



TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY HODGETTS ESTATES

**LAND NORTH-EAST OF JUNCTION 10 OF
THE M42 MOTORWAY, DORDON, NORTH
WARWICKSHIRE**

**PROOF OF EVIDENCE
on behalf of**

**POLESWORTH PARISH COUNCIL, DODON
PARISH COUNCIL AND BIRCHMOOR
COMMUNITY ACTION TEAM (BCAT)
LOCAL RULE 6 PARTY**

APP/R3705/W/24/3336295

MAY 2024 – V3

Prepared by
JONATHAN WEEKES
BSc (HONS) MA MRTPI

CONTENTS

1	Introduction	3
2	The Site and Surrounding Area	4
3	Proposed Development and Context	5
4	The Decision-Taking Framework: The Development Plan and National Planning Policy	6
5	Relevant Planning Applications and Decisions	10
6	Main Issues	18

APPENDICES

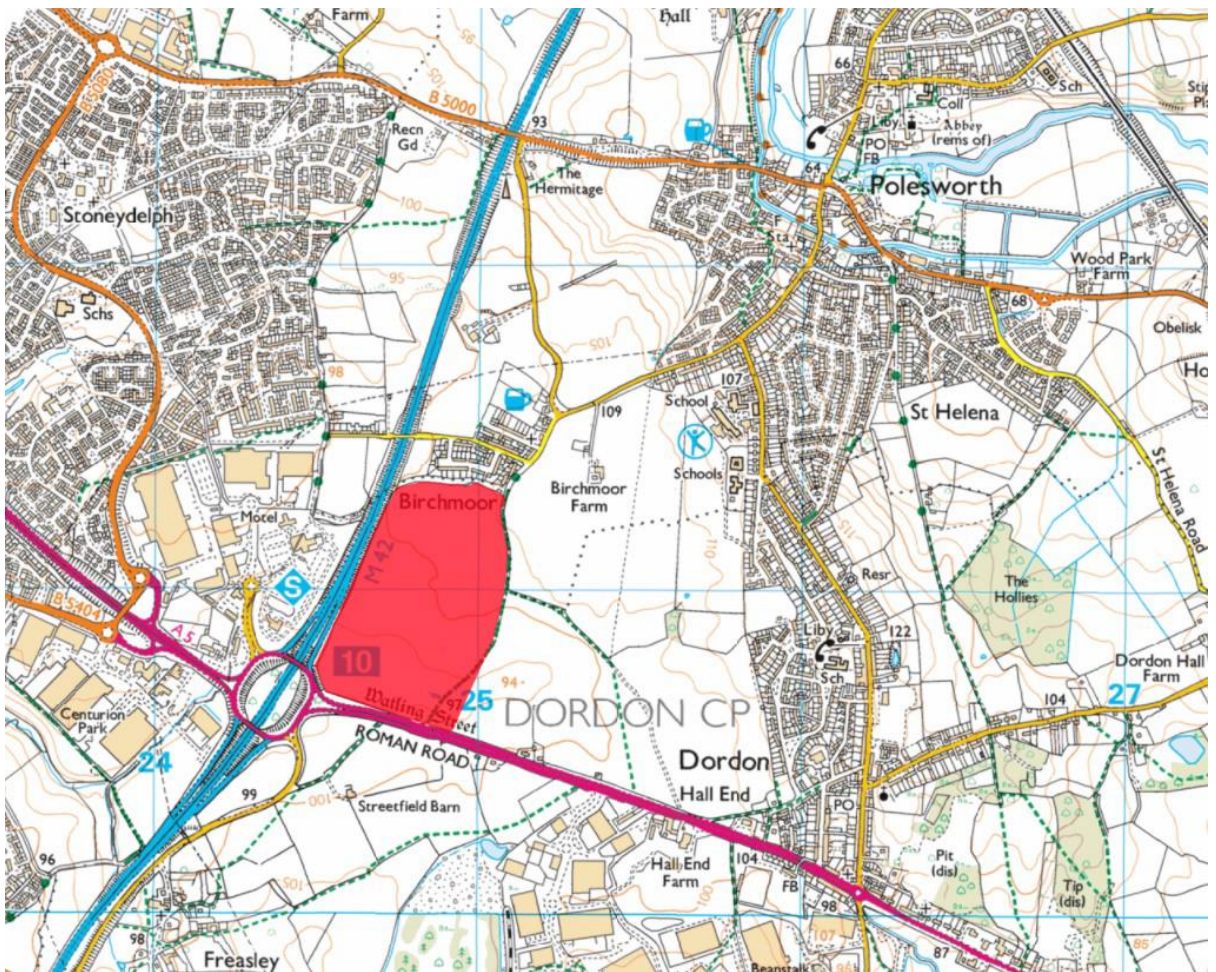
- 1 Local Resident Statement: Angela Mann
- 2 Local Resident Statement: Adam Archer
- 3 Local Resident Statement: Julie Gilbert
- 4 Local Resident Statement: Janet Williams
- 5 Local Resident Statement: Kim & Rob Roberts
- 6 Local Resident Statement: Malcolm Fitzpatrick
- 7 Local Resident Statement: Malcolm & Glennys Walton
- 8 Local Resident Statement: Mark Young & Tracey Wright
- 9 Local Resident Statement: Leslie & Gillian Whitnell
- 10 Local Resident Statement: Pat Mollart
- 11 Local Resident Statement: Sandra and John Webb
- 12 Local Resident Statement: John Winter
- 13 Local Resident Statement: Derek Malcolm and Anne Marie Jones
- 14 Local Resident Statement: Dan Hancocks
- 15 Local Resident Statement: Alan Brown
- 16 Local Resident Statement: Joanne Brown
- 17 Local Resident Statement: Mr and Mrs Young
- 18 Local Resident Statement: Claire Warren
- 19 Local Resident Statement: Mr and Mrs J Wetton
- 20 Local Resident Statement: Scott Lamb
- 21 Local Resident Statement: Barbara Lamb
- 22 Local Resident Statement: G and A Nicholls
- 23 Local Resident Statement: Mr K Hawkins
- 24 Local Resident Statement: Heather and Paul Masterson
- 25 Local Resident Statement: Kerry Lee Hoy

1. INTRODUCTION

- 1.1 My name is Jonathan Weekes and I am a Technical Director at Aitchison Raffety, Chartered Town Planning Consultants. I am instructed by the Joint 'Local Rule 6 Party' that consists of Polesworth Parish Council, Dordon Parish Council and Birchmoor Community Action Team (BCAT) in respect of this appeal. It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990 following non-determination by the local planning authority in respect of land north-east of Junction 10 of the M42 and north of the A5, at Dordon, Warwickshire.
- 1.2 I have an Honours Degree in Physical Geography, a Masters in Town Planning and am a Member of the Royal Town Planning Institute.
- 1.3 I have over 20 years' experience in private practice in planning and development management matters. I have acted on behalf of major housebuilders, private individuals, local authorities, Parish Councils, and resident groups on a wide spectrum of planning work for both major and minor residential, employment, commercial, energy and mixed-use schemes. This has included involvement with Hearing and Inquiry appeals both for private and public clients.
- 1.4 I will present evidence on planning matters in respect of this appeal. This Proof of Evidence is to be read in conjunction with the evidence provided by the technical consultants acting on behalf of the Council and Highways England where relevant concerns are raised and included within the planning balance. I have visited the Site as part of my preparation for the appeal.
- 1.5 The evidence that I have prepared and provide for this appeal, in this Statement, is true and has been prepared and is given in accordance with the guidance of my professional institution, The Royal Town Planning Institute. I confirm the opinions expressed are my true professional opinions.

2. THE SITE AND SURROUNDING AREA

- 2.1 The Appeal Site is located to the north-east of the intersection of the M42 (Junction 10) and the A5, with these highways bounding the site to the north-west and south respectively. This lies to the east of Tamworth, and close to the villages of Birchmoor, which borders the site to the north and Dordon, which is 800 metres to the east at set on top of a small localised ridge. To the south, on the opposite side of the A5 is employment and logistic buildings, with most included within the Birch Coppice Business Park.
- 2.2 The land forms the southern part of the Strategic Gap between Tamworth and Polesworth with Dordon. This designated has been in place since 1989 and seeks to prevent the coalescence of settlements.



Site Location Plan

- 2.3 The Site is around 33 hectares in size and used for agricultural and slopes very gently upwards in a northerly direction. There is an access point onto the A5 to the south, with a hardstanding area of circa 0.5 ha adjacent to the access. The Site forms a single field, with mature trees and hedges to the M42 and A5. Boundary vegetation is more limited along the northern boundary and the site is poorly defined along the eastern boundary.
- 2.4 There are two low voltage electricity lines that cross the site in an east/west and a north/south direction. A public bridleway (AE45) traverses the site in a north/south direction, whilst a public footpath (AE46) runs along the eastern boundary of the site.

3. THE PROPOSAL

- 3.1 The proposal is for an outline development for Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works. An overnight lorry parking facility and ancillary infrastructure and associated works is also proposed.
- 3.2 The outline proposal is seeking to fix the parameters of the development and the access arrangements. All other information is for illustrative purposes at this stage. The access is proposed to be provided via a new traffic light controlled junction onto the A5. The parameters plan (CD B37) subdivides the site into four plots, with constraints indicated as follows for each section:
- Plot A1: Employment (Classes B2, B8 and E) up to 117.8m AOD (equivalent to 21m tall buildings)
 - Plot A2: Employment (Classes B2, B8 and E) up to 112.0m AOD (equivalent to 11m tall buildings)
 - Plot B1: Lorry parking (Sui Generis) up to 111.5m AOD (equivalent to 10m tall buildings)
 - Plot B2: Hub office up to 111.5m AOD (equivalent to 8.0m tall buildings)
- 3.3 Landscaping is then shown around the perimeter of the site. Although not included within the material to be fixed as part of this submission, the Planning Statement cites the proposal as delivering up to 100,000 sqm of floorspace, with a maximum of 10% provided within Class B2/E(g)(iii). This also states that the lorry park would be for up to 150 vehicles, and that the amenity building for the lorry park would be up to 400 sqm and include a shop, restaurant/takeaway, laundry, gym, changing facilities, showers and toilets [paragraph 3.2.1 of CD A6].
- 3.4 The illustrative layout [CD B41] indicates the provision of a sizable balancing pond on the southern part of the site, adjacent to the A5, with a more extensive landscaping area to the north. This is noted in the Planning Statement to range between 75 and 134 m to the north. The Illustrative Landscape Sections [CD B15] identifies that the proposed landscaping to the north will be delivered via a planted bund.

4. THE DECISION-TAKING FRAMEWORK: THE DEVELOPMENT PLAN AND NATIONAL PLANNING POLICY

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Adopted Development Plan

- 4.2 The Statutory Development Plan comprises the North Warwickshire Local Plan 2021 and the Dordon Neighbourhood Plan.

North Warwickshire Local Plan 2021 (NWLP) (adopted September 2021)

- 4.3 The Local Plan identifies the site as being within a Strategic Gap.

- 4.4 The following policies are of relevance to this appeal:

- Policy LP1 – Sustainable Development
- Policy LP2 – Settlement Hierarchy
- Policy LP4 – Strategic Gap
- Policy LP5 – Amount of Development
- Policy LP6 – Additional Employment Land
- Policy LP11 – Economic Regeneration
- Policy LP12 – Employment Areas
- Policy LP14 – Landscape
- Policy LP15 – Historic Environment
- Policy LP16 – Natural Environment
- Policy LP17 – Green Infrastructure
- Policy LP21 – Services and Facilities
- Policy LP22 – Open Spaces and Recreational Provision
- Policy LP23 – Transport Assessments
- Policy LP26 – Strategic Road Improvements A5
- Policy LP27 – Walking and Cycling

- Policy LP29 – Development Considerations
- Policy LP30 – Built Form
- Policy LP33 – Water and Flood Risk Management
- Policy LP34 – Parking
- Policy LP35 – Renewable Energy and Energy Efficiency
- Policy LP36 – Information and Communication Technologies
- Policy LP39 – Employment Allocations

4.6 Policy LP4 is identified as the most important policy, which states the following:

“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.”

Dordon Neighbourhood Plan (DNP) (Made December 2023)

4.7 Recently adopted, this document aligns with the contents of the Local Plan to delivery specific needs to the Parish of Dordon. The following policies are of relevance to this proposal:

- Policy DNP1 – Sustainable Development
- Policy DNP2 – Protecting the Natural Environment and Enhancing Biodiversity
- Policy DNP4 – Protecting the Landscape Character
- Policy DNP5 – Creating a Local Green Network
- Policy DNP6 – Protecting and Enhancing Heritage Assets
- Policy DNP7 – Reducing the Risk of Flooding
- Policy DNP8 – Achieving High-Quality Design
- Policy DNP10 – Renewable Energy, Energy Efficiency and Low Carbon Technologies
- Policy DNP11 – Protecting and Enhancing Community Facilities
- Policy DNP12 – Supporting the Local Economy
- Policy DNP14 – Development Contributions

4.8 Policy DNP4 is of particular relevance, as this deals with protecting landscape character. This states, as far as relevant to this appeal:

1. *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.*
2. *Where possible, development proposals should take into account the key views...*
4. *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.*

Other Material Considerations

4.8 In addition to the development Plan, there are a number of other material considerations that need to be taken into account as part of this planning appeal. In respect of matters being considered by the Local Rule 6 Party, these include:

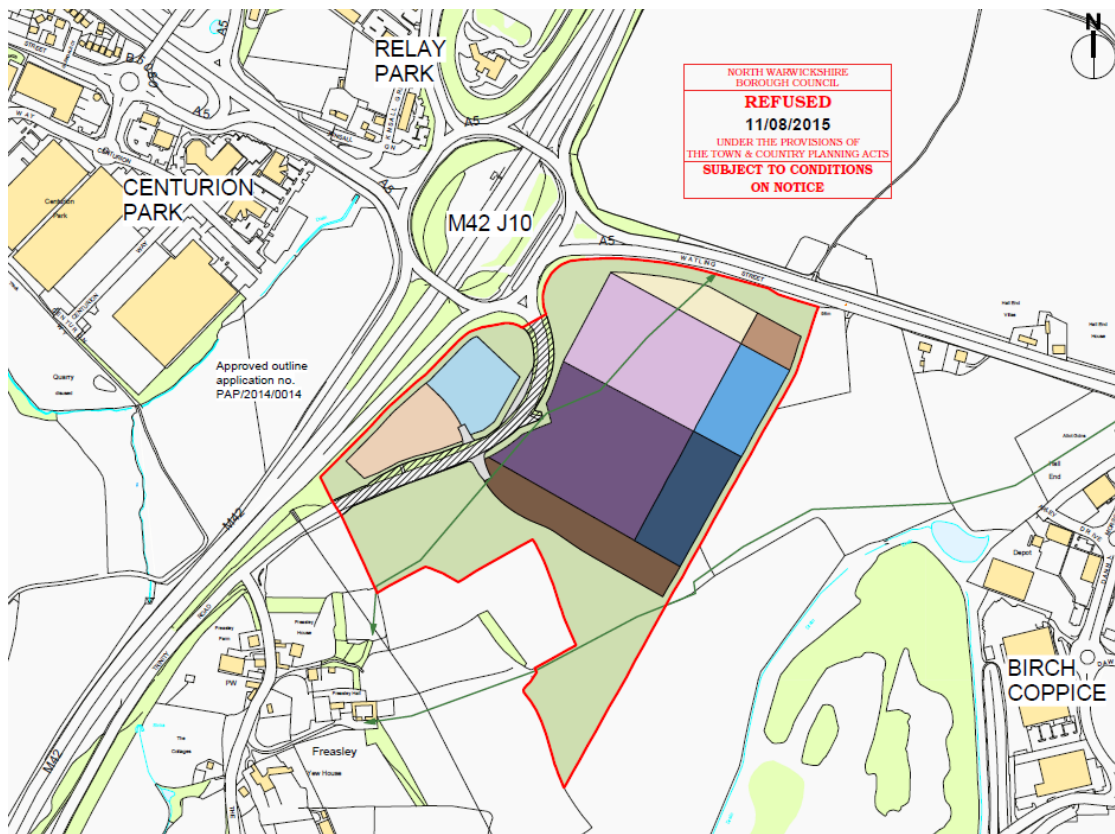
- The National Planning Policy Framework, particularly Sections:
 - o 2: Achieving sustainable development
 - o 4: Decision-making
 - o 6: Building a strong, competitive economy
 - o 8: Promoting healthy and safe communities
 - o 9: Promoting sustainable transport
 - o 12: Achieving well-design and beautiful places
 - o 14: Meeting the challenge of climate change, flooding and coastal change
 - o 15: Conserving and enhancing the natural environment
 - o 16: Conserving and enhancing the historic environment
- National Planning Practice Guidance
- Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations. LUC (2018)
- Dordon Design Guidance and Code (March 2022)

5. RELEVANT PLANNING APPLICATIONS AND DECISIONS

Other Relevant Decisions within North Warwickshire Borough

St Modwen Developments: Land south-east of M42 Junction, Tamworth Appeal APP/R3705/W/15/3136495 [CD K2]

- 5.1 This appeal sought outline planning permission for the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution) and demolition and removal of existing structures and associated works on land south-east of the M42 Junction 10, Tamworth. This appeal was outline with all matters reserved except for access, which is taken off Trinity Road, the south-eastern linking arm to the M42 junction 10 roundabout.



Parameters Plan for the St Modwen scheme, with buildings proposed up to 18m in height shaded purple, up to 12m shaded blue and up to 10m shaded brown/beige

- 5.2 One of the reasons for refusal related to the harm to separate identity of Dordon and the undermining of the meaningful gap between Polesworth and Dordon and Tamworth (now

renamed the Strategic Gap). The Inspector recognised the long standing planning policy objective for maintaining a strategic gap between Polesworth with Dordon and Tamworth, and its very important value to the local residents (IR paragraph 13).

5.3 On this matter, the Inspector identified the very different characteristics between the buildings to the north and south of the A5 and the retention of the farmland to the north of the A5 that would be retained, maintaining appropriate separation/identity of the settlements (IR paragraphs 23 and 24).

5.4 The Inspector approved this appeal and the buildings are now built out. It is relevant as this site is located directly to the south of the A5/the appeal site; the current appeal site is the large parcel of agricultural land referenced within the IR as maintaining the strategic gap between the settlements.

Taylor Wimpey UK Ltd: Land south of Tamworth Road and to the west of the M42, Tamworth Appeal APP/R3705/W/18/3196890 [CD K1]

5.5 This appeal related to an outline application for up to 150 dwellings, with all matters except access reserved. The site incorporated 6.4 ha of agricultural land to the west of the M42 within the Strategic Gap of Tamworth and Polesworth/Dordon. The impact upon the 'Strategic Gap' was one of the reasons for refusal.

5.6 At the time of this appeal, it was the Core Strategy that was adopted and only limited weight could be afforded to the emerging Local Plan with the now adopted Policy LP4 (formally referred to as LP5 in this appeal decision). However, the Core Strategy still had a comparable policy incorporated at Policy NW19.



Indicative masterplan for the Taylor Wimpey UK Ltd Scheme to the west of the M42

5.7 The IR identified the importance of maintaining separation between the settlements in order to retain their individual identities (IR paragraph 18). It then outlined the need to consider the character of the places affected and not merely the physical dimensions (IR paragraph 20). The experiences of people were considered important, without the need to see both edges (e.g. western and eastern extents of the separation) to understand the extent of the space available IR paragraphs 27 – 28).

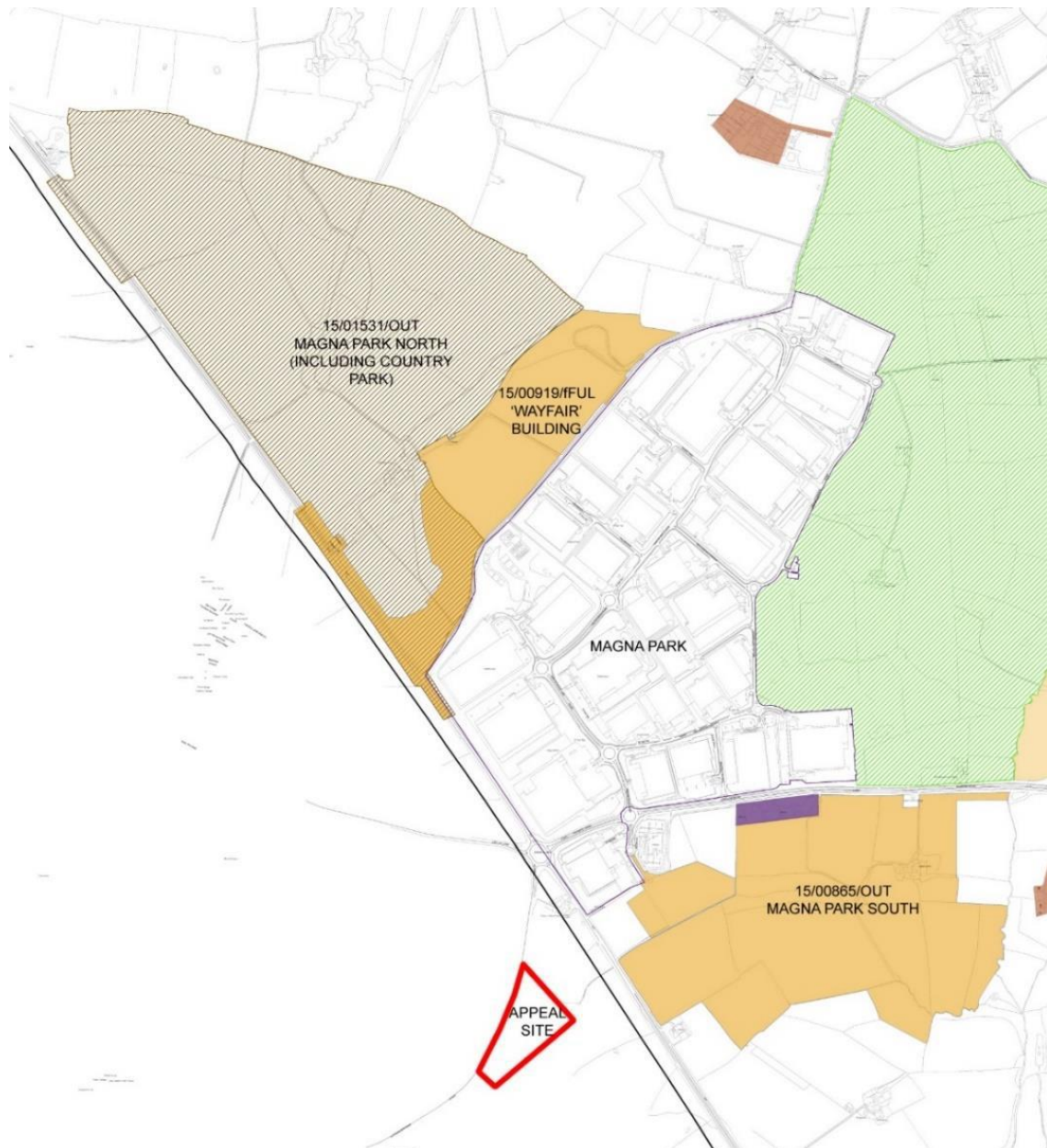
5.8 The Inspector concluded that:

“the appeal proposal would not significantly affect the identity of Tamworth, but would result in a major reduction in the space between settlements, to the extent that there would no longer be an adequate ‘meaningful gap’ and the separate rural identity of Polesworth with Dordon would be weakened.” [paragraph 33]

- 5.9 The appeal was dismissed and this land remains open and designated as part of the Strategic Gap within the now adopted Policy LP4. This appeal decision is relevant as it relates to the same Strategic Gap as the current appeal site.

Magna Property Solutions Ltd: Land at Cross-in-Hand Farm, Lutterworth Road/Watling Street, Rugby Appeal APP/E3715/W/22/3306652 [CD K13]

- 5.10 This appeal related to the development of agricultural land and a farmyard to a HGV facility, including the formation of 293 HGV parking spaces, a HGV fuel station, electric charging points and kiosk, truck stop accommodation (hotel), vehicle inspection station and supporting buildings/uses including site security, a creche, coffee shop, supermarket/convenience store and a service station. This appeal was an outline application with a parameters plan being considered, plus the new access. The parameters plan provided a maximum height of 13m for the vehicle inspection station, 10m for the truck stop accommodation and all other buildings had a maximum height of 8m.
- 5.11 In terms of the impact of the development from a landscape and visual perspective, the Inspector notes that the scheme would fundamentally change the appeal site from a countryside character to one dominated by intensive lorry parking (IR paragraphs 24 and 32).
- 5.12 The IR also identified that there was a difference in character between the west and east sides of the A5, with the continuity of the countryside west of the A4 lost as a result of the proposal (IR paragraph 24 and 25). The Inspector also stated that the 37m landscaping strip was insufficient to soften the A5 approach as much was taken up by an integrated drainage pond (IR paragraph 26).



Plan showing the location of the Magna Park Property Solutions site in relation to Magna Park (constructed and approved at time of appeal). This highlights all built development to the eastern side of the A5 in this location.



Indicative masterplan for the Magna Park Solutions Ltd appeal, illustrating the predominant use of the site as lorry parking and only limited buildings

5.13 The Cross-in-Hands site is located 31km to the south-east of the current appeal site. It is located within Leicestershire, adjacent to Magna Park, the largest logistic warehouse location in Europe. Magna Park is located to the north/east of the A5 and the Cross-in-Hands appeal site was located to the south/west. Direct comparisons can be drawn in terms of the impact of extending development across the strategic highway network and the impacts that result. For clarity, the maximum height of buildings in the Cross-in-Hands appeal was 13m, with the quantum of built form substantially lower than the current appeal at Dordon.

6. MAIN ISSUES

6.1 The Inspector's CMC note identifies nine main issues for the appeal:

- i) the effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon;
- ii) the effect of the proposed development 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 proposed development would address an immediate need for employment land and, if so, whether the appeal site is an appropriate location to meet such a need;
- vi) whether the appeal site 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;
- ix) how any benefits and disbenefits of the proposed development should be considered in the overall planning balance.

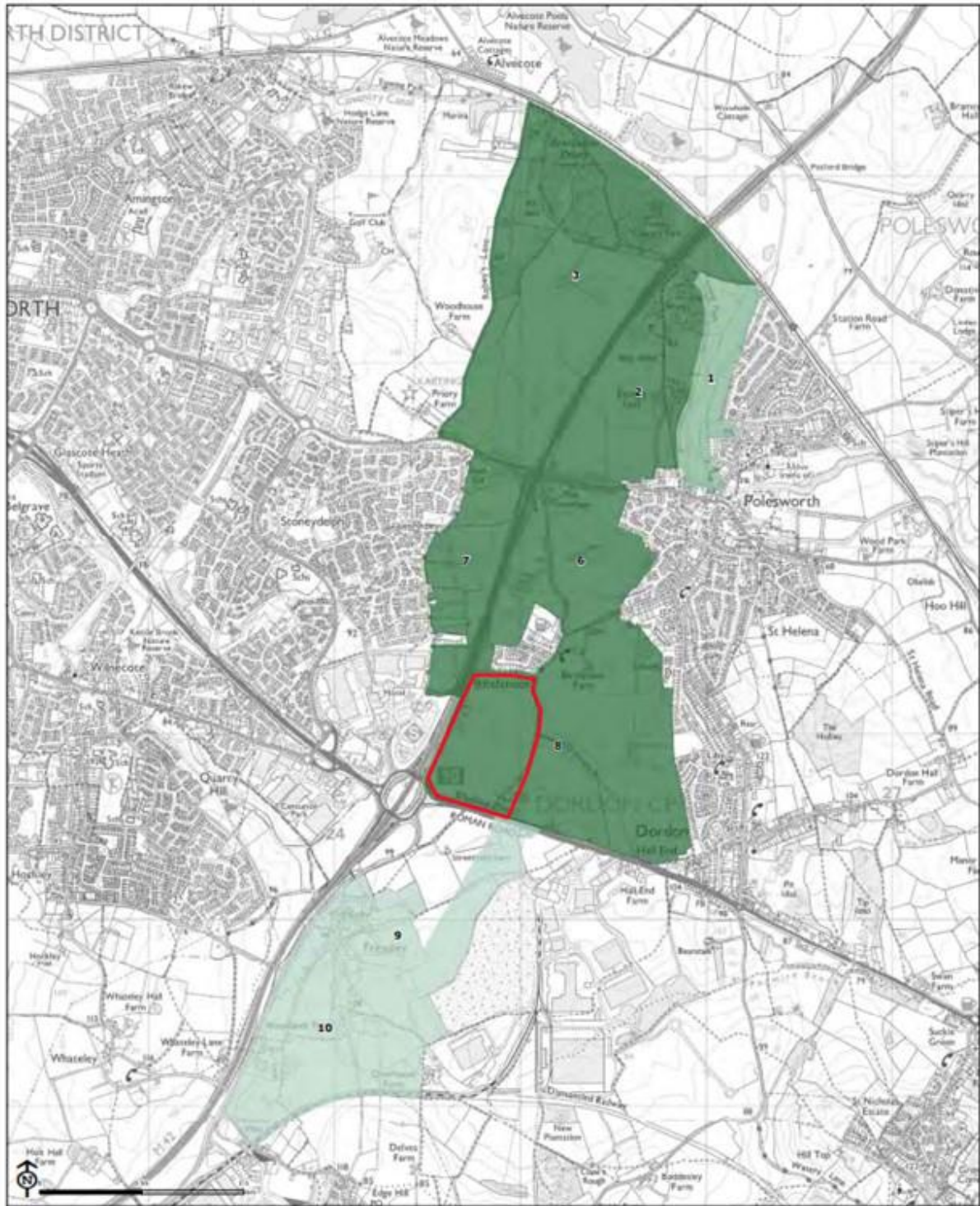
6.2 These issues are addressed in turn below.

MAIN ISSUE 1: The effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon

Planning Origins of the Strategic Gap

- 6.3 The concept for designating land to maintain visual and physical separation between Tamworth and Polesworth with Dordon originated in the Dordon District Plan from 1989. Over the next 35 years, this separation policy has been retained in principle, with this designation included within all subsequent iterations of Planning Policy covering the area.
- 6.4 The Warwickshire Local Plan 1995 referred to it as an Area of Restraint which restricted all new buildings except for agricultural, forestry, cemeteries and institutions, or for outdoor sports and recreation facilities (Policy ENV3 – CD F12).
- 6.5 Within the North Warwickshire Core Strategy 2014 (CD F13), Policy NW19 referred to the requirement to maintain a ‘meaningful gap’ to the west of Polesworth and Dordon to protect the separate identities; it also sought to direct any development in the area to the south and east of the settlements.
- 6.6 Within the current North Warwickshire Local Plan 2021, this separation area has been renamed a ‘Strategic Gap’, with the Inspector’s Report noting this alteration to ‘better reflect its function’ (CD F14 paragraph 227). The latest Local Plan more accurately defines the boundaries to the Strategic Gap, and in respect of this designation, the Inspector’s Local Plan Report in maintaining this policy designation, with the boundaries informed by assessment of the contribution of land parcels to this Strategic Gap function.
- 6.7 In support of preparing the Local Plan, two ‘Meaningful Gap’ Assessments were undertaken in 2015 and 2018 (CD G2 and G3). Within both reports the Appeal Site forms part of Area 8, extending between the M42, A5, Birchmoor and Dordon. In the 2015 assessment (page 17) from a landscape perspective, it is stated that this area forms ‘the most obvious potential for maintaining a meaningful gap between the settlements of Tamworth and Dordon with clear boundaries provided by the M42 to the west and the Dordon built edge to the east’. The recommendation was to include it as part of the strategic gap, whilst recognising the character

link between areas 6 and 9 to the north and south, which form an uninterrupted, continuous open area which is integral to the whole meaningful gap.



Origins of the Strategic Gap Extract of Figure 3.1 from NWBC's Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations (2018) [CD G3]; the darker green areas represent a higher meaningful gap function

- 6.8 The 2018 Assessment scored the settlement parcels against a criteria based approach. This identified Area 8 (which includes the Appeal Site) as having a joint highest score for meaningful gap performance of 4, along with parcels 2, 3, 6 and 7 (see Figure 3.1 below). The accompanying text at paragraph 3.12 notes in respect of Area 8 that it performs ‘very strongly’ as part of the meaningful gap, providing a buffer and sense of separation between the three separate settlements which are very close to each other (Tamworth, Dordon and Birchmoor).
- 6.9 In line with the current Local Plan, the Dordon Neighbourhood Plan (DNP) also incorporates reference to protecting this Strategic Gap with Policies DNP1 and DNP4.
- 6.10 This Strategic Gap represents the only such designation within North Warwickshire Borough Council, identifying its unique importance within the area. It is more clearly defined within the current Local Plan than in earlier policy documents, reinforcing the importance of this designation to this specific area.
- 6.11 This gap has been recognised as being of utmost importance to the residents of Polesworth with Dordon and Birchmoor, as it ensures the separate identity of these communities from Tamworth to the west. This is also an important distinction as the Strategic Gap marks the boundary between Staffordshire (which includes Tamworth) and Warwickshire (which includes Polesworth with Dordon and Birchmoor).

Importance of the Strategic Gap to Local Residents

- 6.12 Whilst not a valued landscape from a landscape perspective (as per paragraph 180 (a) of the NPPF), the Strategic Gap was recognised within the Local Plan Inspector’s Report (2021) at paragraph 229 how many local residents accord significant value to the rural surroundings to Polesworth with Dordon, noting the intrinsic character of the land to be derived by its separation from Tamworth. The intrinsic character of the countryside and its wider benefits noted here aligns with paragraph 180 (b) of the NPPF.
- 6.13 This view is outlined within a number of the local resident objections appended to this Proof reiterating the importance of the Strategic Gap land in terms of its function from an identity perspective but also as a functional parcel of land. These outline the growing importance of the Strategic Gap land as towns and villages grow, maintaining a central green space that

protects the separation and identity of the various communities; this is of particular importance to many of the long standing residents, which stem back 50 – 60 years in some cases, as well as being multi-generational.

- 6.14 The Strategic Gap is also strongly recognised by the local residents as a ‘green oasis’ within a largely built environment into which the community can venture. This is seen as a rare opportunity within the local area, and this land is highly valued for its accessibility due to a number of footpaths and bridleways traversing the space. This brings opportunities for social interactions with other residents and circular routes for dog walkers; the pandemic highlighted very clearly the importance for access to green spaces to assist mental health. The land is also identified as an area attractive to wildlife, with a particular focus on birds. Mr Walker’s and Mrs Mollart’s Letters (see Appendices 2 and 10) highlight the number of bird enthusiasts that visit this land, including reference made to many ‘red’ listed birds from a conservation perspective. Reference is also made to a number of other fauna spotted in the Strategic Gap, including badgers and great crested newts. Nature, as well as the local population seem to value this land.
- 6.15 The Strategic Gap land, as well as the wider area, is recognised by local residents to have pollution issues in respect of noise, light and air quality. This does not however prevent them from using and valuing highly this land; it is the only land available to them in many instances and thus represents an attractive and functional area despite not being tranquil.
- 6.16 It is for these reasons that local residents strongly resist its development and have supported the retention/strengthening of the Strategic Gap policy, as well as opposing developments within this space; namely the St Modwen Appeal [CD K2], the Taylor Wimpey UK Ltd appeal [CD K1] and now the current appeal.

[View of Previous Inspector’s to the Strategic Gap](#)

- 6.17 There have been two appeal decisions¹⁷ affecting the Strategic Gap within the last 8 years. The Taylor Wimpey UK Ltd appeal [CD K1] proposed construction on land within the north-western part of the Strategic Gap, located to the west of the M42 and the south of Tamworth Road. In dismissing this appeal, the Inspector specifically highlighted the reliance of Polesworth on a rural hinterland as a key element of its identity, and that the scale of the gap that would

remain if the Taylor Wimpey scheme was approved would be only a small distance (paragraph 19). It was recognised by the Inspector that the proposal would reduce the appreciation of the gap between the settlements and would radically change the experience of uses of the footpaths within and adjacent to the site (paragraphs 27 and 28). The conclusion was that there would no longer be a meaningful gap and that the rural identity of Polesworth with Dordon would be weakened.

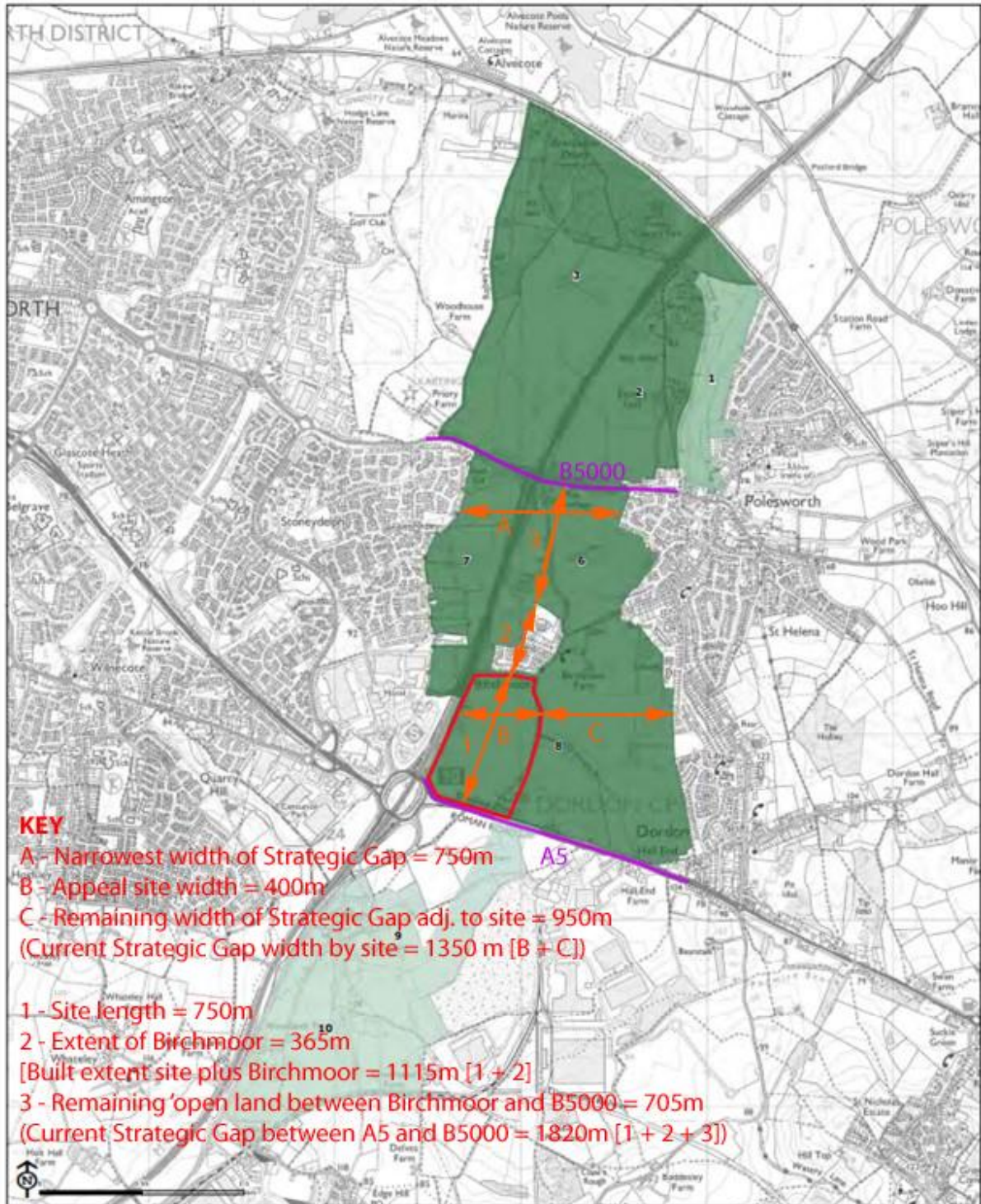
- 6.18 The Taylor Wimpey appeal related to a land parcel afforded the same level of importance to the function of the Strategic Gap by the Council in the 2018 assessment.
- 6.19 The second appeal related to the St Modwen Developments scheme to the south of the A5 [CD K2]. Here, the Inspector recognised the strong, continued policy presence of a Strategic Gap, but identified a notable difference in the function of the land to the north and south of the A5. In granting consent for the appeal, it was noted at paragraph 24 that there would still be a large, central open space between Tamworth and Polesworth with Dordon to the north of the A5. The open appearance of the Appeal Site was therefore instrumental in enabling development to the south of the A5 to be granted consent.

Impact of the Appeal Upon the Function of the Strategic Gap

- 6.20 In terms of the impact of the development, there are three communities to consider. Polesworth and Dordon are already connected in a north/south direction and enclose the eastern side of the Strategic Gap. There is also then Birchmoor, a much smaller community that is embedded within the Strategic Gap.
- 6.21 As noted within the Local Plan Inspector's Report [CD F14], the narrowest point of the Strategic Gap is at the northern end adjacent to Tamworth Road, at 850 metres (paragraph 227). Adjacent to the A5, this gap is around 1350 metres wide. However, it needs to be recognised that all of the Gap adjacent to the A5 is located to the east of the M42, whereas it is split by the motorway by Tamworth Road further north. The perceived visual erosion as a single defining parcel of land is therefore greater on the southern section, particularly where the Appeal Site is approximately 400 metres wide adjacent to the A5, and at its maximum around 470 metres wide. The development would remove around 30% of the width of the Strategic Gap adjacent to the A5, reducing the gap from 1350 metres to 950 metres. Whilst

some of this will be landscaped as part of proposals, the majority will be filled with buildings, orientated on the illustrative master plan [CD B41] to run parallel to the A5, and a lorry park. The latter will offer high sided vehicles in an array of colours parked in close proximity to each other, representing an obvious and uncharacteristic feature compared to the natural environment. This development represents a significant erosion of the space and an important transition of employment eastwards across the M42 and northwards across the A5 onto land that fundamentally is open and undeveloped at present.

6.22 In terms of the northern projection of the employment development, it will essentially connect the employment from the south of the A5 up to Birchmoor. With the exception of a narrow row of paddock fields and any landscaping incorporated, the two will appear visually connected. If a bund is included, as suggested within the technical plans and information, then the views of Birchmoor will essentially be removed from much of the A5. The Appeal Site is approximately 750 metres in a north-south direction, whilst the whole Strategic Gap between the A5 and Tamworth Road (B5000) is around 1820 metres. This will remove 41% of the open land in this direction between the A5 and B5000. If Birchmoor is then included as built development within these calculations, there would be a north-south intrusion of around 1115 metres of development in the middle of the Strategic Gap (north-south direction). With Birchmoor included in this developed extent, over 60% of the Gap would be constructed in an almost continuous form in a north-south direction between the A5 and B5000.

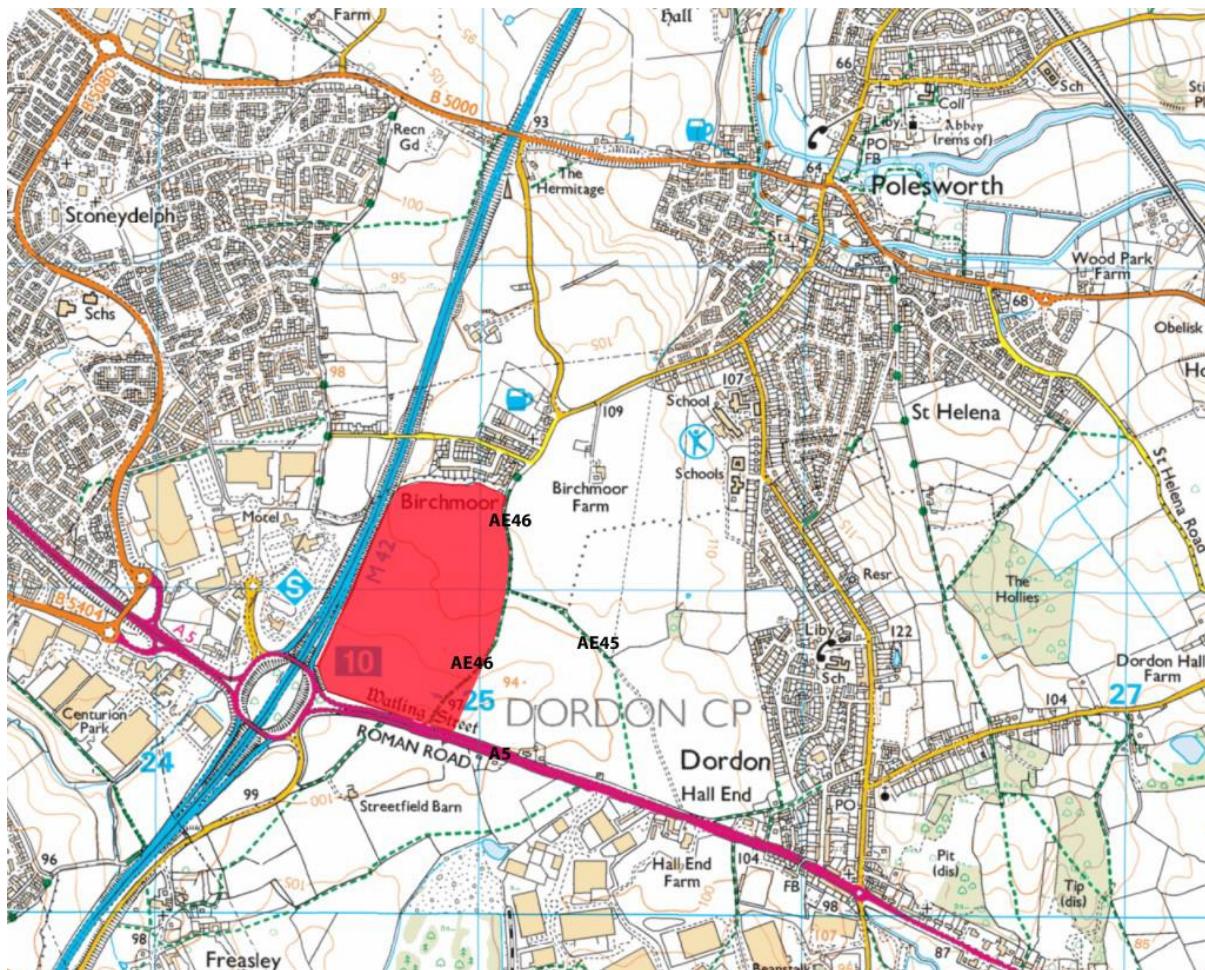


Annotated Strategic Gap Plan with Key Measurements Highlighted

6.23 It has been recognised by the Planning Inspector for the Taylor Wimpey UK Ltd appeal [CD K1] that the impact cannot simply be taken as a measurement (paragraph 20), there is also a need to reflect on the physical and visual separation that will occur. As has been noted within all previous appeal decisions, the Local Plan IR and the various representations from local

residents appended to this Proof of Evidence, this landscape and the associated footpaths are valued highly in terms of the benefit they provide for offering access to green space within an area that is becoming more urban with every new approval. It also offers an important separation to the identity of the villages, which have a fundamentally different character and appearance to Tamworth to the west of the M42.

6.24 The Public Rights of Way traverse the Strategic Gap and the construction of the appeal development would significantly impact upon the perception of the Gap to these footpaths, particularly those that runs across/adjacent to the site (AE 45). This would appear adjacent to/embedded within the built environment compared to running across open fields. The view from AE46 from the east (viewpoint 4 of LVIA), as well as any view on the western edge of Dordon (viewpoints 5, 6, 19, 20 and 21 from the LVIA) will also have the separation visually changed, with the vegetated bank to the M42 obscured by the extensive new employment buildings and lorry park; the edge of the built development would be brought notably closer.



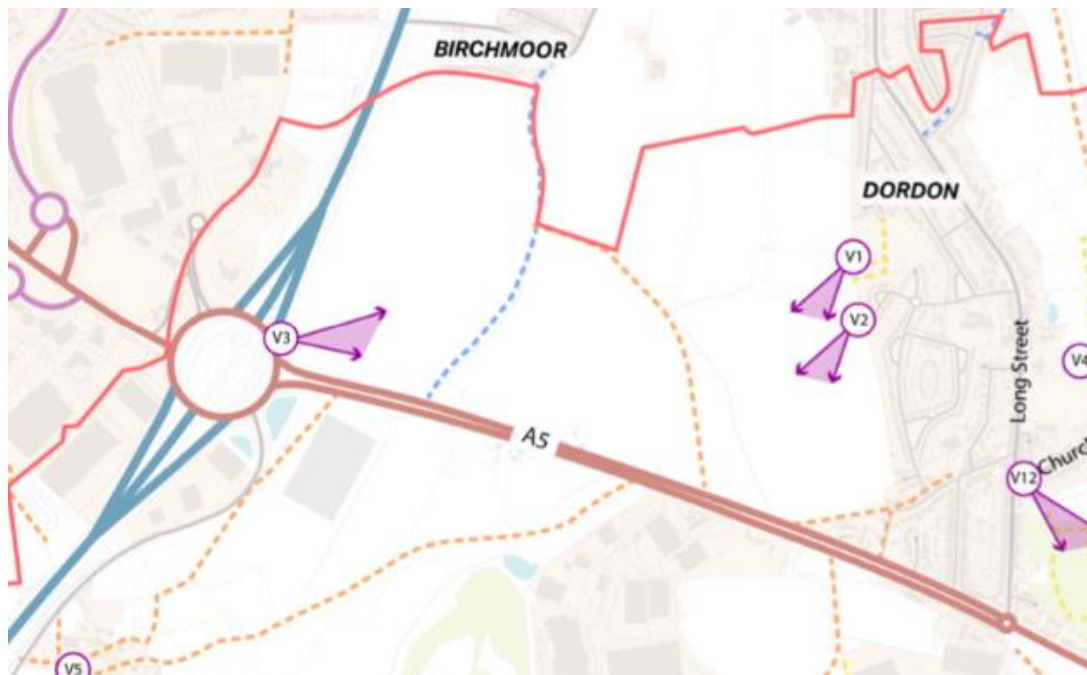
OS Plan with Public Rights of Way Highlighted

- 6.25 The perception of anyone travelling by motorised vehicle along the A5 would also be notably altered. Currently the northern side of the A5 is open, with the M42 as the defined boundary to employment development on the northern side of this road. By allowing development to traverse the M42, it changes the perception of the open space and reduces the physical gap and travel time to pass between the '*urban edge*' and approach the rural villages (or vice versa from east to west). The change would be clearly evident to all users of the A5.
- 6.26 The Appeal proposal will therefore have a notable reduction in the physical and visual separation of the settlements, reducing the rural setting of Polesworth with Dordon and connecting in a north-south direction Birchmoor with the employment south of the A5. It would significantly undermine the function and use of this land to the local residents and thus directly conflict with the function of the Strategic Gap and thus Policy LP4 of the Local Plan and Policies DNP 1 and DNP4 of the Dordon Neighbourhood Plan.

MAIN ISSUE 2: The effect of the proposed development on the character and appearance of the surrounding area

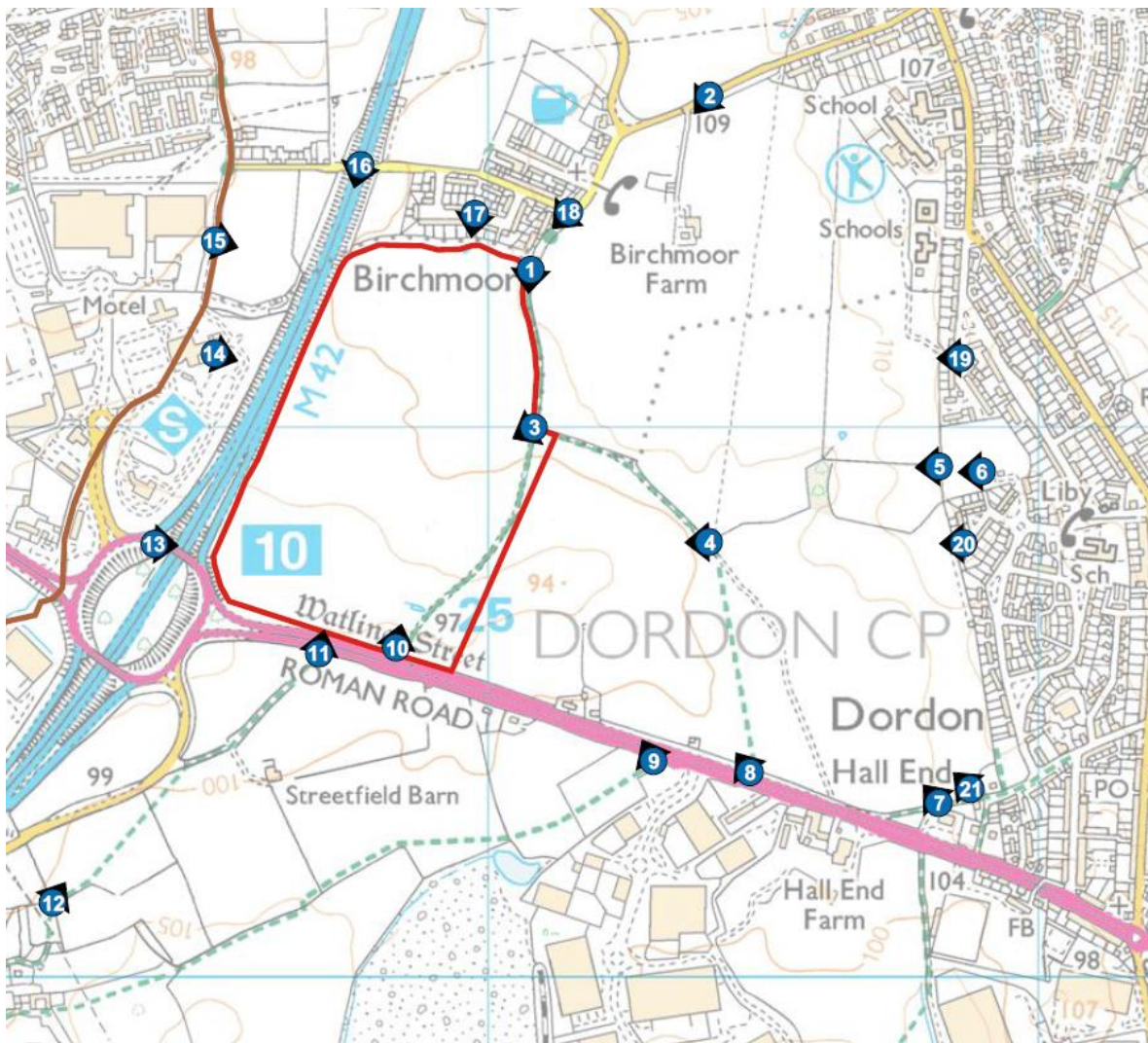
- 6.27 NWLP Policy LP14 relates to landscape and seeks to conserve and enhance the natural landscape and to restore landscape character where possible. NWLP Policy LP16 then recognises the importance of the natural environment in respect of the quality, character, diversity and local distinctiveness needing to be protected and enhanced as appropriate.
- 6.28 There are two elements to the consideration of landscape and visual harm. The first relates to the impact of the scheme upon the wider landscape and character area designations. The second relates to the visual impact of the proposal on a more localised level. The main concern in respect of this Appeal is the visual impact of the development; concern from the Local Rule 6 Party therefore focuses on the visual impact.
- 6.29 Policy DNP4 says that development proposals should be designed to take account of the landscape, landscape character and topographical setting of the neighbourhood area and its urban environment, which contribute to the distinctive character of the Parish. In particular, it aims to protect key views, retain a sense of space, place and separation. Key views are identified and the policy says that the views of the Strategic Gap are long and wide. This policy is accompanied by a plan (Map 5) which sets out key views within the Neighbourhood Plan boundary. This includes views V1 and V2 across the Strategic Gap from the western edge of Dordon, and V3 from the roundabout of the M42/A5 looking directly across the Appeal Site.
- 6.30 The viewpoints as noted in the DNP offer a starting point for considering the impact of the appeal, but there are also other key public transport routes across the Strategic Gap that need to be considered.

DNP Viewpoint 3 (comparable to Appellant LVIA Viewpoint 13)



Annotated extract section of Map 5, showing views V1, V2 and V3 across the Strategic Gap

- 6.31 The Appeal scheme has a substantial impact upon DNP Viewpoint 3, given that it forms the foreground section of this view. This view is comparable to that of the Appellant's viewpoint 13 [see CD 9.6], except that it is positioned on the eastern side of the M42 junction 10 roundabout. The vegetation has grown slightly since the DNP image, but there are still a number of appreciable locations where gaps present clear views across the Strategic Gap towards Dordon.
- 6.32 Dordon is set on a ridge and the land drops gently down towards the M42, with the Appeal Site then largely level and a planted embankment to the M42. This viewpoint is elevated due to the height of the roundabout above the land to the east, which means that a clear view over the full width of the Strategic Gap is possible.



Appellant Viewpoint Locations – extract of plan LAJ-4 [CD 9.6 Appendix 10.1]

- 6.33 The height of the proposed employment buildings, with the highest structures at 21 metres proposed closest to the southern/western boundaries, will be prominent in the foreground of this viewpoint, and potentially obscure all views towards the remaining Strategic Gap and Dordon beyond. This would have a fundamental impact upon the current open character visible from the west, with the viewpoint appearing to be embedded within the employment area, rather than enabling any identification of the different settlements.



*Key View 3 image from DNP (Appendix B) –
view from roundabout across the Appeal Site/Strategic Gap*

DNP Viewpoints 1 and 2 (Appellant Viewpoints 5 and 20)

- 6.34 A similar view is achievable from the western edge of Dordon back across the Strategic Gap towards the Appeal Site. It is viewpoints 1 and 2 of the DNP that are noted within the DNP and relate to the view from the public playing fields and the end of Barn Close. Both offer clear views over the Strategic Gap, with a public right of way leading off from the playing field. DNP viewpoints are illustrated with a southern depiction. The employment buildings are visible to the south as structures set beyond the A5, with some intervening vegetative screening; however, when looking in a more westerly direction, clear open views are achieved westwards back towards the M42 and the employment buildings to the south of the A5 become

peripheral to the wide angled open countryside vista. The Appellants viewpoints 5 and 20 orientate them westwards over the Strategic Gap.

- 6.35 The extent of the proposed development would be clearly visible from the edge of Dordon, albeit with an open foreground maintained. The change in outlook though would be notably altered, with development being located in front of the linear green corridor along the M42. The substantial employment buildings would be in stark contrast to the small collection of properties forming Birchmoor, which currently forms the only appreciable intrusion into the Strategic Gap.



Photograph from end of Barn Close looking west (Appellant's Viewpoint 20). This shows the open nature of the land and the added benefit the trees to the M42 embankment offer to screening the lower service station buildings beyond and thus generating the appearance of a greater separation distance to Tamworth

- 6.36 Currently, the extensive planting along the M42 embankment means that this transport link is not discernible from the east. The extent of the motorway, plus the associated embankment planting essentially artificially extends the perception of the green gap, with the roofs of the

employment buildings to the west of the motorway representing the nearest visible built structures in this view. The service station and associated buildings are also completely concealed within this view. The foreshortening of this view essentially incorporates the additional circa 350m of land to the west of the Appeal Site, such that the perception of the development edge being moved significantly closer to Dordon.

Footpath AE46 (Appellant Viewpoints 3, 4 and 8)

- 6.37 Footpath AE46 arcs from the A5 in a north-westerly direction towards the eastern edge of the Appeal Site, where it connects with bridleway AE45. From this public route, the introduction of sizable employment buildings up to 21 metres in height will significantly erode the open character and appearance of the land, and bring development notably forward, given the M42 embankment screens the employment buildings further to the west. The impact upon this view is comparable to that of Viewpoints 1 and 2 of the DNP, but with the dominance of the employment buildings and truncation of the open green space more noticeable closer to the Appeal Site due to proximity.



View from middle of Footpath AE46 looking west (equivalent of Appellant's Viewpoint 4). This shows the visibility of the buildings on the southern side of the A5, whilst proposed buildings would extend across the full image. The Appeal Site is unploughed in this image, with the foreground bare soil retained open.

Bridleway AE45 (Appellant Viewpoints 10 and 3)

6.38 The bridleway runs across the site/along its eastern edge in a north/south direction from Birchmoor to the A5. The change to this bridleway would be substantial. Opposed to crossing an agricultural field, it would introduce an urban environment directly adjacent to the redirected route along the western side for its full length from the A5 to Birchmoor (circa 750m). This would alter the perception of being within the countryside and introduce additional noise sources to an area where any tranquillity possible is highly valued.



View from Bridleway AE46 looking southwest (equivalent of Appellant's Viewpoint 3). This shows the visibility of the buildings on the southern side of the A5 whereas all of the land visible would be replaced by buildings, a lorry park and associated planting. No open aspect would be appreciable from this location to the west.



View from Bridleway AE46 looking west (equivalent of Appellant's Viewpoint 3). This shows a completely open landscape which will be entirely replaced by buildings, a lorry park and associated planting. No open aspect would be appreciable from this location to the west.



View from Bridleway AE46 looking northwest (equivalent of Appellant's Viewpoint 3). This shows a completely open landscape which will be entirely replaced by buildings, a lorry park and associated planting. No open aspect would be appreciable from this location to the west.

View Southwards from Birchmoor (Appellant's Viewpoints 1 and 17)

- 6.39 From the rear of Birchmoor, which includes some public and private views, the land again is open. The indicative information provided is anticipating that a landscape bund would be planted along the northern part of the site, reducing the impact of the development on Birchmoor properties from a visual and noise perspective. However, this eradicates the open views possible and introduces an uncharacteristic feature into this relatively flat landscape. The change to views southwards from Birchmoor will be substantial, and it is also expected that the employment buildings beyond will still be partially visible.



View from Bridleway AE46 looking southwest; photograph taken just south of Birchmoor (slightly further south of Appellant's Viewpoint 1). This shows a completely open landscape that will be concealed by new bunded planting, with possible views of the buildings beyond. The open aspect of the landscape would be lost.

View Northwards from the A5 (Appellant's Viewpoints 8, 9, 10 and 11)

- 6.40 From the A5, the perception is one of open, undeveloped countryside to the north, as a pocket of green space between the built environment of Tamworth to the west and then the more rural form of Dordon to the east. The small form of Birchmoor is then seen as a collection of properties set notably back from the transitional view from the A5 (Appellant viewpoints 10 and 11).
- 6.41 From this trunk road, the development will be clearly visible, with only a narrow row of planting effectively possible, given the need for balancing ponds. The visual impact of the buildings will remain high, with the landscaping ineffective in screening the buildings; this impact will be comparable to the conclusion reached by the Inspector in the Magna Park

Solutions Ltd appeal [CD K13], where the narrow planting to the south of the site was not considered sufficient to mitigate the intrusion of the buildings and lorry park.

- 6.42 The introduction of a new traffic lighted junction will also add to the urbanising features to this section of the A5, with the employment buildings to the south accessed from the west. This means that the current section of the A5 without any junctions will be broken by additional traffic lights, a feature commonplace in urban environments and not rural ones.



View from intersection of A5 and Bridleway AE46 looking northwest from the edge of the site (equivalent to Appellant's Viewpoint 10). This shows a completely open landscape that will be concealed by new planting and lorry parking in the foregrounds and employment buildings beyond,

- 6.43 Gaps in the vegetation along the A5 will also allow medium length views obliquely across the Strategic gap towards the Appeal Site (Appellant viewpoints 8 and 9). The Appeal Site will again be clearly visible, albeit in the background from these locations and whilst the employment buildings will assimilate appropriately with the development to the south, they will appear as alien structures on the northern side of the A5. From these more distant views,

the development will not appear dominant but will still be visible and foreshorten the open aspect afforded at present.



View from A5 looking northwest from towards the site; photograph taken close to connection point of A5 and Footpath AE45 (midpoint between Appellant's Viewpoints 8 and 9)

- 6.44 There is a specific difference in appearance between the northern and southern sides of the A5 at present. By allowing buildings of the scale proposed to the north, it is eroding the open character of the land to the north and undermining the distinction between the character of the spaces and built areas. The employment buildings to the south of the A5 are notably different in scale to the traditional brick and tile houses that form Birchmoor and Dordon. The proposed employment buildings would fundamentally and permanently change the character of the area.
- 6.45 The Inspector's comments in the St Modwen appeal decision are also of particular relevance [CD K2]. The clear difference between the visual context of land to the north and south of the A5 was identified by the Inspector, with specific reference made to *"the undulating, open*

character of the farmland to the north of the A5” ensuring “that drivers entering the Borough and heading east would still be faced with a predominantly rural setting to Dordon”. In using the open character of the farmland to the north to illustrate the maintained separation of the settlements, to allow development on a substantial portion of this open farmland would directly contradict the view presented by the Inspector in the St Modwen appeal. It should also be noted that the proposed buildings are up to 3m higher than the St Modwen development to the south.

- 6.46 A further comparison can also be drawn from the Magna Park Solutions Ltd appeal decision [CDK13]. Here, the Inspector took cognisance in the different character that existed on either side of the A5, with one open and undeveloped and the other forming a substantial employment area. The situation at Dordon is directly comparable, with a clear differentiation between the appearance of land either side of the A5. The key difference with the current appeal, is the additional value added to the open land by way of a Strategic Gap designation and the heightened importance placed on it by local residents as a necessary green space on the edge of an urban area.

Inconsequential Alterations to the Visual Setting of the Green Space

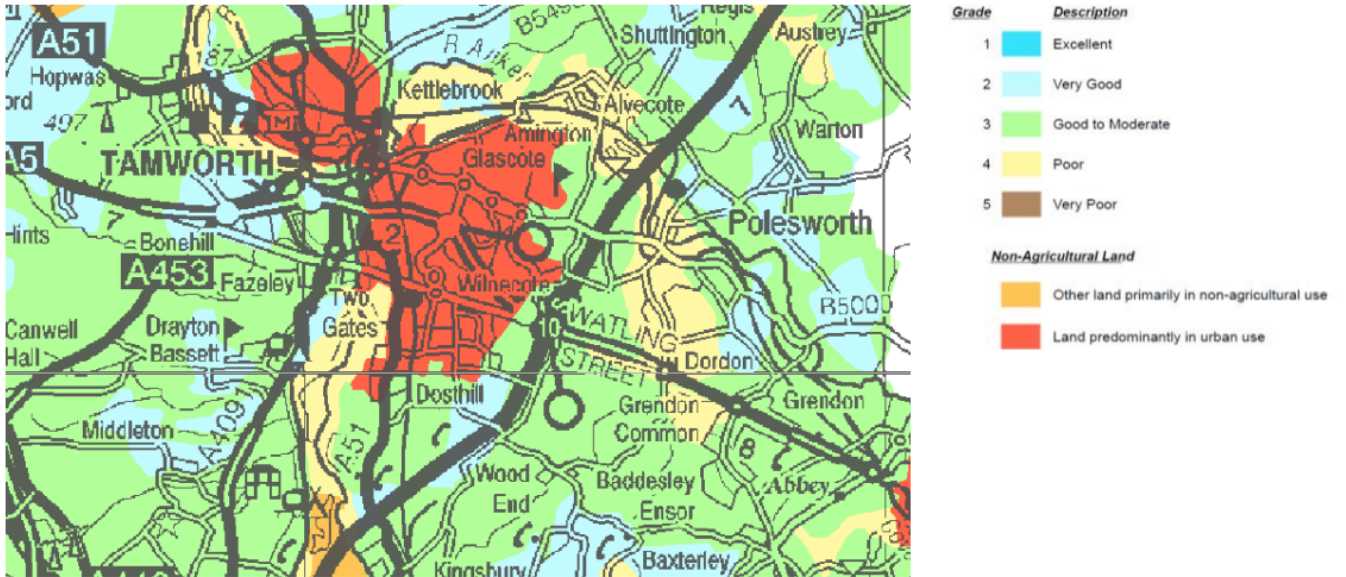
- 6.47 The perceived view for anyone using the retained/redirected Public Rights of Way would be presented with a more urban appearance, simply through the proposed formal surfacing as 2 or 3 metres wide spaces. Whilst this in itself can be considered beneficial to enabling access for all, the perception of a rural/urban landscape is changed between a tarmacked footpath and a dirt track across a field. The changes to the appearance of the Public Rights of Way are inadvertently adding to the urbanisation of the landscape.

Landscape & Visual Impact Conclusions

- 6.48 It is considered that the loss of the open character of the land, with it replaced by substantial buildings in terms of their height and depth/width, will have a significant impact upon the landscape character of the wider area. This does not accord with NWLP Policies LP14 and LP16 and DNP Policy DNP 4.

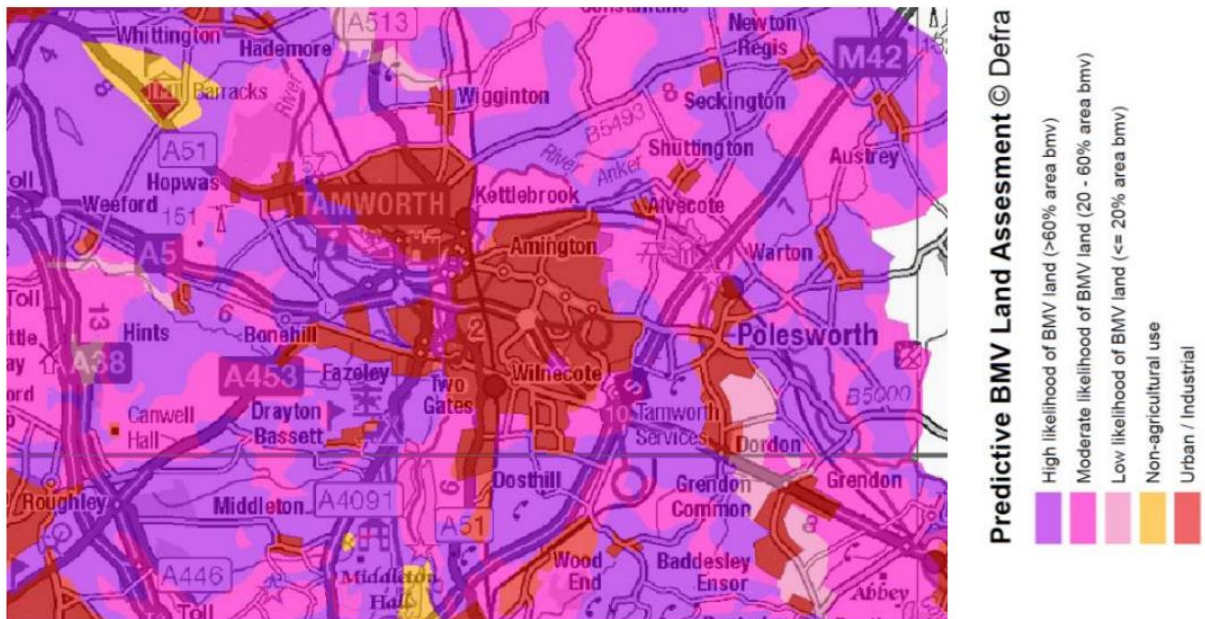
MAIN ISSUE 3: Its effect on the best and most versatile agricultural land

- 6.49 The Best and Most Versatile (BMV) land is defined in the NPPF Glossary as land which falls within Grades 1 – 3a. Paragraph 180 of the NPPF recognises the need to protect BMV agricultural land, whilst the Government’s Green Future: Our 25 Year Plan to Improve the Environment seeks to amongst other things protect BMV and manage soils in a sustainable way.
- 6.50 The appeal site has been assessed in terms of its soil quality [CD A9.5 Appendix 9.1]. This identifies that 91% (29ha) of the appeal site is within Grade 2, with then 2 ha (6%) as grade 3b and 1 ha (3% as non-agricultural – hardstanding).
- 6.51 The Government’s Guide to Assessing Development Proposals on Agricultural Land (Updated 5 February 2021) defines Grade 2 land at paragraph 4.2 as ‘very good quality agricultural land’. this is defined as:
- “Land with minor limitations that affect crop yield, cultivations or harvesting. A wide range of agricultural and horticultural crops can usually be grown. On some land in the grade there may be reduced flexibility due to difficulties with the production of the more demanding crops, such as winter harvested vegetables and arable root crops. The level of yield is generally high but may be lower or more variable than grade 1.”*
- 6.52 The Appellant’s Agricultural Land Classification and Circumstances Report (January 2021) [CD A9.5 Appendix 9.1] sets out helpfully at Table 1 the percentage of agricultural land by grade for England and North Warwickshire. 14.2% of the agricultural land across England is Grade 2, with a slightly higher figure of 19.7% for North Warwickshire.
- 6.53 Insert 2 then includes the Agricultural Land Classification (ALC) map, which shows much of the area along the M42 corridor as an undifferentiated Grade 3, plus then a belt of Grade 4 land to the east of the appeal site.



Extract of ALC map, taken from Appellant’s Agricultural Land Classification and Circumstances Report (Insert 2)

6.54 The limitations of the ALC maps is accepted, and Natural England has now produced ‘predictive best and most versatile’ land quality maps, which estimates the proportion of land within an area that is of BMV value. These are noted as low, moderate and high. These maps roughly align with the 1970s ALC in terms of the higher levels of expected BMV aligning with the higher grades on the ALC maps.



Extract of Predictive BMV map, taken from Appellant’s Agricultural Land Classification and Circumstances Report (Insert 3)

- 6.55 Taking the expected level of BMV land within the Borough and the expected grading from the two maps provided from the ALC and Natural England, it is anticipated that there will be large swathes of land around the wider M42/A5 interchange/along these key transport routes that would be of lesser agricultural value. Whilst there is not a policy requirement, there is scope that a comparable development could be delivered on land whereby the impact upon the loss of BMV would be lower. Grade 2 land is recognised as high quality and should be protected – it represents just 14.2% of the agricultural land across the county and its loss should not be taken lightly.
- 6.56 LP Policy LP29 (point 13) seeks to protect the natural environment and not degrade soil quality; additionally the NPPF paragraph 180 seeks to prevent the loss of BMV land. The loss of this land represents a conflict with policy and a harm to soil quality, and as such needs to be considered within the planning balance of this proposal.

MAIN ISSUE 4: Its effect on the nearby strategic and local highway network and on the safety and convenience of users of these highways

- 6.57 LP Policy LP 29 (point 6) seeks to ensure that safe access is provided for all users. This is augmented by the NPPF paragraph 115 which outlines that proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.58 Warwickshire County Council and National Highways both have noted concerns over the proposed highway solution. It is recognised that these matters are being considered further through discussion during the appeal, with the latest Statement of Common Ground on highways indicating that disagreement still revolves mainly around the Road Safety Audit.
- 6.59 The Local Rule 6 Party defer to the expertise of NWBC and National Highways for highways matters, but recognises that these concerns are also shared by the information provided by local residents, citing existing issues with capacity at am and pm peak times. There are other planned developments within the area and additional movements from the development will augment these issues (see Appendices 1 – 11 of this Proof).
- 6.60 A further issue identified from a highway perspective is the misdirection of HGVs through Birchmoor. Opposed to sticking to the main highway network, local residents highlight the relatively frequent occurrence of HGVs getting into difficulty within Birchmoor – two such incidents are noted within April 2024 alone (see Appendix 3). The narrow roads, with frequently parked vehicles (given its residential nature) represent issues to HGVs which typically need to turn around; something that presents severe difficulty. One vehicle damaged the curb stones and pavement undertaking such a manoeuvre. Appropriate mitigation needs to be put in place to prevent such occurrences from increasing, given the appeal would generate further lorry movements within the area.

6.61 This harm and conflict with policy is considered appropriately under other key matter headings.



Photographs of HGVs stuck within Birchmoor





Photograph showing the damage caused to the footway at the junction of Cockspur Street and Green Lane, Birchmoor

MAIN ISSUE 5: Whether the proposed development would address an immediate need for employment land and, if so, whether the appeal site is an appropriate location to meet such a need

- 6.62 The Local Rule 6 Party recognises that the LP Policy 6 ‘Additional Employment Land’ is central to the potential delivery of additional employment sites to meet any ‘immediate need’. The site is a speculative development in that there is no identified end user and no fixed floor area proposals for the B1/B2/B8 uses. The assumption that the development would meet a generalised need to the area whereby additional development is required does not appear to accord with the intentions of Policy LP6. This appears to form the basis of the Council’s objection to this matter, a position with which I concur.
- 6.63 In light of the lack of an immediate need, at present there is not proven achievable access to the strategic highway network and there is conflict with the Strategic Gap policy (namely Local Plan Policy LP4 and DNP Policies DNP1 and 4. Consequently, the appeal site does not comply with two of the three requirements as set out in Policy LP6.
- 6.64 This harm and conflict with policy is considered appropriately under other key matter headings.

MAIN ISSUE 6: Whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities

- 6.65 The Local Rule 6 Party is reliant on NWBC for this matter.
- 6.66 It is recognised that LP Policy LP34 is supportive of additional lorry parking; this is caveated by it needing to be on appropriate sites and not have undue impacts as a result. There are issues in respect of highway safety and capacity which leads to the conclusion that whilst the principle of lorry parking is acceptable, the development in this specific location causes issue. The impact of the proposal upon the Strategic Gap is also relevant to the appropriateness overall of this specific location.
- 6.67 Provision of parking to meet an identified need within the Logistics Golden Triangle will need to be weighted within the planning balance, as considered in a separate key matter heading below.

MAIN ISSUE 7: How the proposed development would perform against the objectives for achieving sustainable development set out in the National Planning Policy Framework

- 6.68 Section 2 of the NPPF outlines the three strands of sustainable development within the planning system: economic, social and environmental.
- 6.69 In accordance with paragraph 11 of the NPPF, a planning balancing exercise needs to be undertaken in respect of this appeal proposal. This approach accords with the judgment of the Court of Appeal in *Gladman* (itself drawing on earlier judgments). In this instance, the North Warwickshire Local Plan 2021 and the Dordon Neighbourhood Plan and relevant policies are considered to be up to date and thus the 'tilted balance' is not considered to be engaged. It is on this basis that the assessment has been undertaken.
- 6.70 In terms of the level of weight to afford to matters, this has been undertaken using the following grading:
- Substantial
 - Very significant
 - Significant
 - Moderate
 - Limited
 - Very limited
 - Negligible/No weight

Economic Sustainability

- 6.71 The proposed scheme will generate economic benefits during both the construction and occupation phases. These include the creation of employment in respect of the build phase of the development, the additional spend of workers during the construction phase and future jobs created and users spend once operational.
- 6.72 Whilst the generation of employment is generally supported by policy, there is no specific identified need for unallocated employment proposals to come forward. At this stage, there are no end users identified for the site; the development is essentially speculative. The number of jobs created for the operational phase cannot therefore be provided with any certainty but there will be a number of skilled, semi-skilled and unskilled positions created

across the proposed employment units and lorry park. The weight afforded to the delivery of the employment site is therefore tempered by these factors. Employment generation is considered a moderate benefit.

6.73 The scale and range of services provided will also influence the ability to capture additional economic spend. Within the lorry park, a number of facilities are proposed to be delivered, including a restaurant/takeaway, retail unit, gym and laundry room. The scale proposed is 400 sqm, but this is not specified as a parameter on the plans for determination within this submission. At this scale, the quantum of facilities proposed appears very optimistic. In line with the grading system for lorry parks, there is a demand initially to provide toilets and wash facilities for the drivers; other facilities such as a shop and café allow a higher level of facility to be delivered but space will be very constrained. At most, a small shop or café with only basic lines is likely to be achievable alongside toilets and showers. A laundry room and gym are not considered realistic elements to be delivered in the space available. The limited scale of facilities is therefore likely to capture spend only from the persons on site; capture from the employees on site within the employment buildings is likely to be low if alternative facilities are only easily available within lunch times via private transport. Notwithstanding this, the scale as a whole will generate additional investment and revenue and thus all these elements combined are considered to create a moderate benefit is afforded to the economic spend resulting from this proposal.

6.74 The scheme will result in the loss of 31 ha of agricultural land, the vast majority of which is Grade 2. This is BMV land which is considered to have high value and should be protected. Its loss represents a negative attribute to the scheme, with the agricultural land loss meaning that it can no longer be used for agricultural use. This loss is afforded limited harm from an economic perspective, given the quantum of employment and financial rewards achievable from this specific land parcel.

Social Sustainability

6.75 The social benefits and harms are considered within two subheadings: HGV drivers; all other persons.

HGV Drivers

- 6.76 It is recognised that there is a need to provide suitable facilities to meet the needs of lorry drivers, including within this area where there is an identified need. There are specific requirements in terms of the need for breaks and the spacing between facilities in order to ensure that lorry drivers are able to accord with regulations. The provision of lorry parking facilities will theoretically allow vehicles to relocate from laybys where there are no facilities. It is not clear however what LABEL rating would be delivered for this site, but the provision of even basic facilities would offer an enhancement compared to the current situation for many drivers.
- 6.77 The provision of lorry parking and a café offers mental health benefits to the lorry drivers. The café would allow for social interactions and time out of the cab, whilst the more secure site reduces the fear of theft from the trailers and/or dangers of parking on the roadside. It needs to be noted though, that many HGV drivers prefer to park in laybys and on industrial estates (see DfT/DoT publications– CD I9 – I12) and it would be wrong to assume that this facility would want to be used by all drivers and thus remove all parking from laybys/industrial estates. This should still be considered a significant benefit.

All Other Persons

- 6.78 The benefits to non-HGV drivers are significantly reduced; the limited facilities proposed within the lorry park are not realistically going to be used by local residents or employees and thus this is considered to have a neutral impact from a social perspective to non-HGV drivers.
- 6.79 The potential removal of lorries from laybys and industrial estates would free up space on the public highway for general vehicles. This would aid people in emergency situations for being able to find somewhere safe to park. However, this is not a major concern for most people and the removal of lorries from laybys cannot be guaranteed so this benefit is considered to be of limited benefit.
- 6.80 The proposal will provide better connectivity via footpaths and bridleways, with made surfaces such that it will be more accessible to less able-bodied persons. This is considered to

be of limited benefit. However, the reduction in the quality of the environment to the use of these public rights of way as a result of this development would represent a moderate harm.

- 6.81 The substantial change of outlook for residents facing the development in Birchmoor, along with additional noise and light pollution would also represent a moderate harm; whilst it is recognised that no one has a right to a view, the change in outlook is substantial.
- 6.82 There is currently concerns over highway safety in respect of the additional traffic generated by this development. This represents significant harm.
- 6.83 the additional traffic will generate extra congestion into the area. Whether this is considered to result in junctions being over capacity or not, it will be identified by local residents in terms of additional time required to travel within the area at am/pm peaks. As discussed above, there is also the issue and disruption from lost HGVs stuck within the villages that needs to be adequately controlled. This additional traffic is afforded limited harm.

Environmental Sustainability

- 6.84 The proposal will have a significant impact upon the open character and appearance of the site. This occurs for views from the west at the M42/A5 roundabout, and then more extensively from the A5 to the south, the western edge of Dordon, from Birchmoor to the north and from the various public rights of way that cross the Strategic Gap. The suggestion that a landscape bund is integrated into the scheme also introduces an additional uncharacteristic feature into a largely flat landscape. The harm to the countryside's character and appearance and its function as a Strategic Gap is afforded substantial harm.
- 6.85 The development will be capable of delivery without the loss of any notable mature vegetation; this is currently restricted to the perimeter, although it is identified within the local residents representation that a former pond on the site was drained a few years ago, removing this as an ecological feature to the lost (see Appendix 10). With additional planting proposed, this will result in a net gain to biodiversity and thus represents a moderate benefit overall, but this does need to be consider in the context of the existing fauna that utilise the site that will be displaced as a result of this development.

- 6.86 The area is already subjected to high background noise levels as a result of the trunk roads and existing employment operations. The appeal proposal will bring these noise generating activities closer to noise-sensitive users, namely the residents of Birchmoor as the closest affected receptors. The predicted change in noise level is noted to be less than 3 dB and thus negligible in its impact. Whilst some activities, such as reversing vehicles with ‘bleepers’ may well exceed this, the assessments and responses provided by the Council’s technical consultee have not raised any concerns. The inclusion of a landscaped bund will also assist in reducing noise levels to some extent. A neutral value is therefore afforded to noise.
- 6.87 The area has previously been identified as an area categorized as ‘red’ from an air quality perspective. Additional traffic theoretically will increase these issues, particularly with more congestion. However, no objection has been provided by the Council’s Environmental Health Officer and the Air Quality Assessment provided as part of the Environmental Statement Chapter 8 (CS A9.5) identifies no issues. As such the proposal needs to be considered to have a neutral impact upon air quality but the strong, repeated views of local residents that this is a matter that is not appropriately being dealt with needs to be considered by the Inspector as part of the decision.
- 6.88 The proposal will provide a significant number of street lights. Even with directional downlighters, this will create an illumination on currently dark fields, eroding the countryside appearance at night time. Given the presence of road lighting on the strategic highway network, including immediately to the west and south of the site, the harm due to the additional lighting is reduced. Nonetheless, the additional lighting is considered to be a limited harm.



*Photograph looking south across Strategic Gap towards employment buildings;
extent of buildings and associated lighting is clearly visible*

- 6.89 The proposal will be expected to provide sufficient on-site mitigation to ensure flooding and surface water runoff from the site is not increased, protecting surrounding land from increased flood risk. Some on site surface water flooding is identified on mapping systems but this can be integrated into proposals to ensure no issues occur. This should be possible to be designed to accordance with current legislation and thus is considered neutral within the planning balance.
- 6.90 The proposal is considered to potentially impact upon known archaeology within the area. This includes the remnants of Hall End Hall to the east of the appeal site, but within the ownership boundary of the Appellant. It is already recognised through the archaeological work that has been undertaken that some finds have been identified and further work would need to be conditioned. From an archaeological perspective, any disturbance to historic activity represents a harm, but this can be reduced through appropriate surveying, extraction and cataloging. Disturbance to any archaeology, which is considered a heritage asset under the NPPF would be considered to represent a less than significant harm. I afford limited harm to archaeology in the planning balance.

Planning Balance Conclusions

- 6.91 The delivery of employment opportunities, additional HGV parking and the social benefits associated with the facility to HGV drivers are the notable benefits from economic and social aspects.
- 6.92 However, the environmental harm that results from the proposal due to the landscape harm to the countryside and the loss of the Strategic Gap is considered significant. The proposed mitigation does not reduce this visual harm. The loss of the countryside and the harm to its setting is contrary to development plan policy and carries significant weight. This harm is permanent.
- 6.93 Other harm in respect of highway matters weighs further against the proposal, whilst a number of other matters represent lesser harms that are also identified.
- 6.94 In summary, adverse effects to the environmental strand of sustainability is considered to outweigh the benefits created through the social and economic strands. The scheme as a whole is therefore contrary to the overarching sustainability policies of the Local Plan as well as the thrust of the NPPF.

MAIN ISSUE 8: Whether any submitted planning obligations and/or planning conditions would adequately address the impacts of the proposed development

- 6.95 As outlined within the various local representations appended to this statement, concerns beyond those already noted above are provided by local residents are raised in respect of a number of other technical matters. These include drainage/flooding, highway congestion, heritage (archaeology), noise, air quality, light pollution, impact upon protected species and fauna as a whole.
- 6.96 Whilst there are expected to be identified harms, there is potentially scope for these to be mitigated by way of conditions and planning obligations. The responses of the statutory consultees on these matters need to be considered and dealt with appropriately in terms of any planning obligations and conditions, to ensure that the impacts can be appropriately controlled for the future. This is important, should consent be granted, in order to minimise the harm to the local residents and to ensure appropriate control to the Council on all matters.

MAIN ISSUE 9: How any benefits and disbenefits of the proposed development should be considered in the overall planning balance

6.97 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning appeals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.98 As outlined within Main Issues 1 – 6, there are a number of substantive issues that are considered to occur in respect of this proposal, which leads to direct conflict with a number of Development Plan policies, as well as aspects of the NPPF. The key areas of conflict are:

1. Impact upon the Strategic Gap, undermining the separate identity of Tamworth and Polesworth with Dordon by significantly eroding the space between the settlements and the distinctive characters associated with them and the open green space in between. It would impact upon the physical and visual separation between the settlements, such that it has significant conflict with LP Policy 4 and DNP Policies DNP 1 and DNP 4. Full weight can be afforded to these policies.

Paragraph 180 (b) of the NPPF also outlines the need to recognise the intrinsic character and beauty of the countryside and its wider benefits. This land is highly valued by local residents as a green oasis within an urban area; its loss would represent a significant harm to the surrounding community, and once lost cannot be recreated.

The loss of the Strategy Gap is therefore contrary to the relevant paragraphs of the NPPF in terms of protecting the countryside and ensuring quality development that reflects the character of the area.

2. Impact upon the character and appearance of the area is covered by Policy LP4 of the NWLP and Policies DNP1 and DNP4 of the DNP. These seek to protect the countryside and ensure development reinforces the positive qualities of the area and the manner in which the land contributes to the wider area. The appeal development would completely remove an identified view (Viewpoint V3 of the DNP), as well as curtailing viewpoints 1 and 2 and any view from the western edge of Dordon. It would also fundamentally alter the views from public rights of way AE45 and AE46, plus all views and sensations of travel from one location to another along the A5 to the south. It would also remove any sense

of separation and countryside setting for views southwards from Birchwood. The impact of the development would be permanent and significant.

The NPPF sets out in Section 12 the need to create high quality buildings and places, which respect the area in which they are located. In particular, paragraph 134 references design guides and codes that can be afforded weight in decision making, and at paragraph 135 the need for developments to be visually attractive as a result of good layout, architecture and effective landscaping and to be sympathetic to the local character including the surrounding built environment and landscape setting. In this instance, there is the Dordon Design Guide and Code, which does not envisage development of this scale coming forward; it appeal scheme does not accord with the local vernacular of the villages and represents significant scaled buildings, which at 21m are proposed to be up to 3m higher than those constructed directly to the south within the St Modwen development scheme. With uncharacteristic landscape bunding indicated to be provided to create an acceptable relationship to the north, the scheme as a whole does not reinforce the local character of the area.

3. The proposal will remove 29ha of BMV land, and overall 31ha of agricultural land. Paragraph 180 of the NPPF seeks to protect the BMV land from development, and given the expected provision of substantial areas of grade 3 or 4 land within the wider surrounding area to the key transport network, there is scope to deliver a comparable development without the loss of any BMV land.
4. There are still outstanding disputes between the Appellant, Warwickshire County Council Highways and National Highways. The scheme is considered to harm highway safety, which is contrary to paragraph 115 of the NPPF.

6.99 Whilst a specific planning balance in respect of the NPPF Section 2 is provided under Main Issue 7 above, the number of matters considered to cause harm outlines a number of instances where the proposal conflicts with the Development Plan and contents of the NPPF. When read as a whole, it is not considered that there is significant conflict with the Development Plan. Additionally, it does not accord with a number of sections of the NPPF and thus does not constitute sustainable development.

**AITCHISON
RAFFETY**



Northampton Office

The Granary, Spring Hill Farm,
Harborough Rd,
Pitsford,
Northampton
NN6 9AA