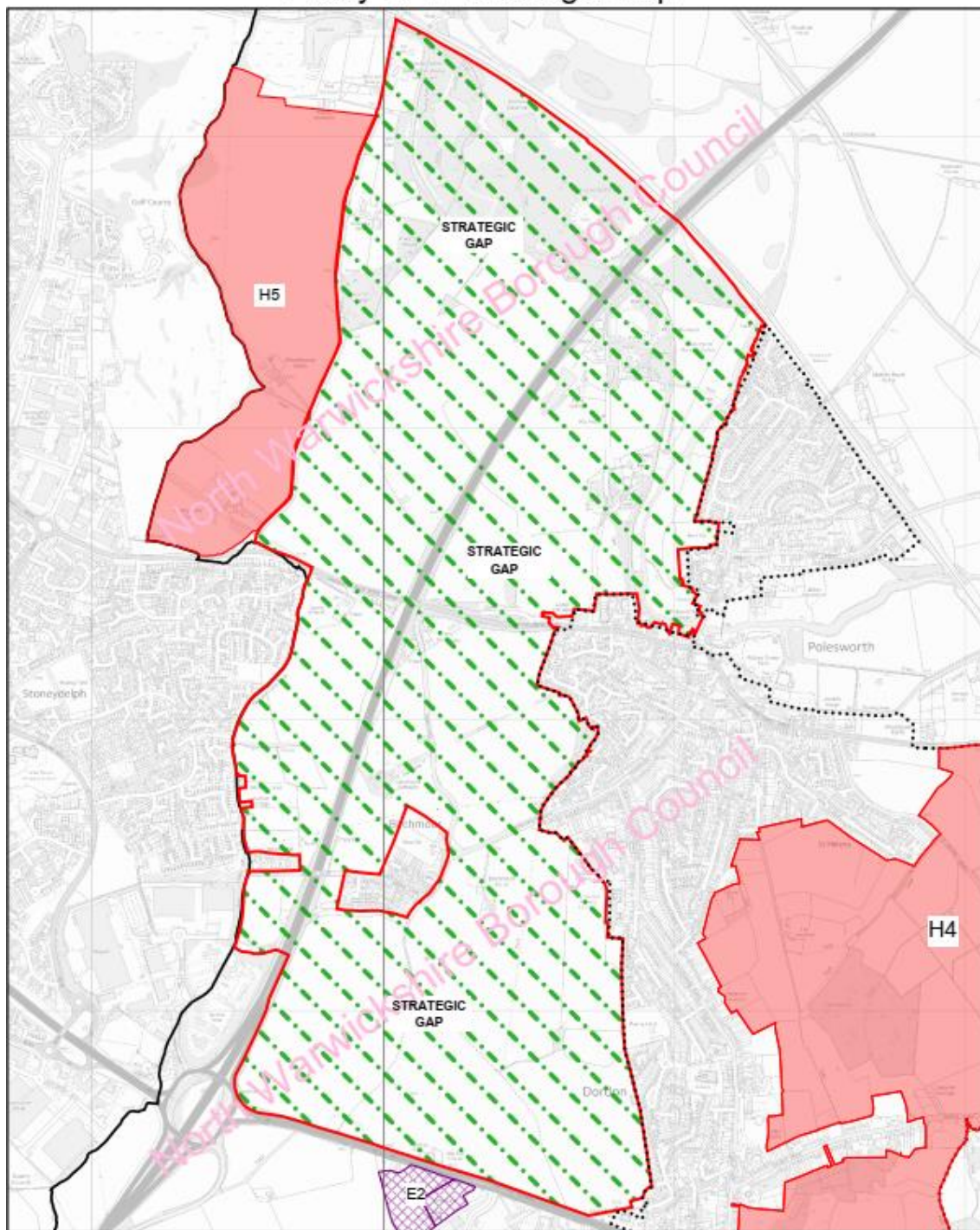
2.28 There are a raft of other relevant material considerations, such as the NPPF, the PPG, economic strategies, appeal decisions, reports etc. I do not list all these here. But needless to say there are many different factors relevant to this decision.

### **3 The effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon;**

- 3.1 The Strategic Gap policy LP4 in the Development Plan is an important local policy. It is useful to understand its emergence before considering the effect of a development on the importance and effectiveness of that gap. Sam Oxley within her proof will consider the effect of the proposed development on the Strategic Gap.
- 3.2 The proposed development is clearly outside of any defined settlement boundary of the adopted NWLP (Appendix A). As described in the Development Plan section above the Spatial Vision for the Borough in the NWLP 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 (CD-F1 page 15). Policy LP4 reflects this objective in seeking to protect the open area that presently separates Tamworth from Dordon with Polesworth within North Warwickshire.
- 3.3 The Strategic Gap is clearly designated and shown on the proposals map (CD-F1 Strategic Gap Plan) and is a stand-alone designation. The maintenance of this Strategic Gap between Polesworth with Dordon and Tamworth has been a longstanding planning policy objective for the Council and is very important locally.

The extent of this is shown in Figure 3 Extent of Strategic Gap below:

### Policy LP4 - Strategic Gap



Date: 02/09/21  
Scale: 1:18000

North Warwickshire Local Plan  
Adopted September 2021  
Strategic Gap

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Ordnance Survey 100017910



North Warwickshire  
Borough Council



Strategic Gap  
- shown green dash-dot



3.4 The Strategic Gap has had a significant history in terms of designation. 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 the Strategic Gap has changed increasing its importance due to the very noticeable increasing pressure within the area, also the extent of the area over that time has changed too. It now defined as the gap between Tamworth and Polesworth with Dordon. It is very significant that the area is clearly indicated on the proposals map as shown on the plan above along with other designations and allocations in the NWLP and it is seen as a Strategic policy (NPPF para 21-22).

#### 1995 North Warwickshire Local Plan

3.5 North Warwickshire's Local Plan of 1995 identified an area of restraint between Tamworth and Polesworth and Dordon which extended to both the north and south of the A5. Policy ENV3 of the 1995 Local Plan (CD-F12) stated that:

*“An Area of Restraint is defined between Polesworth, Dordon, Freasley and Tamworth as shown on the proposals map. Development within the Area of restraint will not normally be permitted, either for the construction of new buildings or for change of use, for purposes other than:*

*1 agriculture, forestry, cemeteries, and institutions standing in extensive*

*grounds, or other uses appropriate to a rural area; and,*

*2 outdoor sports and recreation facilities, where particular regard will be had to the scale of the related built development.”*

3.6 Within the justification for the policy it clearly set out the reasons for the policy as follows:

*“Tamworth has extended out to its eastern boundaries so that only a narrow belt of open countryside remains between it and those villages, and the M42 Motorway runs close to the edge of the built up area. The area is particularly vulnerable because of the presence of the junction between the M42 Motorway and A5 Trunk Road, which is likely to create pressure for commercial development wishing for immediate access to the motorway network. The situation is all the more sensitive because the landscape is generally open, so that one is aware of how close Tamworth and the villages are to each other.”* (extract from paragraph 5.41 of the North Warwickshire Local Plan 1995) (CD-F12).

#### Warwickshire Structure Plan 1996-2011

3.7 As there was a two tier development plan (Borough and County) at the time, the Warwickshire Structure Plan (“WASP”) 1996 – 2011 contained policies ER.6 and GD.4 which encouraged the inclusion of areas of restraint and assigned them strategic importance once designated. The justification for the policy stated in 8.6.1:

*“Policy ER.6 seeks to enable local plans to protect those open spaces that have a fundamental role in making urban areas attractive place to live, visit and invest.*

*8.6.2 In focusing most development on the existing towns (Policy GD.3) there is a risk of town cramming which undermines the attractiveness of places...One mechanism for so doing is to designate Areas of Restraint to provide long term protection for key area of open land within or adjacent to towns.*

*8.6.3....Clearly this policy is not only relevant to the main towns ... but also the market towns that may come under pressure for development.....”*

## North Warwickshire Local Plan 2006

3.8 In the 2006 Local Plan the Borough Council sought to designate the area between the settlements (both north and south of the A5) as an Area of Restraint in its 2006 Local Plan in draft policy ENV4. However, the Local Plan Inspector pointed to PPS7 which has now, of course, been replaced by the NPPF, which said that local landscape designations should only be maintained where it could be clearly shown that criteria-based policies could not provide the necessary protection. He also referred to the explanatory memorandum to the WASP which explained that the main purpose of designating 'Areas of Restraint' was to provide long-term protection for key areas of open land within or adjacent to towns with a view to balancing the impact of 'town cramming' deriving from policies of urban concentration. The policy was more focused on mitigating the effect of development within towns than preventing coalescence *between* towns. Tamworth had not been designated as a Major Urban Area (MUA) so would not be subject to 'town cramming' and the Inspector considered that the general countryside policy in the Local Plan would be sufficient to protect the "relatively narrow swathe of open land" between Tamworth and Polesworth and Dordon. The countryside policy in the Local Plan limited development in the countryside to that necessary for agriculture or other typically rural uses and would provide protection to the area between the settlements, and the Council should avoid seeking to "slay the same beast over and over again" (paragraph 3.59-3.61 of the Inspector's Report). The Inspector noted that there was support for the draft policy in the representations received from local people but as things stood at the time, he considered the Council's objectives – which referred to some 'secondary objectives' of the policy - to be unclear, and he was not satisfied that there was a need for the policy in light of the general countryside protection policy in the Local Plan (paragraphs 3.63 – 3.64 of the Inspector's Report). As a result, the Inspector recommended the removal of draft policy ENV4.



## North Warwickshire Core Strategy 2014

3.9 In the submission version of the 2014 Core Strategy, the Council proposed the following policy wording:

*“Land to the west of Polesworth and Dordon shall remain essentially undeveloped in order to maintain the separation between Tamworth and the settlements of Polesworth and Dordon. Any proposals will be expected to be limited in size and maintain the separation between the urban area of Tamworth and the settlements of Polesworth and Dordon”.*

3.10 The Core Strategy Inspector modified the wording of the proposed policy to that which was included in Core Strategy policy NW19. His reasons for doing were set out in paragraphs 20 and 21 of his Report below, which explained as follows:

*“20. The Plan at paragraph 6.12 states that the location of the units to serve Tamworth will be determined through the Site Allocations DPD but also says that development will not take place in the gap between Tamworth and Polesworth and Dordon. A gap is necessary to maintain the separate identity of the settlements but they are divided by the M42 which runs through the countryside between them. The Sustainability Appraisal (SA) supporting the Core Strategy states that developing between Tamworth and the M42 ‘would be more likely to retain the important ‘character’ boundary between Tamworth and the main part of North Warwickshire Borough that is important to retain the identity of each’.*

*21. I do not doubt the Council’s assertion that the gap between Tamworth and Polesworth and Dordon is ‘important locally’ but I have seen no analysis of the landscape or any other evidence to support the presumption against anything other*

*than minor development. Having inspected the area and considered the submissions made to the examination, I do not consider that a blanket presumption is justified and it is removed by MM67. This is necessary because the evidence does not support it (indeed, it would appear to conflict with the SA) and to provide flexibility. It is not necessary, in my view, to modify Policy NW4 to identify an area of search between Tamworth and Polesworth and Dordon. The modifications will enable options to be explored through the Site Allocations DPD taking into account the need to maintain a gap and landscape considerations.”*

3.11 Clearly, the Inspector considered that the retention of a meaningful gap between Tamworth and Polesworth and Dordon was sound – positively prepared, justified, effective and consistent with national policy - because he recommended the adoption of policy NW19 which required the maintenance of a meaningful gap between those settlements. However, he was not satisfied that limiting major development within the area and only allowing minor development between those settlements had been justified. There was no landscape or other evidence before him to justify such a blanket presumption, and indeed the Sustainability Appraisal accompanying the draft Core Strategy had indicated that the development of some parts of that area would be more likely to retain the identity of the settlements. In fact, some of the land which the Sustainability Appraisal identified – between Tamworth and the M42 – has now been developed and has been completed Centurion Way to the west of the A5 (shown as sites 4 and 5 Appendix A).

3.12 The Core Strategy Inspector signalled that the extent of the Strategic Gap could be explored further. The geographic extent of the Meaningful Gap within the 2014 Core Strategy had not been defined, and in order to retain the integrity of this gap strategically from continuing development pressure a defined area was examined.

This exploration was taken up by the Borough Council, which commissioned a Meaningful Gap Assessment following the adoption of the Core Strategy, which resulted in the Meaningful Gap Report of 2015 which was approved by the Planning & Development board on the 10<sup>th</sup> August 2015 (CD-G2). This report was subject to consultation, identified 10 potential areas for inclusion within a 'Meaningful Gap'. Those areas were categorised red, amber or green in respect of their contribution to the nature of a gap between settlements. There was some variance in the scale of different areas, nevertheless they were logically defined by clear physical features.

3.13 As part of the Meaningful Gap Report, the geographic proximity and narrowness of the gap was assessed. These are one of the key considerations in respect of this appeal, in terms of the effectiveness of the gap. The point is raised in the proximity to existing development and physical narrowness of the gap as a consideration that should be addressed. It indicates at significant locations there are certain areas where the presence of existing development, narrowness of open gaps, undeveloped land, and potential impact of future development all have an impact on and affect the future maintenance of the gap (CD-G2 para 8.1). This is the case in respect of the appeal site, which is a significant location and gateway to the Borough, is an open gap of undeveloped land. The importance of this area re-inforces the rural character and identity of the Tamworth and Dordon. The Report emphasises this, stating:

*“Where this also corresponds with significant gateways/entrances to the Borough along significant transport corridors, the need to protect such areas from significant development is re-inforced both by Policy NW19 and the need to deliver the Core Strategy Spatial Vision of retaining and re-inforcing the rural character of North Warwickshire distinctive from the surrounding urban areas.”* (CD-G2 para 8.2)

This again shows the importance of the site which is a significant gateway to the Borough along the A5 and M42. The appeal site is one that needs to be retained to keep the rural character of North Warwickshire before entering the more urbanised character of Dordon. It is a significant and important site to retain.

- 3.14 The appeal site is positioned in Parcel 8 (CD-G2 page 16-17) of the Meaningful Gap Report, and is defined as “the Land bounded by the A5, the M42 Motorway, the Birchmoor Road and the western edge of Dordon”. The Meaningful Gap report found that the whole of this parcel performs “very strongly” as part of the assessment by providing “a buffer and sense of separation between the three separate settlement which are very close to each other”. It was recommended to include the area in the Strategic Gap for the following reason:

*“due to development impact on open landscape and importance as a strategic gap. Note also significant impact of infrastructure constraints (HP Gas pipeline). There is a clear character link between this area and the open areas 6 and 9 to the north and south, forming an uninterrupted, continuous open area, forming and integral whole meaningful gap.”*

- 3.15 It was concluded that “the areas operate more significantly as strategic gap on the major Gateway into the Borough from the west, are more sensitive to the impact of development in view of their open aspect and constitute the main “Meaningful Gap” area between Tamworth, the M42 and the built areas of Dordon and Birch Coppice” (CD-G2 para 10.1 page 21) (my emphasis). This picks up the key views indicated in the DNP outlined in para 2.21 of my proof and shown by figure 2.

- 3.16 A further report Assessment of the Value of the Meaningful Gap and Potential Green

Belt Alterations (Assessment of Value Report) was carried out by LUC (January 2018) (CD-G3). This evidence was used in the preparation of the now adopted Local Plan. The Assessment of Value Report looked at whether other parcels of land between Polesworth with Dordon and Tamworth fulfil certain Green Belt functions. The Assessment of Value Report not only indicates the quantitative but provided a qualitative assessment. Moreover, building upon the Meaningful Gap Report, the Assessment of Value Report considers not only distance between settlements as an indicator of value but also topography, intervisibility, and the relationship of a given area to built development from certain vantage points. The Assessment of Value Report assesses Parcel 8 in respect of meaningful gap criteria and Green Belt assessment criteria too. The Report found that the whole of this parcel performs “very strongly” as part of the Strategic Gap by providing “a buffer and sense of separation between the three settlements which are very close to each other”. (CD-F3 para 3.2 page 16). The Report also concludes that “**Parcel 8** makes a relatively strong contribution to the Green Belt purposes due its large size (which spans the entire gap between Tamworth and Dordon at this point), the undeveloped and open character of the countryside and the role it plays in maintaining separation between settlements.” (CD-F3 para 3.15 page 19)

3.17 The Assessment of Value Report also indicate “The parcels between Tamworth and Dordon (Parcels 6, 7 and 8) also score highly against Green Belt Purposes 1 and 2, primarily because of the narrow gap between the settlements at this point, along with the fact that the relatively modern development at Birchmoor is nestled between the two settlements (compromising the openness of the area and increasing the importance of the remaining surrounding countryside).” (CD-F3 para 3.22 page 21).

3.18 It is pertinent the conclusions of the Assessment of Value Report indicate that land to the **north** of the A5 performs more strongly as a core purpose of the Meaningful Gap than that to the south. (CD-F3 para 6.3 page 25). The recommendations of the Report at para 6.9 were taken through as evidence as well as the earlier Meaningful Gap Report for the NWLP.

#### North Warwickshire Local Plan 2021

3.19 The NWLP considered the designation of the Strategic Gap, using the evidence details above and Landscape Character Assessment produced by FPCR (CD-G1). The Local Plan Inspector indicated that “collectively they represented a reasonable and proportionate approach at a plan-making stage.” (CD-F14 para 238)

3.20 The Inspector’s report on the NWLP assessed development allocations for employment and housing against the designation of the Strategic Gap (CD-F14 paragraph 227-241). The Inspector’s report outlined the evolution of the history of this area of land as indicated above and ultimately designation of the area of land LP4 as part of the adopted development plan.

3.21 The Inspector indicated that the Assessment of Value Report was a reasonable approach in that it concluded the assessment on mergence of settlements into one another and the purpose of preventing this and any effect on the Strategic Gap is an important one to understand. He states:

*“the purpose of a Strategic Gap is more selective in seeking to prevent neighbouring towns from merging into one another (one of the five Green Belt ‘purposes’). In my view framing an assessment of the Strategic Gap in those selective terms, as in the*

*2018 study, was reasonable.” (CD-F14- para 236)*

3.22 As part of the Local Plan Inquiry, the Inspector robustly interrogated the Strategic Gap designation based on the development needs of the Borough. This confirmed the Strategic Gap as we see at present was a reasonable and proportionate approach based on the evidence. The designation is now defined as a free-standing area of open countryside 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. This led to the definition of the Strategic Gap as it appears on the 2021 Policies Map (CD – F1).

3.23 The policy LP4 is stated below:

*Policy LP4 Strategic Gap - In order to maintain the separate identity of Tamworth and Polesworth with Dordon, a Strategic Gap is identified on the Policies Map in order to prevent their coalescence. Development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon. In assessing whether or not that would occur, consideration will be given to any effects in terms of the physical and visual separation between those settlements. *(my emphasis)**

3.24 So the effect of the proposed development on the Strategic Gap as required by policy LP4 requires an assessment of any effects in terms of the physical and visual separation between the settlements of Tamworth and Polesworth with Dordon. This is expressly defined in the policy. Sam Oxley within her proof considers this assessment and the effects of it in more detail.

## Appeal Site promotion

- 3.25 Officers are aware that the appeal site has been promoted for a significant number of years as a potential allocation through various plans and most recently to the adopted Local Plan 2021. Evidence has been provided showing the sites promotion since 2010 where it has been included in Strategic Housing Land Availability assessments (SHLAA), this went onto assess the sites against not only housing but also employment potential too (Appendix B). Initially the site was submitted as a larger site, however it was discounted as the scale of the development was such that only limited pockets along the eastern edge of the settlement boundary that offered opportunity for development.
- 3.26 Again, in 2012/13 the appellant submitted most of their land north and south of the A5 via a number of site submissions. However, the sites were not carried forward for consideration and assessment in the 2012/13 SHLAA as they did not adjoin any settlement or settlement boundary and lay in the open countryside and were therefore discounted.
- 3.27 Subsequently, in the 2015 update leading up to the 2016 SHLAA, both land north and south of the A5 owned by the appellants was submitted, reference SLA107 for land north of A5 which incorporates the Appeal site (as well as **all the land** east of M42 between J10 and Dordon settlement boundary). In the final submitted SHLAA 2016 this site was referenced as PB013 and over 75has in size. Again, PB013 was not considered subsequently included as potential allocations. PB103 was not considered as a 'Reasonable Alternative', only the part closest to Dordon was identified as a reasonable alternative, but not, the Appeal site. These sites were assessed primarily on housing potential although employment potential would also



apply. The note on Reasonable Alternatives prior to Local plan Submission stated:  
“2) Polesworth and Dordon. These areas have a larger number of potential Reasonable Alternatives but the main reason for not allocating them relates to the Core Strategy and the strategic approach taken not to enable development to the west, but to maintain the open gap between Tamworth and Dordon/Polesworth and help retain the rural character at major gateways into the Borough. Other sites were considered to be less sustainably located compared to the allocated sites (e.g. north of WCML Station Road sites/PS50) or were more difficult to access”

3.28 Throughout this promotion of the site PB013, the appeal site wasn't considered by the Council to be suitable. During the Local Plan Inquiry process the site PB013 wasn't considered by the Council to be suitable. The process of the Site SHLAA and Sustainability Appraisal was undertaken of all the relevant sites. However, the appeal site was not taken forward and other sites namely E2 (site 9) and E3 (site 10) were allocated instead of the site, as well as the H5 Robeys Lane housing allocation (site 12) and H4 Land to east of Polesworth and Dordon were allocated for large residential urban extensions (shown on map Appendix A).

3.29 Further to this, the land was promoted under the issue of additional employment land along with a number of developers during the examination which was discussed during a hearing session. In respect of employment land the Inspectors report (CD-F14 paragraph 36) indicated there is evidence of strong demand for employment provision, logistics in particular, in the Golden Triangle and along the M42 corridor. However, it is not necessarily the case that such needs must be met in North Warwickshire (or that they should be in planning terms). The amount of land required for the additional employment land was not finalised either.

3.30 The Inspector concluded the debate by including changes in respect of MM40 and MM120 (CD-F20) by the introduction of the new policy LP6a and MM120 as a monitoring indicator. So, policy LP6 evolved to take into account the potential for Additional Employment Land (CD-F1 page 36). However, the Inspector makes it clear the policy LP6 “must be read in conjunction with other Local Plan policies rather than automatically taking precedence over them (given that Area A encompasses Green Belt land and also land identified as ‘Meaningful’ or ‘Strategic’ Gap via Plan policy LP5 as addressed subsequently in this report).” (CD-F14 par 180 page 42) (my emphasis). This means that any additional employment land should not be at the expense of the Green Belt or the Strategic Gap policies.

#### Recent Developments

3.31 As indicated above there has been significant site promotion in and around junction 10 of the M42 over the years. Recently the land between Tamworth and Polesworth and Dordon has been subject to considerable pressure for development and as a result, the gap between the settlements has narrowed further. This is shown on the plan which shows the position of the Strategic Gap and surrounding development at Appendix A, in particular the following sites are significant:

1. Land east of Centurian Park Industrial Estate in Tamworth, and to the south west of Junction 10 was developed as a strategic employment area. This extended to some 8.5 hectares (reference site 4 and 5).
2. Land to the south of Centurian Park to the west of M42 was developed for some 30 dwellings in the administrative boundary of Tamworth with outline consent for a further 88 dwellings in North Warwickshire’s area on an area of 3.9

hectares (south of 4 and 5 not marked on plan). The dwellings have not been constructed due to being within the safeguarding route for HS2.

3. Land to the south of the A5, St Modwen park Tamworth which was allowed following an appeal which extends 25.4 hectares in area (site 2 CD-K2).
4. Land at the former Tamworth Golf Course, north of the B5000 on 31 hectares received planning permission for up to 1100 dwellings and associated infrastructure (site 16).
5. 66.1 hectares of land to the east of the former golf course and west of Robey's Lane has been allocated (Allocation H5 – PAP/2018-0755) for some 1270 dwellings (see Inspector conclusions about this CD-F15 para 233-234). The outline application for this site has not been determined yet (site 12 and 13).
6. There have also been a number of planning applications in and around the Birch Coppice Business Park and Core 42 (formerly Hall End units) south of the A5 opposite the Appeal Site.
  - a. Land north-east of the Birch Coppice Business Park has been granted planning permission for B1(c) (now class E), B2 and B8 uses on 17.4 hectares, construction is nearly complete, with the exception of one application PAP/2023/0400 for office, industrial and warehousing of around 1000 sq metres (site 8).
  - b. Some 15 hectares of land to the west of Gypsy Lane (part of the Birch Coppice Business Park) has constructed for B1(c), B2 and B8 uses and is complete (site 7).

7. There are, in addition, adopted allocations within the NWLP of 5.1 hectares allocation E2 (site 9) and 3.45 hectares allocation E3 (site 10) of additional land to the north-west and north-east of the Birch Coppice Business Park with the replacement of land for recreational facilities (allotment and Birch Coppice Football Ground) on the north side of the A5 within the Strategic Gap.
8. An application for 6 dwellings adjacent to 112 Tamworth Road Polesworth (site 14) was refused and dismissed at appeal (CD – K6).
9. An application for 150 dwelling south of the above site adjacent to North Warwickshire Cricket Club (site 15) was refused and dismissed at appeal (CD-K1).

#### Relevant Appeal Decisions

3.32 There is no recent relevant planning history regarding the appeal site itself. However, there are two significant appeal decisions [November 2016 and April 2021] concerning two appeals in the vicinity of this current appeal which are clearly pertinent to the determination of this appeal. The two appeal decisions were decided before the NWLP was adopted. Not only does full weight now have to be given to Policies LP4, DNP1 and DNP4, but the Strategic Gap is now defined and indicated on the proposals map. This carries far greater weight than the “Meaningful Gap” addressed at the time of these two decisions.

3.33 In terms of the significance of the appeal site, added weight is given by virtue of these two appeal decisions which have addressed the issue of retaining the open corridor of land between Tamworth and Polesworth with Dordon, now the defined as the Strategic Gap

Appeal 1 Land south east of the M42 Junction 10 Tamworth (CD K2) (Appeal Decision  
28<sup>th</sup> November 2016) St Modwen Park Tamworth

3.34 Firstly, the St Modwen appeal, this development proposed was for Land within 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. This is situated to the south of the A5, opposite the appeal site (shown site 2 on Appendix 1).

3.35 The main issues in this case were two-fold, and similar to the main issues of this appeal case;

- a) The effect of the proposal on the separate identity of Dordon and whether or not it would maintain the meaningful gap between Polesworth and Dordon and Tamworth
- b) Whether or not there is a requirement for additional employment land in the area, having regard to the emerging NWLP.

3.36 Para 15 of the appeal decision indicates an important element in that Dordon, Birch Coppice and St Modwen Park Tamworth would lead to a continuous form of development. A significant consideration in this respect, and in this instance, is the additional impact of the allocation of employment sites E2 and E3 (site 9 and 10 Appendix A) which along with the undeveloped quadrant to the north would significantly dilute the separate identity of Polesworth with Dordon, south of the A5.

3.37 The Inspector in para 18 of the decision makes it clear the importance of the area to north of A5. He states:

*“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” (my emphasis)*

The loss of the land to the north of the A5 would very plainly impact on the identity of Dordon if developed. This is clearly contrary to the both the NWLP and DNP.

3.38 The perception of the Strategic Gap is shown in para 29 of the Inspector’s decision where he states:

*“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, 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.”*

Therefore, it is very clear development of the appeal site will have a very significant effect of the Strategic Gap. The Inspector’s commentary here concurs with the Council’s view, that this appeal land to the north fulfils a vital and very significant role in the retention of the Strategic Gap both from a visual and physical perspective. The Inspector’s conclusions in this paragraph epitomises a key feature of the Strategic Gap its undulating open character. They conclude with the importance of the appeal site in that the traveller has a clear sense of having left the first settlement having

travelled through an undeveloped area and then entered the second settlement. The appeal site plays a significant role in the form of this Strategic Gap.

- 3.39 Key view points of the Strategic Gap are identified in para 30 from the sports pitch beyond Kitwood Avenue, which is an elevated position allowing views of Birch Coppice and large commercial buildings beyond the M42. Para 31 emphasises the importance of the appeal site and land controlled by the appellant (blue land). The Inspector makes the following conclusion of this area of land and its importance:

*“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.”* (CD-K2 para 31).

- 3.40 That appeal was allowed specifically on the premise that the current appeal site would be left open. The Inspector in the St Modwen appeal specifically focussing on the open farmland to the north of the A5, combined with the location of Dordon on higher ground *“the proposal would respect the separate identity of Dordon and maintain the meaningful gap between Polesworth and Dordon and Tamworth”* (CD-K2 para 35).

- 3.41 Further evidence of the significance of the land to the north of the A5 was set out in the proof of evidence of St Modwen’s landscape witness’s (Andrew Williams) which expressly and repeatedly stated the importance of this piece of land (CD-G19 Page 30)

*“In summary, the identities of Tamworth and Dordon are clearly separate at present, with Birchmoor sitting partially between the two. The large, open expanse of land to the north of the A5 is highly visible as a single entity and plays an essential role in this separation, whilst the busy A5 is notable as a southern boundary to this open landscape. Land to the south is plainly divorced from the land to the north in terms of its relationships to the settlements of concern.” (my underlining)*

- 3.42 The importance of the land to the north of the A5 is further expressed from views from the A5 going westwards in Andrew William’s proof (CD-G19 para 5.5.9 page 32).

*“At a point almost adjacent to the appeal site (W9) a sweeping view opens to the north, where the eastern edge of Tamworth is recognisable. The emphasis on the view is strong, and again relies to a degree on the landscape initially being lower than the A5.”*

- 3.43 Andrew William’s proof also indicated an important when viewing the site from the A5 going eastwards (CD-G19 -para 5.5.13 page 34 and 35).

*“Once adjacent to the layby on the northern side of the A5, views revert to focus on the open views across the gap to Dordon’s western edge (E3/4). The strong emphasis on views north westwards to Dordon, rather than south westwards to Birch Coppice, is very noticeable, and is a result of the openness of this landscape, and sweeping views across it.”*

And



*“The western edge of Dordon is prominent and frequently viewed across open land to the north of the A5. The openness of this land to north of the A5, supported by its initial lower levels and low hedgerow or gaps in the hedgerow, acts to ensure there is separation between Dordon and Tamworth when experienced along this route moving westwards.”*

3.44 This evidence by St Modwen’s landscape witness clearly indicates the importance of land to the north of the A5 and its physical and visual perception ensuring that there is separation between Dordon and Tamworth within the Strategic Gap. It is an important signal within St Modwen’s proof of evidence.

3.45 Finally, land north of the A5’s importance is made further apparent within the closing statement of St Modwen’s case (CD-G20). During this it was emphasised that the effect on the proposal on the meaningful gap was not significant because of the following:

*“It ignores the fact that a meaningful gap will plainly remain, not least because the most sensitive land west of Dordon, north of the A5 will remain unaltered” (my emphasis); and*

*“If it were true then the residents of Dordon (including the PC) would no doubt be up in arms about the proposals, whereas in fact there is not a single local objection from the settlement whose identity is claimed to be on the verge of being seriously harmed.”*

3.46. The appeal proposals would see the land north of the A5 developed on this most

sensitive land. The area and scale of the proposed development is vast, There are significant objections from residents in the communities of Birchmoor, Dordon and Polesworth (CD-E61). There are also objections from Dordon Parish Council, Polesworth Parish Council as well as BCAT (Birchmoor Community Action Trust) (the local Rule 6 party).

3.47 There are very clearly important key messages from the appeal inspector in the St Modwen appeal decision (CD-K2) in respect of the importance of the area of land to the north of A5. Also, now that the St Modwen development is constructed, and the visual and landscape impact is apparent, it puts greater emphasis on the retention of the land to the north of the A5 and the obvious need for it to remain open and undeveloped as the most sensitive area. When considered together with the current proposal both spatially and three dimensionally, the cumulative loss of the sense of space and separation in the Strategic Gap is clear. The Inspector in the St Modwen appeal relied upon the current appeal site and land to the north of the A5 remaining open, for the St. Modwen scheme to be acceptable.

Appeal 2 - Land to the south of Tamworth Road and to the west of the M42, Tamworth (CD K1) (Appeal Decision 1<sup>st</sup> April 2019)

3.48 The second appeal, which was dismissed, involved a residential proposal of 150 houses to the south of the B5000 to the north of Birchmoor.

3.49 The development proposed was for residential development of up to 150 dwellings, open space, landscaping, drainage features and associated infrastructure with full approval of the principal means of access and all other matters reserved. The appeal

was decided on the basis of the titled balance as the local plan and Core Strategy policies were out of date. The emerging Local Plan (now the NWLP) was not at sufficient stage to hold full weight.

3.50 Whilst the Inspector found that the development would not significantly affect the identity of Tamworth, he did say that development of 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 appeal proposal. It is also significant in that the titled balance was engaged and despite this, the appeal was still dismissed. It is significant that the Inspector also emphasised the major reduction in space which would reduce the gap by around 300 metres which would leave a gap of around 478 metres. Although, the gap remaining after the Hodgetts development will not be this low, this part of the Strategic Gap is not as open as the land north of the A5 and the perception of the Strategic Gap is more significant.

3.51 There has been significant change since both those appeals, for instance these two appeal decisions were made before the NWLP was adopted in 2021. Not only does full weight have to be given to Policies LP4 of the NWLP, but now the DNP is also adopted and policies DNP1, and DNP4 have full weight too. Additionally, the definition of the Strategic Gap in that NWLP and the accompanying Policies Map, carries far greater weight than the “Meaningful Gap” addressed at the time of these two decisions, because of that status.

## Impact on the Strategic Gap

3.52 These impacts need to be assessed in the context of the wording of Policies LP4, DNP1 and DNP4. The evidence used for the meaningful gap provides robust evidence in respect of the importance of the Strategic Gap (CD-G2 and CD-G3). The Meaningful Gap Report and the Assessment of Value Report both indicate that this part of the Strategic Gap performs “very strongly” as part of the Strategic Gap by providing “*a buffer and sense of separation between the three separate settlements which are very close to each other*” (CD-G3 page 16 para 3.12). The appeal 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.

3.53 It is noted that 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. The proposal as a whole will impact of these characteristics changing the open rural character of this area. These impacts will be spatial and visual as well as impacting on the landscape.

3.54 This development will extend the development to the east of the M42 and north of the A5. There is a physical and visual impact of the proposal, the existing Strategic Gap measures around 1207 reducing the physical gap by around 430m to only 777m. This reduction will severely reduce the effectiveness of the separation between Dordon and Tamworth. 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 Strategic Gap between Birchmoor. 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 much closer towards Dordon, Birchmoor and Polesworth.

3.56 The impact on Strategic Gap from the appeal proposal are also expressed within the evidence of Sam Oxley. It is concluded that the proposal will have an adverse impact on the spatial function of the Strategic Gap by developing the open field with up to 100,000m<sup>2</sup> of warehousing and industrial buildings. The purpose of the Strategic Gap is to maintain the distinctive, separate identity and character of Tamworth and Polesworth with Dordon.

3.57 The Strategic Gap at the appeal site consists of a substantial undeveloped area compared to the built-up industrial area to the south of the A5. The lack of vegetation with large open fields currently allows for unrestricted views across the Strategic Gap. The edges of the Strategic Gap are noticeable, particularly the western edge of Dordon which is at a higher level. The reduction in the Strategic Gap will reduce the sense of separation between the settlements as people move between them along the A5 and the PRowS within the Strategic Gap.

3.58 The land within this parcel is undulating, low in the south rising to the ridge along the north and east next Dordon. 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. The open 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.

3.59 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.

3.60 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.

3.61 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. This contrary to the LP4 (NWLP), DNP1 and DNP4 (DNP) which aims to protect key views, retain a sense of space, place and separation. The DNP policy explains that the views of the Strategic Gap

are long and wide 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.

3.62 The changes that will be caused by the proposal are substantial, fundamentally altering the landscape character of the site and the Strategic Gap by altering the topography, vegetation and openness of the area both on and off the appeal site. 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 Strategic 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.

3.63 Within my evidence I have indicated the consistent policy approach to the importance of the Strategic Gap through plan preparation, site promotion, recent developments, relevant appeal decisions and the impact on the Strategic Gap. The impact on the Strategic Gap is described above and in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposed development would adversely affect the character of the site and the area. In summary, they consider that the introduction of new large scale built form development would significantly impact on the purpose of the Strategic Gap, changing the character of the gap and erode the perception and identity of the gap between the Tamworth and Dordon. The proposed development would reduce the intervisibility (the ability to see one edge from another)

and intra-visibility (the ability to see both edges from a single point) throughout this part of the Strategic Gap. The introduction of the large scale industrial development and planting between Tamworth and Dordon will effectively block views between the previously visible development edges. This would effectively reduce the perception of gap separating Tamworth and Dordon. In terms of the physical and visual separation between Tamworth and Polesworth with Dordon the proposal would result in substantial harm to the identity of these settlements contrary to the development plan policies.



#### 4. Effect of the proposed development on the character and appearance of the surrounding area

4.1 The landscape and visual impact of the appeal proposals on the site and the local context is described in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposed development would adversely affect the character of the site and the area. In summary, they consider that the introduction of new large scale built form development would erode the existing pattern of open fields and adversely impact on the rural nature of the landscape.

#### Planning Policy

4.2 Policy LP14 of the NWLP says that new development should look to conserve, enhance and where appropriate, restore landscape character so as to reflect that as described in the North Warwickshire Landscape Character Assessment of 2010. This aligns with policy LP1 of NWLP 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 DNP 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.*”

4.3 The DNP 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 (CD-F9 page 28) aims to ensure the development proposals take into account the key views (criteria 2). There is harm to the criteria within the policy to such an extent that the proposal would be contrary to this policy. Criteria 4 require development to consider the wider context of the area and the retention of the sense of space, place separation. It is clear that the proposal impact on open and long views across the Parish and is therefore contrary to criteria 4 of the DNP4. Although, criteria 6 indicates that LP4 and LP6 of the NWLP (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 (On the west side of Dordon Parish this is subject to 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.”*

- 4.4 The Borough’s 2010 Landscape and Character Assessment (CD – G1) 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 in the Landscape Character Assessment (G1) 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. One of the key features of the appeal site is its agricultural use and pastoral fields. The proposed development would represent a significant encroachment and intrusion of very large industrial scale development which would adversely affect the character of the site and the area, which cannot be effectively assimilated into the existing landscape without causing unacceptable harm.

- 4.5 The evidence of Sam Oxley indicates the magnitude or significance of visual effects identified from several of the viewpoints included in the LVIA, particularly immediately after construction when there would be limited screening provided by mitigation planting. These impacts were originally under played by the appellant in the original landscape assessment submitted with the application. Uncertainty remains, particularly given the nature of the visualisations provided and whether these provide a true reflection of the development. Also, 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 Modwen Park Tamworth industrial estate to the south of the Site.

- 4.6 It is clear that the provision of the vehicular access along with the traffic light controlled junction will certainly open up the visibility of the site when viewed from the A5. The proposed access and junction layout (CD-D18 Appendix C page 28-29) including appropriate visibility splays will remove the majority of the existing hedgerow to the front of the site and the regrading of the embankment to provide for widened shared footpath will further add to this loss. Also, the provision of an offline 3m wide shared cycleway running eastwards from the site also provides an urbanising effect on the countryside (CD-D18 Appendix L page 64-66). A consultation response on the current application (PAP/2024/0024) from Active England (CD-G27 sections 3-4) indicates the importance of prioritising pedestrians and cyclists and their concerns in respect of the shared use foot/cycleway, this could be addressed through low level bollard lighting with the allowance of the existing A5 lighting in close proximity. The design for lighting scheme supplementary planning guidance (CD-F3) identifies the importance of sympathetic lighting especially in countryside (para 1.2) and the importance of knowing the full impact prior to determination (para 1.4). All lighting should comply with the advice set out in para 3.5 of this guidance relating commercial developments.

4.7 Sam Oxley's evidence demonstrates that the proposal development from a landscape perspective would introduce large scale industrial development into a currently undeveloped area and would negatively affect the character and appearance of the open agricultural land between Tamworth and Dordon. This area is currently separated from industrial development to the south and west due to the position of the A5 and M42. The proposed development would expand this influence to the north of the A5 and east of the M42, introducing buildings which are incongruous with the rolling farmland. It would erode the existing pattern of open fields, introducing uncharacteristic landscape elements, including large bunds and trees. This would adversely impact on the rural nature of the landscape to a moderate extent.

4.8 A permanent change to the landscape character of the area would result as the agricultural fields make a positive contribution to the rural landscape and the landscape setting of around Polesworth with Dordon and Birchmoor. Furthermore, the visual perception of the Strategic Gap would be significantly adversely affected. In the overall balance of the proposal, it is considered that there is moderate harm in respect of the landscape harm.

#### Impact on visual amenities

4.9 The visual effects of the appeal proposal on site are described in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposed development will have a significant negative visual effects on the recreational users of the well used footpaths within the Strategic Gap. There are significant negative effects from viewpoints 1, 3, 4, 5, 8 and 10. There is also the introduction of lighting to the north

of the A5 which would have impacts on both the landscape and views experienced by receptors on the footpaths and the nearby settlements. It is also concluded that it would have a significant negative effect on the residential receptors in the Birchmoor and Dordon. The proposed mitigation planting on the bunding around the site will not be effective for a considerable number of years. Based on the proposed heights of the buildings, the upper extents and roofs will still be visible above the proposed bunding and planting at Year 15. The visual harm of the proposed development is a matter that weighs against the proposal. It is concluded that there is moderate harm in respect of this issue.

4.10 In terms of the visual effects of the proposal development, Sam Oxley concludes, is that the urbanising effect of the proposed development from various viewpoints would be permanent, even allowing time for the proposed mitigation measures to mature and would not adequately be mitigated or compensate for the loss of the openness on the appeal site. This would have an unacceptable adverse impact on the visual amenities of those passing through the landscape on both the public highway and the PRow.

4.11 The proposed development on the appeal site, in Sam Oxley's view, would result in the visual perception of Dordon with Polesworth as distinct and separate settlement being significantly adversely affected.

4.12 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. There 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.



## **5. Effect on the best and most versatile agricultural land**

- 5.1 In the assessment of the application, the Council's position, in the absence of any further information submitted by the appellant to demonstrate otherwise, was that the majority of the site comprised of Grade 2 (Very Good) Best and Most Versatile (BMV) agricultural land based on Natural England's Agricultural Land Classification Maps. BMV land is graded 1-3a (Annex 2 of NPPF).
- 5.2 Para 180 of the NPPF requires the recognition of the intrinsic character and beauty of the countryside and the wider benefits of the countryside. This requires a balanced consideration against other considerations and other benefits that the scheme could deliver.
- 5.3 In this instance, it is clear that the proposal would lead to loss of a significant amount of BMV agricultural land. The appeal if allowed this would lead to a permanent change, not just temporary loss, of this agricultural land and therefore weight is required to be attributed to this. The appeal site is not an allocated site and therefore its loss must be considered within the planning balance of the appeal rather than an allocated site which would be considered through the sustainability appraisal process.
- 5.4 The application was supported by an Agricultural Land Classification Report (CD-A9.5 Appendix A Agricultural Land Classification Plan and Assessment). This was summarised in the Planning Statement (CD - A6 – Para 11.7.3 page 110) and which confirms that a large proportion of the site, 29 hectares (91%), falls within subgrade 2 (very good). Of the remaining amount, 2 hectares (6%) fall with subgrade 3b (moderate) and the further 1 hectare as non-agricultural land, which is the track and hardstanding adjacent to the A5 boundary. This breakdown is indicated in the table

below.

Table 1 Agricultural Land Classification

Agricultural land Grade	Description	Area (ha)	Area (%)
2	Very good	29	91
3b	Moderate	2	6
Non-Agricultural	Non-agricultural	1	3
Total		32	100

5.5 Therefore the proposal will lead to loss of 29 hectares (91%) which is a large proportion of BMV agricultural land based on the appellant's Agricultural Land Classification Report. The Council are satisfied with the findings set out within the report relating to the appeal site, however it does not take account of additional loss of land for the off-site mitigation planting proposed to the east of the site (6.5 hectares in total). The land is considered to comprise a large proportion of BMV agricultural land, as defined by the glossary of the NPPF.

5.6 Although, the proposed development will result in the loss of a significant amount of BMV, the Council did not consider the loss of BMV agricultural land to give rise to a separate reason for refusal. However, the adverse impact of this loss is a material consideration that weighs against the proposal and needs to be weighed in the planning balance. The increased emphasis with the emerging Employment Development Plan Document (EEDPD) (CD-F7) will be to avoid BMV loss beyond allocated sites. It is therefore one of the considerations to assess through the

development plan led process, which would include a sustainability appraisal of proposed allocated sites and reasonable alternatives. The loss of BMV is clearly a harm to which limited weight should be attributed to in the overall planning balance.

5.7 It is also to be noted that that the Government has sought to place more emphasis on the importance of retaining BMV and on the importance of agricultural production, as evidence in recent Secretary of State decisions.

:

**6. Effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways**

6.1 It is my understanding that the highway matters have been satisfactorily resolved prior to the commencement of the inquiry with the main issues being covered within the respective Highway Statements of Common Ground with National Highways, Warwickshire County Council and Staffordshire County Council (CD-D18, D19, D20 respectively).

6.2 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 – para 115 (CD-F11). Based on the agreement with the Highway Authorities in the SoCGs, it is agreed that the proposal will not have a severe impact on the Strategic Road Network (SRN) or the surrounding roads.

6.3 The Council's concern has always been that the majority of the strategic housing allocations within the Local Plan are dependent 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.

6.4 National Highway's interest in the proposal 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.

6.6 Whilst the matters have been agreed with National Highways, it must be remembered that if allowed this would be through the development of an unallocated site within the Strategic Gap.

6.7 The Appellant may argue that the junction 10 improvements would play an important part in resolving and unlocking the committed allocated housing scheme. However, this is not the case and there continues to be on-going discussions with the applicants of these scheme and the Highways Authorities.

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

7.1 The starting point for this should be firstly, whether the proposal is within the settlement boundary, this is assessed through policy LP2 of the adopted Local Plan. It may well be assumed by the Appellant that the development would be considered under Category 2: Settlements adjoining the outer boundary of the Borough. It is clear that the site is not inside any settlement boundary. The site fails to fall in this category as it does not accord with criteria a), b) and c). It is therefore the case that it is considered to be a development within Category 5: All other locations. This states:

*“In all other locations development will not generally be acceptable, albeit as set out above there may be some instances where development may be appropriately located and would enhance or maintain the vitality of rural communities under this category.”*

7.2 Preceding this the Local Plan policy LP2 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 NWLP policy LP39. Therefore, there is no policy support for the employment land.

7.3 Evidence prepared by Dorothy Barratt considers this aspect of the scheme. In summary there is no immediate need for employment land in the Strategic Gap.

7.4 It is also a fact that the lorry park proposal and general industrial, warehouse, and

light industrial uses can be disaggregated. There is no requirement for the lorry park to be considered with the employment use land. This is evidenced on the basis of separate applications/appeals locally for stand-alone lorry parks.

7.5 There is no weight that should be attributed to the emerging Employment Development Plan Document (EEDPD). As already indicated the Borough Council has just completed a consultation on the EEDPD with an expected submission no later than 30<sup>th</sup> June 2025. This EEDPD will identify reasonable alternative sites. As already indicated the appeal site has not previously been identified as a reasonable alternative employment site during the preparation of the Draft Site Allocation Plan 2015 (subsumed into NWLP). The site could be put through and assessed as part of this process through the EEDPD process along with other sites. The Borough Council is keen to take control of the situation in respect of employment land provision and as the Local Plan Inspector and other appeal Inspectors (such as Daw Mill CD K5) have said the Borough Council has a history of grappling with issues and is proactive in getting solutions. This is evidenced through the Borough Council being the only local authority within the Greater Birmingham housing market area with an adopted plan which deals with 10% of the housing shortfall. The NWLP is very proactive in that it seeks to deliver around 9600 homes up to 2033 of which less than half is for local needs.

7.6 The Council recognises that the site and the creation of jobs are benefits which weigh in favour of the development, it considers that the need for employment land can be better met on alternative sites.

7.10 The NWLP provides for a minimum of 100 hectares of employment land over the

plan period to 2033. The NWLP allocated land for over 57 hectares of employment land. Evidence from the Annual Monitoring Reports (CD-F5 and F6) indicates that the employment sites are coming forward, those sites in close proximity to the appeal site E2 and E3 have not come forward as yet. However, the local plan covers the period until 2033 some nine years away from the current position.

7.11 It is considered that the Borough Council's approach to employment supply and the future provision is the correct approach. The Borough Council's approach does accord with the core planning principle in the NPPF that planning should be genuinely plan-led. The speculative development of the appeal site would not accord with that principle. The Borough Council has a track record of progressing plans in a positive manner as can be evidence by the current NWLP.

7.12 In respect of Policy LP6 the appellant's case could carry weight if the immediate need and or certain type of employment had been demonstrated or evidenced. It is also agreed that under paragraph 85 of the NPPF that "decisions should create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity".

7.13 It has been agreed that the appeal proposal would result in the delivery of employment land within the North Warwickshire area and would provide opportunities for businesses to grow and would help create direct and indirect job opportunities in the SoCG (CD-D13). The submitted documents set out the proposals' substantial benefits such a job creation (283 person years of construction employment in the construction phase and 2081 net additional jobs once operational); GVA values of up to £19.9 million through construction and £62.5-



£104.2 million per annum (once operational) to the West Midlands economy (CD A6 para 10.3). These economic benefits would however be the case wherever this type of development occurs which reduces the weight to be attached to provision in this location.

7.14 Having considered the evidence prepared by the appellant it is considered that they have not provided evidence to comply with policy LP6 in terms of the immediate need nor of the certain type of employment land. Therefore, it is considered from the evidence prepared by Dorothy Barratt that only limited weight should be attributed to the delivery of new employment land through the appeal proposal.

**8. Whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities**

8.1 In respect of 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”.*

8.2 The second sentence here recognising the location and demand for lorry parking. 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. However, it does not follow that that should lead to support for the proposal as a whole or a site in the Strategic Gap. 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 site is that of an employment site. The two uses could well be disaggregated (as indicated above para 7.4), the uses are complementary but the two do not need to be provided together, as one is not fundamentally reliant on the other. Moreover, the harms caused by the whole proposal include the cumulative uses on this site. LP6 provides an exception for employment use in the Strategic Gap, this is not extended to lorry parking. By combining the uses a larger site than is required which reduces the ability to meet any employment need on more

sustainable sites outside the Strategic Gap or minimise the impact on the Strategic Gap.

- 8.3 Evidence prepared by Dorothy Barratt indicates that there are alternatives here for lorry parking provision in the vicinity of the site (Appendix L of her proof). There are a number of alternatives in the vicinity of the site and within the sub-region.
- 8.4 It is also relevant that the appeal site is close to the Junction 10 M42 Moto Services - Motorway Services Area (MSA), where there is already significant lorry and coach parking on the site totalling 56 HGV parking spaces and 18 coach spaces. This site includes a number of other facilities including a petrol filling station (PFS), restaurants, retail premises and hotel facilities also. Planning permission has been granted and implemented for an additional 38 HGV spaces which are currently being completed ensuring that they are future proofed for electric charging too (CD – I98). There are also significant opportunities on the MSA for additional HGV spaces if the demand for further facilities are needed and become necessary. It is considered that the M42 services provides a significant supply of other facilities at a recognised service area.
- 8.5 From evidence prepared by Dorothy Barratt it indicates that overnight facilities in the DfT HGV survey indicates that there is only a 62% night on-site utilisation within the midlands (CD-I11 Dft part 2). This is the lowest of all of the regions considered.
- 8.6 In respect of HGV parking, it is considered that EEDPD will include HGV parking, and it asks certain question in this regard. Considering whether any employment

allocations should provide this complementary use or it should be stand-alone provision.

- 8.7 The need for lorry parking in this area is again not at a critical level and there are also a number of alternative facilities in the vicinity of the site. As indicated in evidence the need for HGV parking is not critical here as in other parts of the United Kingdom. From the evidence submitted, there is only **moderate** weight given to the need for HGV spaces through the development.

## 9. How the proposed development would perform against the objectives for achieving sustainable development set out in the National Planning Policy Framework

9.1 Paragraph 8 of the NPPF indicates the achievement of sustainable development with the three overarching objectives. These are economic, social and environmental objectives. We have already considered the Strategic Gap, landscape, visual amenities, agricultural land, highways, employment and lorry provision elements above.

9.2 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. It states, so far as material:

*Plans and decisions should apply a presumption in favour of sustainable development.*

*For **decision-taking** this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

9.3 In respect of Chapter 6 para 85 states that decisions should create the conditions in which businesses can invest, expand and adapt. It indicates that significant weight should be placed on the need to support economic growth and productivity. The proposal will provide substantial economic benefits such as job creation (283 FTE during construction and 2,082 FTE permanent jobs following completion) and Gross Value Added of up to £19.9m from construction and £62.5-£104.2m per annum permanently following construction. There are also social benefits of the community hub offices included within the scheme as well as its economic benefits. This would however be the case wherever this type of development occurs which reduces the weight to be attached to provision in this location.

9.4 A recent court judgement (CD-K14) held that significant weight (as indicated by para 85 of the Framework) needs to be afforded to the 'objective' of supporting economic growth and productivity (at [43]). But at para 48, the Court said that there was no part of the NPPF which suggests, 'whether expressly or by implication, that significant weight should be given to any economic benefit flowing from any development proposal. If the Secretary of State had intended to lay down a general policy of that kind it would have been easy for him to say so and he would have said it.' The Court went on to say at para 50: 'The economic benefits of proposed developments will vary widely, whether in a local or wider context. Here the benefits relied upon by Bewley were of a general and unquantified nature and typical of the benefits which could be claimed for most residential development throughout the country and, indeed, many other types of development.' The Court essentially said that it was open to a decision maker to afford weight to economic benefits as appropriate to the circumstances of the case. Sometimes these benefits will be very substantial and other times they will be minor (at para 53). Ultimately, the Court held that these will

be classically matters of planning judgment for the decision maker (see para 55). This view is the same as it is when assessing heritage harm, this is the case here and the weight given to the economic benefits indicated in section 11 of this proof.

9.5 Chapter 8 of the NPPF promotes healthy and safe communities. The proposal would provide the opportunity for providing better access to areas of the countryside. The scheme has benefits through the improved cycle and footpaths across the site and blue edge land. The provision of areas of open space with community access. These are all benefits to the scheme, however these are requirements of the Development Plan LP6 criteria ii too. It also accords to policy LP23, LP27 of the NWLP and policy DNP5 of the DNP.

9.6 In terms of sustainable transport, the proposal will provide and encourage sustainable forms of transport through the public transport, pedestrian and bike facilities and arrangements. However, to ensure patronage and usage of these facilities any improvements to pedestrian/cycle facilities should be upfront as part of the scheme to accord with para 108c, 116 and 117 of the Framework and the National Design Guide para 82.

9.7 National policy on design has been substantially strengthened in the revised NPPF. Chapter 12 of the NPPF. *“Achieving well designed places”* has been significantly revised. The overarching social objective of the planning system now has *“beautiful”* added to the previous requirement to provide *“a well designed, [beautiful] and safe built environment”*. There is no definition of “beautiful”, which is necessarily context specific. In this regard with the views expressed in relation to the impact on the Strategic Gap and landscape there is conflict here in the context of the proposals. It

cannot be claimed the scheme including the lorry park, particularly in this location, is beautiful.

9.8 Chapter 14 of the NPPF requires that proposal must meet the challenge of climate change and flooding. 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. In this instance the Lead Local Flood Authority has not objected to the proposed drainage strategy. There are no objections from the Environment Agency and Severn Trent Water Ltd to the proposal. It is thus considered that the proposal does accord with this this element of the Framework and the Local Plan.

9.8 It is clear that the proposal has aspirations to provide the opportunities for environmental benefits of a net zero ready development. This includes a submitted Zero-Emission Goods Vehicles Statement, provision of electric charging points now comprises SMART EV charging points to 20% of car, motorcycle and LGV parking spaces and 10% of HGV parking spaces and/or loading docks with the remaining parking space and loading docks provided with ducting to future proof the development, as well as flexible building design that can easily accommodate future connections to advancing technologies such as 'solar PV ready' steel portal frame and connected battery technology and to facilitate up to 100% of EV charging from on-site renewable energy sources. There may be aspirations to provide these facilities, but at present there is no end user and therefore it would be difficult to accurately demonstrated that the aspirations will come to fruition. Although, the provision of future proofed infrastructure is forward thinking; most developers or businesses are looking to provide this infrastructure now as it is cost effective to do.



For instance, the Moto service additional HGV parking provision has considered such future proofed infrastructure (CD – I98). The proposed environmental benefits would accord with the principles within the NPPF in chapter 14. However, the energy benefits put forward are one that have already been indicated by other prospective developers across the Borough.

9.9 Paragraph 180 of NPPF also requires decisions to protect and enhance sites of biodiversity value and further provision is made on this issue in paragraphs 185 to 186. This somewhat echo's NWLP policy LP16 which requires 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 appeal site will show a net bio-diversity gain, in order to accord with Policy LP16 and the bio-diversity element of the NPPF.

9.10 In respect of Air Quality, Light and Noise Pollution within paragraphs 189-194, of NPPF notwithstanding it is considered that the proposal could have an impact on the character of the area by the provision of lighting. In respect of Air Quality and Noise pollution, it is considered that the proposal would not have an adverse impact on the surrounding area. Suggested conditions within the agreed SoCG (CD- D13 Appendix A), would ensure that these issues are mitigated and would attempt to comply with the Council's adopted Air Quality SPD (F2) through a Damage Cost Calculation (condition 30). Conditions are also proposed in respect of noise and contamination too (conditions 20, 33, 34 and 36).

9.11 In respect of the historic environment Chapter 16 of the Framework requires LPA's

to take into account sustaining and enhancing heritage assets, the desirability of new developments providing a positive contribution to the local character and distinctiveness. In order to do this 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 Framework. 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. There is 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 17<sup>th</sup> early 18<sup>th</sup> Century construction. The appeal site has no direct impact and 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.

9.12 In terms of archaeology the County Planning Archaeologist have not raised objection subject to a standard condition requesting pre-commencement site evaluation (CD-D13 Appendix A Condition 12). In these circumstances it is considered that it would accord with the Framework.

9.13 Notwithstanding the conclusions above in section 2 in the respect of the Development plan, section 3 in respect of the impact of the Strategic Gap, section 4 in respect of impact of the proposal on the character and appearance of the

surrounding area (landscape and visual amenities) and section 5 in respect of loss of agricultural land there is some consistency with the Framework.

9.14 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. Planning obligations and/or planning conditions address impacts**

10.1 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 sum is yet to be agreed but would amount to around £1,080,000 equating to £216,000 over a five year period from the date of the first occupation for business purposes of the first building to be completed under this planning permission. 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 and subsidy of this service into the site. There is also a request for £5,000 - £1,000 per annum for 5 years for the maintenance of the bus shelter paid on completion of the bus shelter. There is also a request for £4000 - £800 for 5 years for Real Time Information display (RTI) maintenance, as well as a commuted sum for the replacement screen to be paid on the installation of the equipment of £2500. 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 (CD-H6). It is also directly related to the development and is proportionate to the scale of the development as calculated by the County Council.

10.2 On a without prejudice basis, the appellant would include measures to secure off-site landscaping and green infrastructure together with its maintenance. This land also has the benefit of also providing part of the Bio-diversity net gain for the scheme (off-site element). The appellant has also indicated that the additional off-site green orchard to the west of Dordon as well as other land to the east of the site totalling

some 6.51 hectares, indicated on plan (CD-D16 plan). 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. Para 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.

10.3 Originally, it was understood that National Highways and Warwickshire County Council may seek a contribution towards improvements of A5. However, during the on-going discussions between the appellant and the Highway Authorities it is understood that the mitigation could be provided through Grampian conditions to ensure the mitigation is provided up front prior to the occupation of the development. This will also allow for a step-change in cycle and pedestrian use along the A5 as required by the Local Plan policies LP1, LP6, LP23, LP27 and LP29 (6) together with the NPPF at paragraph 115 subject to appropriately worded conditions.

10.4 The appellant has indicated that they would wish to be involved in promoting access to industrial, manufacturing skills and training (CD-B45). Discussions have been on-going with the appellant in this regard and it is likely that condition 15 of the draft planning conditions (CD – D13 page 30) will be amended to reflect the full extent of the appellants case. 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.

**11. How any benefits and disbenefits of the proposed development should be considered in the overall planning balance.**

11.1 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”*

**Benefits of the scheme**

11.2 There are a number of benefits associated with the appeal proposal, related to the provision of additional employment land and job creation. This would however be the case wherever this type of development occurs which reduces the weight to be attached to provision in this location. The appeal proposal would result in the delivery of B2/B8 and Class E (g) land within the North Warwickshire area and would provide opportunities for businesses to grow and would create direct and indirect job opportunities. The proposal would also provide up to 150 lorry parking spaces as well as hub which would have socio-economic benefits. The framework indicates that significant weight should be placed on the need to support economic growth and productivity, however the recent judgement (CD-K14) indicates the weight attributed to matters of planning judgment for the decision maker (para 55).

11.3 As indicated in Mrs Barratt’s proof of evidence there are opportunities for such development through the plan-led process and the emerging EEDPD. The Borough Council also has a good track record of providing employment land as well as progressing Local Plans. The Borough Council will ensure the additional land for

employment uses and lorry parking come forward in a plan led way. The work on the EEDPD and track record of delivery in both plan making and employment sites should be given some weight. Evidence also indicates that there is not an immediate need for this employment land or a certain type of employment land. It is considered that weight could be attributed to the appellant's case but the immediate need or certain type of employment land and having considered the evidence prepared by the appellant it is considered that there is insufficient evidence to comply with policy LP6. Therefore, it is considered from the evidence prepared by Dorothy Barratt that only **limited** weight should be attributed to the delivery of new employment land through the appeal proposal.

11.4 Turning to the HGV parking provision, as included in evidence there is already a permission at the M42 services (MSA) which will provide additional lorry services where there already an existing established facility used for both HGV and coach parking. The need in this area is again not at a critical level and there are also a number of alternative facilities in the vicinity of the site. As indicated in evidence the need for HGV parking is not critical here as in other parts of the United Kingdom. From the evidence submitted, there is **moderate** weight given to the need for HGV spaces through the development.

11.5 The appellant will undoubtedly put forward other benefits of the scheme including the improvements to public footpath and cycleways and provision of open space, but it must be remembered that the provision of this is to make the proposal acceptable in planning terms as required by the Development Plan. Such mitigation including off-site landscaping, enhanced public footpaths and cycleway routes, enhanced bus-stop and new off-line footway/cycleway to the north of A5 are all required to comply

with improve accessibility as the proposal in not within or adjacent to the settlement as indicated by LP2 and is a requirement of LP6 criteria (ii). There is therefore **limited** weight attributed to these improvements.

11.6 Great play will be made that the scheme being 'rail served' due to its close proximity to Birch Coppice/BIFT. However, sites in Magna Park are defined as 'rail served' due to their proximity to DIRFT (Daventry International Rail Freight Terminal) which is some 8 miles away. Many sites are rail served but there is no obligation to indicate that any development must use this service or to what level, therefore only **negligible to neutral weight** should be attributed to the proximity of Birch Coppice intermodal terminal.

11.7 In respect of the proposed mitigation to the A5 and M42 roundabout and the provision of a new fully signal controlled pedestrian crossing for the A5 to replace an existing junction, again it is the case that this is required to make the scheme acceptable and comply with policy and therefore it is considered that I cannot afford them weight in the overall planning balance. It must be remembered that if allowed this would be through the development of an unallocated site within the Strategic Gap. The appellant may forward views that the junction 10 improvements would play an important part in resolving and unlocking the committed allocated housing scheme. However, this is not the case and there continues to be on-going discussions with the applicants of these scheme and the Highways Authorities. There is no evidence to indicate that this jeopardising the local plans allocation in the case. The mitigation proposed in respect of scheme would be required to make the scheme acceptable, therefore I **cannot attribute any weight** to this.



11.8 The climate change element of the scheme includes a number of factors including flexible building design, electric charging, onsite energy storage, are all elements required by policies within the adopted Development Plan. The proposal in my opinion raises the bar and step above this policy, however it is also the view that a number of prospective employment sites have also indicated such provision, therefore only **limited** weight could be attributed to this element.

### **Harms of the Appeal Proposals**

11.9 The Framework indicates that the planning system should be genuinely plan-led. For decision making this means approving development proposals that accord with an up-to-date Development Plan without delay.

11.10 As indicated 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. The proposal is contrary to the Development Plan, the recently adopted North Warwickshire Local Plan and the Dordon Neighbourhood Plan. The appeal proposal is inconsistent with visions, objectives and policy LP4 of the Local Plan and DNP1 and DNP4 of the neighbourhood plan in this regard the proposal clearly does not maintain the separate identities of Tamworth and Polesworth with Dordon due to its scale, character and appearance.

11.11 There is a physical and visual impact of the proposal, reducing the physical gap by around 430m to only 777m. This reduction will severely reduce the effectiveness of the separation between Dordon and Tamworth. The Strategic Gap at the appeal site

consists of a substantial undeveloped area compared to the built-up industrial area to the south of the A5. The lack of vegetation with large open fields currently allows for unrestricted views across the Strategic Gap. The edges of the gap are noticeable, particularly the western edge of Dordon which is at a higher level. The reduction in the gap will reduce the sense of separation between the settlements as people move between them along the A5 and the PRowS within the Strategic Gap. It is concluded that due to effects in terms of the physical and visual separation between Tamworth and Polesworth with Dordon that the proposal would result in **substantial** harm to the identity of these settlements contrary to the development plan policies.

11.12 As concluded in Sam Oxley's proof of evidence the proposal would detract from the open appearance of this undulating open agricultural area. Her evidence demonstrates that the proposal development would introduce large scale industrial development into a currently undeveloped area and would negatively affect the character and appearance of the open agricultural land between Tamworth and Dordon. This area is currently separated from industrial development to the south and west due to the position of the A5 and M42. The proposed development would expand this influence to the north of the A5 and east of the M42, introducing buildings which are incongruous with the rolling farmland. It would erode the existing pattern of open fields, introducing uncharacteristic landscape elements, including large bunds and trees. This would adversely impact on the rural nature of the landscape to a moderate extent.

11.13 One of the key features of the site is its agricultural use and pastoral fields. The proposed development would represent a significant encroachment and intrusion of industrial scale which would adversely affect the character of the site and the area,

which cannot effectively be assimilated into the existing landscape without causing unacceptable harm.

11.14 A permanent change to the landscape character of the area would result as the agricultural fields make a positive contribution to the rural landscape and the landscape setting around Polesworth with Dordon and Birchmoor. The Strategic Gap is an important part of the landscape character of the area. The visual perception of the Strategic Gap as distinct from the surrounding settlements, the large-scale industrial development and the Motorway Service Station would be significantly adversely affected. In the overall balance of the proposal, it is considered that there is **moderate** harm in respect of the landscape harm,

11.15 The visual effects of the appeal proposal on site are described in detail within the evidence of Sam Oxley. Her evidence demonstrates that the proposal development will have a significant negative visual effects on the recreational users of the well-used footpaths within the Strategic Gap. There are significant negative effects from viewpoints 1, 3, 4, 5, 8 and 10. There is also the introduction of lighting to the north of the A5 which would have impacts on both the landscape and views experienced by receptors on the footpaths and the nearby settlements. It is also concluded that it would have a significant negative effect on the residential receptors in the Birchmoor and Dordon. The proposed mitigation planting on the bunding around the site will not be effective for a considerable number of years. Based on the proposed heights of the buildings, the upper extents and roofs will still be visible above the proposed bunding and planting at Year 15. The visual harm of the proposed development is a matter that weighs against the proposal. It is concluded that there is moderate harm in respect of this issue. Overall, it is concluded that there is **moderate** harm in respect

of this issue.

11.16 The loss of best and most versatile agricultural land is also a negative aspect of the proposal which would conflict with the framework. Additional limited harm should be given to this issue.

### **Conclusions and the Planning Balance**

11.17 The proposal delivers economic development. There is support for such development in the development plan, most notably in policy LP6. This policy supports economic development and productivity particularly where there is evidence of an immediate need for employment land or a certain type of employment land. The Appellant argues a case for immediate need for logistics development. But its case on immediate need is exaggerated. Furthermore, this is not the only location where logistics development can be located. Indeed, the Council is faced with several other applications and proposals for logistics which are in the pipeline. In my view, from the evidence submitted, there is limited weight given to the need for the employment development and limited to moderate weight for the HGV parking.

11.18. There are opportunities for future provision of additional employment land through the emerging Employment Development Plan Document (EEDPD) (CD-F7) through the plan-led process.

11.19 The proposal clearly does not accord with the Development Plan and the Framework.

11.20 The other economic benefits put forward in support of the application are not of

sufficient weight to outweigh the substantial harm caused by this proposal.

11.21 The proposal would not be inside of the settlement boundary. This would be in open countryside and therefore would not accord to LP2 of the North Warwickshire Local Plan.

11.22 The proposal would result in significant adverse landscape and visual effects and thus the appeal site would be contrary to the policies L1, LP14 and LP30 of the Local Plan, as well as policies DNP1 and DNP4 of the Dordon Neighbourhood Plan, and the Framework.

11.23 The loss of a significant amount of agricultural land will also lead to additional harm albeit additional limited harm.

11.24 Most importantly, the proposal would be in complete and obvious conflict with policy LP4 in the Local Plan and policies DNP1 and DNP4 of the Dordon Neighbourhood Plan.

11.25 It is clear the proposal will have significant negative impacts in terms of physical and visual separation the impact on the identity of the Polesworth and Dordon should not be underestimated. A gap which has been recognised by another inspector as being particularly important and by experts acting for other logistics developers in the area as the most sensitive part of the Gap. Substantial weight should be attributed to this conflict.

11.19 On balance taking into account all of the factors for and against the proposal, I

consider that the proposal would be clearly contrary to the Development Plan as a whole, and to the NPPF when taken together as a whole.

11.20 In conclusion, there is clear conflict with the Development Plan as a whole. Whilst there are benefits associated with the appeal proposal, as have been set out, I do not consider that those material considerations outweigh the identified conflicts with the Development Plan

11.21 I also consider that the identified harm would significantly and demonstrably outweigh the benefits arising from the development. The scheme would not represent sustainable development under the terms of either LP1, LP4, LP14, LP30 of the North Warwickshire Plan or DNP1 and DNP4 of the Dordon Neighbourhood Plan or the Framework.

11.22. I consider therefore that the Appeal should be dismissed.