



Hodgetts Estates

**LAND NORTH-EAST OF JUNCTION 10 M42,
NORTH WARWICKSHIRE**

LPA Ref: PAP/2021/0663

Appeal Ref: APP/R3705/W/24/3336295

**Planning Proof of Evidence of Doug Hann BA(Hons),
MTPL, MSc, MRTPI**



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1 EXECUTIVE SUMMARY

1.1 INTRODUCTION

1.1.1. This appeal is submitted on behalf of Hodgetts Estates ('the Appellant') and relates to an appeal against North Warwickshire Borough Council (NWBC) and its non-determination of an outline planning application pertaining to land north-east of junction 10 of the M42 motorway, North Warwickshire ('the site') for:

'Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved'.

1.2 WHY APPROVAL OUGHT TO BE GRANTED

1.2.1. The appeal scheme should be approved as:

(i) it accords with the development plan, therefore the presumption in S38(6) of the 2004 Act is engaged, as is the presumption in favour of sustainable development in NPPF paragraph 11(c);

(ii) it does not give rise to adverse impacts of sufficient weight to outweigh either presumption; and

(iii) to the contrary it meets a clear need and generates substantial economic, social and environmental benefits.

1.2.2. Even if, contrary to my view, there was a conflict with the development plan taken as a whole there are powerful material considerations which warrant a conclusion that the appeal ought to be allowed.

1.2.3. My case in synopsis is as follows:

DELIVERING ECONOMIC GROWTH

1.2.4. The proposal seeks commercial development that will deliver significant economic growth and productivity. It will meet a longstanding need for this form of development which has not hitherto been met within the development plan. Meeting this need fully aligns with NPPF and local plan policy objectives.

1.2.5. Further, it will deliver strategic employment land at a strategic location suited to and identified for such development. It will also deliver land suitable for a certain type of employment, namely logistics.

LOCATIONAL ADVANTAGE

- 1.2.6. The location of the site is critical. The site, as set out in the proofs of Mr Binks and Mr Hatfield, is ideally located to meet strategic employment and logistics needs as it is located in the Golden Triangle which is an area of the Midlands which is within a four-hour drive of 90% of the British population, with excellent connection via the motorway and trunk road network to ports and cities (N, E, S and W), and with close access to rail freight interchanges.
- 1.2.7. Studies prepared for the sub-regional local authorities and Chambers of Commerce pinpoint the area and site, with the WMSESS Phase 2 Study (2021) (the successor study to WMSESS Phase 1 (2015)) identifying the site as the joint best-performing site for strategic-scale employment development when compared against a range of criteria and 50 other sites throughout the region. Furthermore, the M42 Corridor is identified as Area 2 in the WMSESS Phase 2 and as being one of five 'Key Clusters' identified for growth)¹. Within Area 2, the appeal site is the only developer promoted site out of 11 sites assessed in WMSESS 2021 that is located outside of the Green Belt.
- 1.2.8. The site is importantly rail served, owing to its close proximity to Birmingham Intermodal Freight Terminal (BIFT) at Birch Coppice Business Park (around 500m). Support letters from Maritime (which operates the BIFT), Logistics UK and the Rail Freight Group confirm that the appeal site benefits from being rail served, has drawn key occupiers such as Volkswagen, Beko and Maersk for that reason. The locational advantages are critical in helping to decarbonise freight and bring competitiveness. The rail connectedness of the site is a scheme benefit of very significant weight and a benefit that is supported by appeal precedent in the Borough, as I evidence later.
- 1.2.9. The site and location are thus demonstrably the ideal location for strategic employment and logistics land. NPPF paragraph 87 is clear that "*Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations*".
- 1.2.10. Therefore, the site lies in the right geographic location for meeting the strategic employment and logistics needs. It is the only remaining quadrant of M42 J10 which is undeveloped, with it

¹ Local Plan Policy LP6 refers to "Area A on Figure 4.10 of the WMSESS 2015 (or successor study)". WMSESS 2021 is the successor study to WMSESS 2015. "Area 2" is broadly the same geographic area identified as "Area A" in WMSESS 2015 (the M42 Corridor) – the appeal site is located within Area A/Area 2.

completing the cluster of commercial sites around the junction able to take advantage of the rail freight interchange. It is further well placed, as the site is located outside of the Green Belt.

- 1.2.11. The site is also ideally located to meet the acute need for HGV parking. The proof of Mr Hatfield demonstrates that the site lies in the parking need hotspot identified through the National Survey of Lorry Parking (2017) and the identified need in this location is endorsed further by the updates to that survey in 2022 (Part 1 and Part 2), as well as qualitative and quantitative evidence contained in the proof of Mr Hatfield.

MEETING NEED

- 1.2.12. Having established it is the right location, I then address need. There is an urgent and compelling need for additional large scale employment land in North Warwickshire and the sub-region. This has been shown through successive studies prepared for NWBC and other sub-regional authorities over the past decade and longer. These are set out in full in the proof of Mr Turner. The weight of the need is overwhelming, the efforts to address it underwhelming (as I set out later).
- 1.2.13. The most recent evidence prepared by Cushman and Wakefield for this Inquiry (the Employment Land Study May 2024 at **Appendix 1 of the proofs of Mr Binks and Mr Turner**) demonstrates that **within Area A/Area 2/M42 Corridor**, which is considered the relevant study area in the context of Local Plan Policy LP6, **there is a 3 - 3.5 month land supply**, and **in North Warwickshire there is a 0 (zero) months land supply**. This need therefore remains acute and real, with a woefully inadequate supply of land to meet the need.
- 1.2.14. Not meeting the need will continue to have negative consequences for the Borough, its population, and the sub-regional, regional and national economies. This is contrary to the objective of sustainable development.
- 1.2.15. It is a position diametrically opposed to NPPF which seeks to build a strong and competitive economy, to help create the conditions in which businesses can invest, expand and adapt. Not providing the land where it is needed will see the significant investment from national and international companies lost from North Warwickshire and the wider sub-region and region. This loss of investment and GDP will adversely impact the economy, denting its competitiveness. This runs counter to the Local Plan and the strategic objective of supporting economic growth that captures the benefits for local residents. Not meeting need in the locationally best areas will have economic and environmental downsides as it will impact competitiveness and lead to additional transportation requirements.
- 1.2.16. Not meeting the need will have negative social consequences of not providing the direct and indirect employment opportunities to the nearby residents of North Warwickshire and Tamworth, in particular

those in the more deprived wards which lie close to the site, which are within walking and cycling distance.

- 1.2.17. Not meeting the need will have negative environmental consequences, as failing to grasp the locational advantages of the site, in particular its rail served status (serviced by Birmingham Intermodal Freight Terminal ((BIFT)) at Birch Coppice Business Park, opposite the site) will miss the significant opportunity of taking freight off the road, reducing road trips and thus the associated pollution and carbon reduction benefits. It will also miss the opportunity of providing modern green buildings and site operations, critical in allowing the commercial and logistics industry to innovate and reduce its environmental effects.
- 1.2.18. The lorry parking need is equally acute, with the proof of Mr Hatfield setting out the urgent need in this location which demonstrates that existing facilities are over capacity and the Appellant's own parking beat surveys, undertaken by WSP, which show an average of 117 inappropriately parked HGVs in the vicinity of the site on each night surveyed.

FAILURE OF PLANNING POLICY TO ADDRESS NEED

- 1.2.19. Against this overwhelming need and consequence position, the planning application decision making process is critical in delivering the necessary employment land. Frankly, it is the best and most realistic option.
- 1.2.20. The plan making process has consistently failed to provide strategic employment land in North Warwickshire, and the wider sub-region.
- 1.2.21. For the last two plan cycles, the Core Strategy (2014) and Local Plan (2021), NWBC has deliberately not planned for anything other than meeting local employment needs. This is despite a significant number of sub-regional and regional studies (such as the WMSESS) which have clearly articulated the level of strategic need, the paucity of supply and highlighting the locational advantages of the location for meeting these wider than local needs.
- 1.2.22. This failure of plan making, was acknowledged by the Inspector presiding over the examination into the 2021 Local Plan, who considered the plan could only be sound with the inclusion of Policy LP6 which gives significant weight to provision of additional employment land, where there is an immediate need or need for a certain type of employment land, within Area A of the WMSESS Study 2015) and the need cannot be met from allocations or forecast supply. The Inspector did not however want to halt the plan examination to allow for strategic need and allocations to be considered, so introduced Policy LP6 as the mechanism to address the void in policy considering strategic need.

- 1.2.23. That policy void is evermore present following the revocation of regional planning guidance, which has left a clear policy vacuum between the NPPF support for meeting all employment needs, and the Local Plan in which North Warwickshire has sought to meet local needs only, and make no provision for meeting strategic or logistics needs. Those needs have effectively been left to other boroughs and districts or the property development sector to provide for, or to go unmet.
- 1.2.24. The problem is that, all the neighbouring Local Planning Authorities to North Warwickshire Borough within Area A/Area 2/M42 Corridor, which is considered the relevant study area in the context of Local Plan Policy LP6 (as identified in the Employment Land Study May 2024 at **Appendix 1 of the proofs of Mr Binks and Mr Turner**), have taken a similar stance post regional guidance abolition and sought to meet their local needs only in their adopted local plans. Furthermore, the aforementioned Cushman and Wakefield Study sets out that of the five neighbouring LPAs within Area A/Area 2/M42 Corridor, three have emerging local plans at a very early stage (Birmingham City Council, Coventry City Council and Tamworth Borough Council – all at Regulation 18 stage), all of which are either silent on whether the emerging plan will meet strategic employment needs and/or contain no such employment allocations and as such there is no certainty that strategic employment needs will be addressed. The Lichfield District Council emerging plan was withdrawn from examination in October 2023 and did not include any strategic employment land provision. Solihull District Council’s emerging Local Plan is the most advanced (at Regulation 22 examination stage), however it has progressed extremely slowly since it was submitted for examination in May 2021 and in any case seeks to address local needs only.
- 1.2.25. Therefore, despite the duty to cooperate, the LPAs within the Area A/Area 2/M42 Corridor at present only provide a series of adopted and emerging plans that fail to address strategic employment need. This is in the face of the overwhelming evidence reports that consistently highlight the locational advantages of the area (Golden Triangle), its transport infrastructure (two strategic rail freight interchanges, trunk road connectivity to the UK), its connections to key industry of national importance such as the automotive sector, and access to workforce and areas of deprivation.
- 1.2.26. This policy vacuum means that strategic employment sites must be progressed and delivered through the development management process. Indeed, the adjacent site to the south, Tamworth Logistics Park (formerly St Modwen Park Tamworth), was brought forward through an application and then appeal process, allowed and is now built and making a meaningful contribution to meeting strategic employment need, occupiers’ needs and providing jobs for the local community. However, it had to be pursued through the appeal process, in the absence of what was then the Core Strategy addressing wider than local employment need.

- 1.2.27. This appeal proposal finds itself in the same situation, a compelling evidence base of need, a scarce and inadequate supply of land to meet the need (none in North Warwickshire itself) and very little in the wider sub-region, an adopted local plan that only seeks to meet local need and not strategic need, and no regional guidance which previously supported strategic sites and strategic logistic sites. The only difference now is that Policy LP6 has been inserted into the plan to provide the significant policy weight to delivering additional employment land.
- 1.2.28. Policy LP6 was inserted very purposefully, to plug the policy void and failure to address the need for strategic employment and logistics land, by affording ‘significant weight’ where the immediate need or need for a certain type of employment land is demonstrated, the site lies in Area A, and forecast supply and allocations will not meet the need. Policy LP6 was very much designed for the circumstances this appeal finds itself, to support development and allow it to come forward.

WHY THE EMPLOYMENT DPD WILL NOT RESOLVE THE MATTER

- 1.2.29. NWBC has asserted that the proposed Employment DPD will address additional employment land through the plan making process, and therefore intimated that we might all wait. This is not tenable for a number of reasons. Firstly, the need for additional land is immediate and urgent, there is a policy in place to expressly deal with the situation (Policy LP6) which gives clear locational and policy criteria. It is a sound policy.
- 1.2.30. Secondly, the DPD is at a very early stage in the plan making process, having only just undertaken an issues and options consultation. It has a long journey to reach adoption which will take some time. Based on the evidence base prepared over the last decade or more, it is inevitable in my view that the DPD will need to identify a requirement and sites to meet the more than local need. However, I am sceptical that the DPD will do so, based on experienced history in North Warwickshire, as for the current Local Plan, they were faced with similar evidence of strategic need and that their borough was locationally ideally placed to meet that need, but they decided to not address the need. A similar story emerged from the Core Strategy.
- 1.2.31. Therefore, waiting to see if the DPD addresses the need in a couple of years’ time, with the risk that NWBC will again fail to meet the need, whilst there is an immediate need for land now, is contrary to national guidance and indeed Policy LP6.
- 1.2.32. Indeed, at the time of writing Schedule 7 of the Levelling Up and Regeneration Act 2023 which promised a more rapid progress towards plan making has not been enacted by the outgoing Conservative Government. The development plan process may be generously characterised as being in something of a state of turmoil.

- 1.2.33. As stated, the appeal site is located in Area A of WMSESS Phase 1 and Area 2 of the WMSESS Phase 2 (the successor study) and in the latter is identified as the joint best-performing site for strategic-scale employment development when compared against a range of criteria and 50 other sites throughout the region. Importantly, it is not located in the Green Belt. The majority of Area A/Area 2 is located in the Green Belt. NPPF is very clear in that the government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence (Paragraph 142). Development in the Green Belt is inappropriate and should be refused. Where land is to be taken out of the Green Belt 'exceptional circumstances' must be demonstrated, and the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.
- 1.2.34. The appeal site does not lie in the Green Belt, although it does lie in the Strategic Gap. If the authority were to promote Green Belt release, then the strategic need for employment land and its location in Area A/Area 2 would inevitably underpin the 'exceptional circumstances' case. If these exceptional circumstances exist to justify Green Belt release, then they must be of equal or greater weight in outweighing Strategic Gap policy, which is less onerous than Green Belt policy. Indeed, Strategic Gap policy LP4 is not and cannot be as stringent as Green Belt. It does not have the same national policy status.
- 1.2.35. Therefore, if the future DPD was to identify a need for sites in Area A/Area 2, and the majority of Area A/Area 2 is in the Green Belt, then it would need to look at alternative sites outside the Green Belt first. The appeal site is such a site that lies outside the Green Belt, and is plainly an alternative as the WMSESS identified it as the joint best performing of 50 sites. It must therefore be a preferred site to allocate, based upon the application of the highest tier of protection of national policy. If the need and locational advantages of the appeal site are not sufficient to overcome the lower bar of Strategic Gap, they will struggle to overcome the much higher bar of Green Belt, meaning that North Warwickshire will be unable to identify any sites in Area A/Area 2 to allocate for strategic employment development. This will see the need not satisfied yet again.

ACCORDANCE WITH POLICIES LP4 AND LP6

- 1.2.36. This application, for the joint highest ranked site can address that need now. Policy LP4 does not preclude development in the Strategic Gap. It does not preclude large scale development in the Strategic Gap. Indeed, development can be policy compliant where it does not significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon. In assessing whether significant harm to their characters would occur, any effects in terms of the physical and visual separation are to be considered.

- 1.2.37. The Appellant's landscape witness, Mr Smith, in his Proof of Evidence demonstrates that whilst the scheme comprises a large development in the gap, due to the size and configuration of the gap, and the nature of development proposed, that there will not be significant adverse harm to the distinctive, separate characters of Tamworth and Polesworth with Dordon. The proposal therefore accords with Policy LP4.
- 1.2.38. In the interplay of Policies LP4 and LP6 therefore, the accordance with Policy LP4, allied to the significant weight given by Policy LP6 mean that significant weight is attached as there is a compelling immediate need and need for logistics land, the site lies in Area 2 and is indeed the preferred site, local plan allocations meet local need only and are not suited or capable of meeting strategic need, and the forecast supply is insufficient to meet need (only 3 – 3.5 months supply in the Area A/Area 2/M42 Corridor and 0 (zero) months supply in North Warwickshire, as set out by in the proof of Mr Binks and the Employment Land Study May 2024). The three Policy LP6 criteria are then met as Dr Bunn in his proof, and the agreed Highways SoCG with National Highways, demonstrate that safe and suitable access can be provided (LP6 criteria (i)), Dr Bunn and Mr Hatfield demonstrate that the site is accessible by a choice of modes of transport (LP6 criteria (ii)), and the proposal is acceptable with respect to the living conditions of those nearby (as accepted by NWBC on the basis of consultee feedback and it not being a reason for refusal) (LP6 criteria (iii)). Therefore, the proposal benefits from the 'significant weight' of Policy LP6.
- 1.2.39. As I set out in my Proof of Evidence, there are no material considerations which indicate that permission should not be granted. All technical matters are satisfactorily resolved.

ACCORDANCE WITH LP34

- 1.2.40. The proposal delivers urgently needed lorry parking spaces and facilities. It fully accords with LP34 which recognises the Borough's strategic location and demand for lorry parking, and gives weight to lorry parking provision and facilities. This weight is important as the plan contains no allocations for lorry parking. This aligns with NPPF paragraph 113 which states planning decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance.

SIGNIFICANT BENEFITS DELIVERED

- 1.2.41. The proposal will directly deliver significant benefits now, spanning economic, social and environmental aspects. In summary they are:

- Creation of in the range of 1,000 to 1,400 Full-Time Equivalent new jobs; jobs of a wide range of salary levels and skills that are well-located and highly accessible in respect of nearby settlements;
- GVA of up to £104.2 million annually in perpetuity to the West Midlands economy, focused on North Warwickshire and Tamworth;
- Up to 100,000sqm of mixed-use modern employment floorspace, including provision of up to 10,000sqm of floorspace targeted at small-medium sized enterprises;
- Multifunctional ancillary Hub Office, for training and education purposes and communal cycle parking/showers/changing facilities;
- Up to 150 space overnight lorry parking facility and associated welfare;
- Co-location and timing of new employment opportunities in proximity to residential development would align with the delivery of major new housing sites at Polesworth with Dordon (site allocation H4) and Tamworth (site allocation H5), in the adopted North Warwickshire Local Plan;
- Infrastructure improvements to Junction 10 of the M42 motorway and the A5 between Tamworth and Dordon, including an improved footway/cycleway along the A5;
- Environmental and social benefits, including:
 - Over 9ha of on-site publicly accessible green infrastructure (over 30% of the total site area), including extensive landscaped buffers;
 - Over 6.5ha of off-site green infrastructure incorporating native woodland and hedgerow planting and a community orchard, along the route of the existing and enhanced ProW network;
 - Over 8.5km of new and enhanced on and off-site public footpaths, bridleways and footway/cycleway routes to improve connectivity, sustainable commuting modes, the promotion of active and healthy lifestyles and access to nature;
 - A new publicly accessible fitness trail, incorporating hydraulic and other outdoor gym equipment;
 - Substantial biodiversity net gains, largely as a result of the +15.5 hectares of new habitats including native woodlands, a community orchard, shrublands, mixed hedgerows, wildflower meadows, wetland wildflower meadows and species rich grassland; and
 - Approximately 10,000 new trees to be planted across the scheme and other ecological features.

1.2.42. The proposal will also enable the delivery of transport infrastructure that will help to deliver the local plan strategy. As the proof of Dr Bunn demonstrates, the J10 and A5 improvement works required to facilitate major allocations in the Local Plan are not funded and not likely to be delivered until after 2030. Dr Bunn provides evidence that the appeal proposal can provide a notable infrastructure

boost – up to 80% of the Local Plan could be accommodated at Junction 10 M42. At Dordon Roundabout, the Local Plan is currently constrained, and the technical assessment work evidenced in the proof of Dr Bunn also shows that up to 30% of the Local Plan traffic can be delivered prior to the need for any improvements.

- 1.2.43. As such, the appeal proposal would act as a Local Plan enabler rather than having an adverse effect on its delivery and would deliver critical infrastructure without the need for public funding. Policy LP1 is clear that weight in favour will be given to development that would assist in the provision of enabling infrastructure, particularly that which would help facilitate development in the long term, which I consider Local Plan allocations to constitute. This is therefore a very significant benefit of the scheme.

SUSTAINABLE DEVELOPMENT

- 1.2.44. The proposal therefore delivers substantial benefits and constitutes sustainable development.
- 1.2.45. In my view, under NPPF paragraph 11, the proposal benefits from the tilted balance as I consider the plan to be out of date with respect to part (d) which states that “*where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, 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”.*
- 1.2.46. The Local Plan is silent on specific policy to deliver strategic and logistics land to meet identified need (with no allocations or policy specifically quantifying a requirement for strategic employment land to be met). The emerging Employment DPD which is proposed to address the matter is delayed and at a very early stage so cannot be afforded any weight. Therefore, the Local Plan is absent and silent with respect to providing confidence of delivering strategic employment land. It is thus out of date. NPPF Paragraph 11(d)(ii) is thus engaged. The proposal therefore benefits from the titled balance in favour.
- 1.2.47. The fact the authority three years since plan adoption is proposing an Employment DPD reinforces this point that there are no relevant plan policies. There is no certainty the DPD will provide any policy or sites, and in any event it is some 2 years from adoption. No weight can be placed on it for the purposes of this appeal.
- 1.2.48. Far from conflicting with the Local Plan – the appeal proposals further the plan’s objectives.

- 1.2.49. Against NPPF paragraph 11, the appeal site does not lie in a footnote 7 designated area, and the impacts as set out in evidence do not, and can be mitigated to not, have a significant adverse impact. The very substantial benefits the proposal brings more than outweigh any impacts.
- 1.2.50. Therefore, the NPPF paragraph 11 presumption in favour of sustainable development is engaged and approval should be granted without delay.

1.3 PLANNING BALANCE

- 1.3.1. The starting point is that the appeal proposals accord with the relevant parts of national and local policy and therefore attract both the statutory weight of S38(6), as well as the presumption in favour of sustainable development in NPPF paragraph 11(c).
- 1.3.2. If Policy LP6, when considered with regards to the presumption in favour at NPPF paragraph 11, were deemed a relevant policy suitably able to deal with strategic employment land, then the presumption in favour would not be engaged. This would return the case to the usual planning balance. However, in such case, to dis-engage the presumption in favour would be relying on LP6 being applied as a strategic policy of significant weight to take precedence over other policies in the plan (where criteria are met) to deliver the strategic employment land.
- 1.3.3. Therefore, the significant weight afforded by LP6 must be weighed heavily in the planning balance to enable it to take precedence over the other policies in the plan, in order for it to have teeth to provide strategic employment land in the absence of any allocations or quantitative requirement.
- 1.3.4. In the application of Policies LP4 and LP6, they work together. Whilst the appeal site is within the Strategic Gap and there will be an impact in terms of the physical reduction of the gap, it is not a significant impact and, in any case, Policy LP4 allows development to come forward within the gap where it would not adversely effect the distinctive, separate characters of Tamworth and Polesworth with Dordon. I have set out how it accords with Policy LP4.
- 1.3.5. I have also set out how it accords with Policy LP6 and gains the 'significant weight' with respect to other policies in the plan.
- 1.3.6. The lorry parking facilities accord with NPPF and Policy LP34 and meet an established need in an identified hotspot location.
- 1.3.7. The appeal proposal also accords with other strategic policies in the Development Plan, namely Policies LP1, LP2, LP5, LP11, LP12 and non-strategic Policy DNP12.
- 1.3.8. Furthermore, there are no technical planning matters or conflicts with policy that cannot be mitigated. The technical evidence submitted with the appeal/other proofs demonstrably addresses technical matters to conclude there is no significant harm.

- 1.3.9. The appeal proposal is therefore in accordance with the Development Plan as a whole.
- 1.3.10. In the planning balance there are a multitude of scheme benefits, many of which are of significant or very significant weight, in addition to the already demonstrated sustainable credentials. The vast majority of these benefits are true 'added benefits' and not those that arise from mitigation. These are key material considerations that weigh heavily in favour of the proposal.
- 1.3.11. There is significant industry support for the proposals which also are material considerations weighing in favour.
- 1.3.12. Therefore, in accordance with S38(6) the proposal accords with the development plan, there are no harms that outweigh the benefits, and whether NPPF paragraph 11's presumption is engaged or not, the planning balance swings unequivocally in favour of the grant of consent.
- 1.3.13. Even if the contrary view is taken (despite my opinion) that the appeal proposals conflict with the development plan; then my view is that there are substantial material considerations which would justify allowing the appeal in any event.
- 1.3.14. I respectfully request that the appeal is allowed and consent be granted.

2 QUALIFICATIONS AND EXPERIENCE

- 2.1.1. My name is Doug Hann, and I am a Director at WSP. I hold a Bachelor of Arts Degree in Geography from Jesus College, Oxford University; a Masters in Town Planning from the University of Manchester; and a Masters in Business Management from Manchester Metropolitan University. I am a member of the Royal Town Planning Institute (RTPI). I have over 29 years of experience in planning practice, in both private consultancy and local government having previously worked in policy, regeneration and Development Management at Salford City Council.
- 2.1.2. Both WSP generally and I specifically have considerable experience in providing development planning advice to a varied group of clients with development interests in an equally diverse range of land uses. I have considerable experience in advising on a range of major employment and mixed use development proposals.
- 2.1.3. My personal experience relevant to this appeal extends to providing advice on employment schemes both at Development Plan Inquiries (and EiPs) and at Planning Inquiries in respect of applications/appeals made under Section 77 and 78 of the Town and Country Planning Act (as amended) 1990.
- 2.1.4. My experience of employment site planning matters is considerable, and I have been involved in significant employment schemes across the country at all stages of the planning process. I have a detailed understanding of national, strategic and development plan policy in respect of land use planning matters raised by this appeal. I am a member of the British Property Federation (BPF) Industrial Committee.
- 2.1.5. I was initially instructed by Hodgetts Estates in 2020 to consider planning matters pertinent to the site and have been involved continuously since, promoting the site through the planning system. I am therefore fully familiar with the site for the purposes of giving evidence at this Inquiry.
- 2.1.6. I am aware that my professional duty is to the Inquiry irrespective of by whom I am instructed and confirm that the evidence I have prepared has been done so in a manner consistent with the Code of Conduct of my profession with due diligence and is truthful, representing my honestly held professional view, irrespective of by whom I am instructed.

3 EXPERT WITNESS DECLARATION

3.1.1. After exercising due diligence in my inquiries as to relevant facts, I believe that the facts I have stated in this Statement are true and I confirm that I have had proper regard to the principles set out in the RTPI Practice Advice Note² and the relevant principles as to the preparation and presentation of expert evidence at an inquiry.

Signed:



Dated: 29/05/2024

² <https://www.rtpi.org.uk/media/1832/plannersasexpertwitnessespracticeadvice2018.pdf>

4 SCOPE OF EVIDENCE

4.1 OVERVIEW

4.1.1. This appeal is submitted on behalf of Hodgetts Estates ('HE' or 'the Appellant') and relates to an appeal against North Warwickshire Borough Council (NWBC) and its non-determination of an outline planning application pertaining to land north-east of junction 10 of the M42 motorway, North Warwickshire ('the site'). The application seeks to deliver much needed employment development at a strategic location identified as well placed to meet the need. It seeks:

'Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved'.

4.1.2. The application was submitted and validated on 2 December 2021 and given application reference: PAP/2021/0663. The appeal was submitted to the Planning Inspectorate ('PINS') on 22 December 2023 and validated on 15 January 2024 and given appeal reference: APP/R3705/W/24/3336295.

4.1.3. As denoted on the Site Location Plan enclosed at **CD-A3**, the site comprises a red line boundary area extending to approximately 32.36ha (the development site) and a blue line boundary area (other land under the control of HE) extending to approximately 41.66ha. The site is located adjacent to the Strategic Road Network, situated at the north-east quadrant of Junction 10 of the M42 motorway and north of the A5 trunk road.

4.1.4. A full description of the appeal site and surroundings is set out in Chapter 5 of this proof.

4.1.5. Furthermore, a list of Core Documents that will be referred to during the course of the appeal and in this evidence has been provided.

4.2 PUTATIVE REASONS FOR REFUSAL

4.2.1. The appeal is against NWBC's non-determination of application ref: PAP/2021/0663.

4.2.2. NWBC determined at a Planning & Development Board meeting on 4 March 2024 that had it determined the application it would have refused consent for the following reasons:

- 1. The proposal does not accord with Policy LP4 of the North Warwickshire Local Plan 2021 together with policies DNP1 and DNP4 of the Dordon Neighbourhood Plan 2023 in that it does not maintain the separate identities of Tamworth and Polesworth with Dordon. This is because its scale, character and appearance significantly reduces the physical and visual separation*

between these settlements. It is considered that the benefits of the proposal as outlined by the applicant do not outweigh this significant harm as the requirements of Local Plan Policy LP6 and LP34 are not fully demonstrated.

- 2. The application site lies outside of any settlement boundary as defined by Policy LP2 of the North Warwickshire Local Plan 2021 and is thus within the open countryside. The proposed development would result in a range of significant adverse landscape and visual effects which fail to respect or respond positively to the key characteristics of the surrounding area. The proposal is this contrary to Local Plan policies LP1, LP14 and LP30 together with Policies DNP1 and DNP4 of the Dordon Neighbourhood 2023 as supplemented by the National Planning Policy Framework 2023.*
- 3. The applicant has failed to demonstrate that the development would not result in an unacceptable impact on both the strategic and local highway networks or that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would result in a severe impact on the road network contrary to policies LP23, LP27 and LP29(6) of the North Warwickshire Local Plan 2021 and paragraph 115 of the National Planning Policy Framework 2023.*

4.2.3. As evidenced at paragraph 14 of the Inspector's Case Management Conference Summary Note **(CD-D12)** it was agreed between the Appellant, NWBC and Rule 6 Parties that the inquiry will need to consider the following main issues:

- (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, 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 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.*

- 4.2.4. Despite all other technical and environmental planning matters being acknowledged as being acceptable by NWBC and statutory consultees (as evidenced in the SoCG (**CD-D13**)) the Inspector noted at paragraph 15 of the CMC Summary Note (**CD-D12**) that: *“the Appellant’s evidence will additionally need to address any other relevant matters raised by consultees and interested parties, including noise pollution, air pollution, light pollution, the effects on wildlife, the effect on footpaths, the loss of agricultural land, the impact on heritage assets, the effect of increased traffic on Birchmoor village, lost lorries causing difficulties on narrow roads, and the fact that parts of the appeal site are often waterlogged”.*
- 4.2.5. Considering the above, my proof mainly addresses putative reason for refusal 1 and points (i), (iii) and (v) to (ix), as well as matters of overall policy compliance and the planning balance. In doing I place reliance upon the extensive work that has been undertaken to date, and in particular the proofs of the other witnesses presenting evidence on behalf of the Appellant. Technical matters of landscape/visual impact (putative reason for refusal 2 and point (ii) above), access, transport and highways (putative reason for refusal 3 and point (iv) above) and employment and economic need (point (v) above) are dealt with in separate Proofs of Evidence.
- 4.2.6. My proof sets out the background and context to the appeal proposals, and the relevant planning policy. I assess the relevant policies in the statutory development plan to establish the weight that should be attached to the policies when considered in the context of the National Planning Policy Framework (NPPF).
- 4.2.7. My proof also has regard to other policy documents and key national and regional studies and publications that are material considerations in the determination of this appeal.
- 4.2.8. I demonstrate that the proposals accord with the Development Plan taken as a whole and constitutes sustainable development of a kind that NPPF supports, and which Government directs should come forward without delay to meet the pressing need to build a strong and competitive economy.
- 4.2.9. My proof is supplemented by the following Proofs of Evidence (herein referred to as ‘the proof of...’):

- **Mr David Binks and Mr Jonathan Turner of Cushman & Wakefield** which provides further evidence with respect to matters of employment land need (in the form of separate proofs – one from a market perspective and one from a studies perspective);
- **Professor Jim Coleman of WSP and Mr Stephen Nicol of Nicol Economics** (produced jointly) which provides further evidence with respect to matters of economic need and impacts;
- **Mr Jeremy Smith of SLR** which provides further evidence with respect to matters of landscape, visual impact and Strategic Gap policy;
- **Dr Nick Bunn of Tetra Tech** which provides further evidence with respect to matters of access, active travel, transport and highways impact;
- **Mr Mike Hatfield of MDS Transmodal** which provides further evidence with respect to lorry parking need, rail connectivity, zero emission goods capability and the associated sustainability benefits arising from these important elements of the scheme.

4.2.10. In addition to the other proofs, my proof is supplemented by letters and technical notes prepared by the other consultants involved in the Environmental Impact Assessment (EIA) submitted with application ref: PAP/2021/0663 and the associated Environmental Statement Addendum submitted as part of the appeal process. These letters are contained as appendices to this proof and will be relied upon as necessary in my proof.

4.2.11. Accordingly, my proof is structured as follows:

- **Chapter 5** provides the background and context of the site and surrounding area, the proposed development and chronology and background to the proposal;
- **Chapter 6** sets out the substantial scheme benefits that the proposal will deliver;
- **Chapter 7** summarises the legislative framework for decision-making and the weighting to apply to different components of the Development Plan;
- **Chapter 8** assesses the principle of development in terms of the need for additional employment land and the locational suitability of the site;
- **Chapter 9** summarises the principle of development in terms of the need for lorry parking and the locational suitability of the site;
- **Chapter 10** assesses the acceptability of the proposal in the context of Strategic Gap policy;
- **Chapter 11** assesses the proposal in the context of other strategic policies in the Development Plan;
- **Chapter 12** assesses the proposal in the context of technical planning policies in the Development Plan;
- **Chapter 13** summarises the status regarding planning obligations and conditions; and



- **Chapter 14** assesses the proposal and the conclusions reached in the preceding chapters and the proofs of others in the overall planning balance.

4.2.12. A Summary Proof of Evidence is also provided separately.

4.2.13. I conclude that the proposal constitutes sustainable development, that benefits from the presumption in favour of sustainable development under NPPF Paragraph 11. It accords with the Development Plan and there are no material considerations that outweigh the significant benefits it will deliver. As such the appeal should be allowed.

5 BACKGROUND AND CONTEXT

5.1 THE SITE AND SURROUNDING AREA

5.1.1. To supplement the summary of the site and surrounding area set out in the SoCG with NWBC (CD-D13), I provide a more detailed description of the site and surrounding area as follows, much of which had been contained within an earlier draft of the SoCG.

THE SITE

5.1.2. As denoted on the Red and Blue Line Plan (CD-A3), the appeal site comprises a red line boundary area extending to c.32.36ha (the development site) and a blue line boundary area extending to c.41.66ha (other land under the control of HE, parts of which are proposed for off-site mitigation and connectivity enhancements). The land is owned entirely by Hodgetts Estates.



Figure 5.1: Aerial photograph of the site and surrounding area

- 5.1.3. The land is situated at the north-eastern quadrant of M42 Junction 10 (M42 J10), bound by the M42 to the west, beyond which lies the administrative boundary of North Warwickshire and Tamworth Borough Councils. The site is bound by the A5 trunk road to the south, agricultural land to the east and the village of Birchmoor to the north, separated by a series of paddocks. It is the only undeveloped quadrant of the M42 J10.
- 5.1.4. There is a tree/shrub belt to the west and south-west of the site along the route of the M42 and Junction 10. To the south of the site is a hedgerow along the A5 boundary which contains intermittent semi-mature trees. There are also some thickets of self-set juvenile trees and shrubs surrounding an existing car park and hardstanding in the south of the site.
- 5.1.5. The site is currently in agricultural use, save for the hardstanding area that was installed by contractors appointed by National Highways at the time of maintenance works to the A5 and M42 in the 1990's and 2000's, for use as an operations and storage yard. The area of hardstanding has since been left vacant. It has floodlights (not currently operated) and so given its use history could be beneficially used for a compound (as previously) or temporary lorry parking.

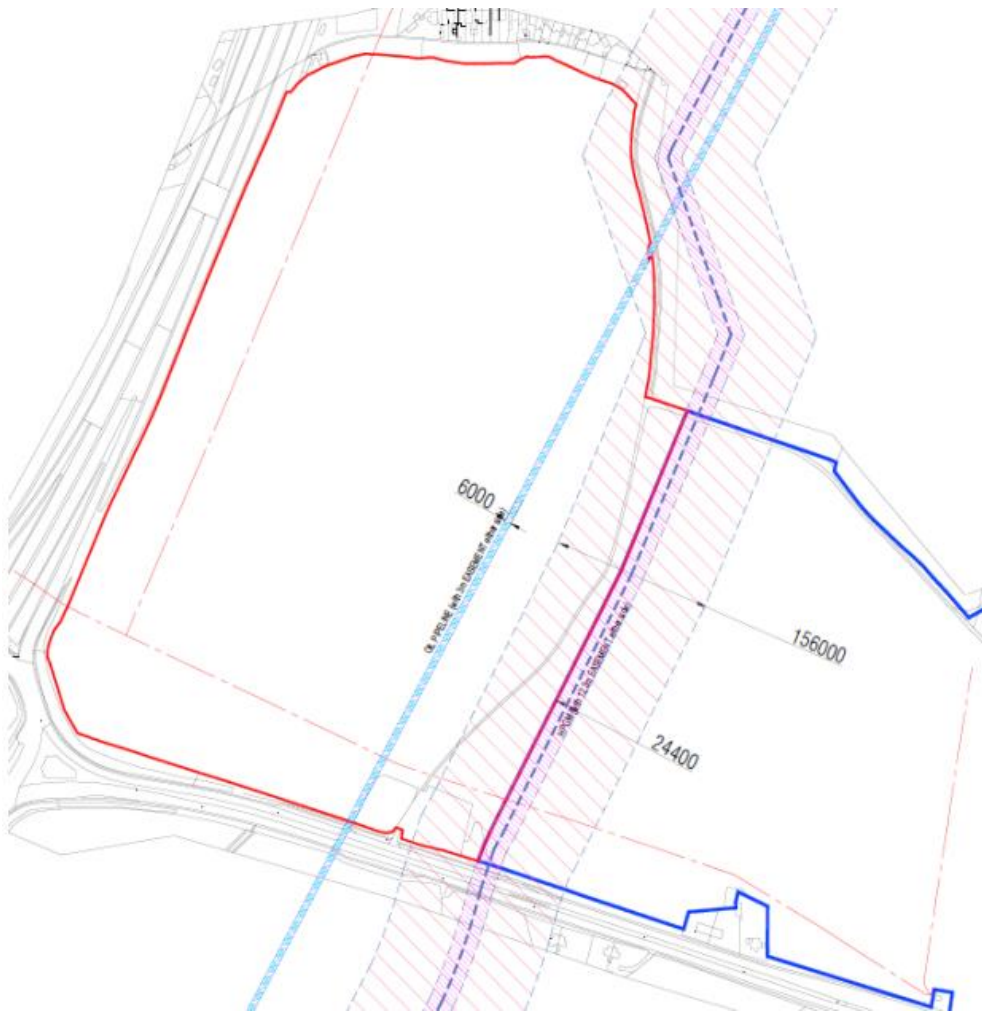


Figure 5.2: Plan showing physical site constraints

- 5.1.6. The site is transected by an oil pipeline, and a high pressure gas main pipeline lies to the east of the site. These have a no build over covenant in place across an easement, which will ensure that development cannot take place along its line, ensuring that there could be no coalescence of development along the A5. The image at **Figure 5.2** shows the easement. Furthermore, two low voltage electricity lines also cross the site in an east-west / north-south axis respectively, with limited uncultivated vegetation around the base of each mast / pole. These again limit development.
- 5.1.7. A public bridleway (AE45) transects the site and a public footpath (AE46) borders the northern-eastern boundary of the site.
- 5.1.8. The site is primarily served via an access at the A5 frontage which comprises a 16m wide dropped kerb arrangement with an access width of 8m. A secondary point of access lies to the east, from the A5 opposite Core 42 and via an existing farm track, which in part serves footpath AE46. A tertiary point of access lied to the north, from Cockspur Street in Birchmoor via another farm track which also serves bridleway AE45.
- 5.1.9. The appeal site lies in the open countryside in the northern half of North Warwickshire Borough, outside of the Green Belt.

SITE SURROUNDINGS

- 5.1.10. As illustrated in **Figure 5.1**, the appeal site lies around a much developed motorway junction, with major commercial development on all quadrants except the appeal site. The junction acts as an employment node. It is the only remaining undeveloped quadrant.
- 5.1.11. To the east of the site is an extensive area of open agricultural land separating it from the settlements of Polesworth and Dordon. It sits south of the much smaller settlement of Birchmoor (which is bisected by the M42) and east of the principal urban area of Tamworth.
- 5.1.12. The M42, directly adjacent to the site, provides exceptionally convenient direct links to the wider strategic motorway network including the M6, M40, M5 and M1 as well as a series of A roads in the West Midlands area, including the A5 which bounds the site to the south.
- 5.1.13. South-east of the site and the A5 lies Birmingham Intermodal Freight Terminal (BIFT) located at Birch Coppice Business Park. Due to its close proximity, the appeal site meets the technical criteria for being a 'rail-served site' as set out at paragraphs 18-19 of the submitted Rail Terminal Connectivity Statement provided in the Proof of Mr Hatfield. The appeal site is also located less than 8 miles from Hams Hall rail freight terminal.
- 5.1.14. The appeal site is the only undeveloped quadrant of Junction 10, which is otherwise surrounded and characterised by a cluster of business parks, industrial warehousing and other commercial

development, and is considered to be a node of existing economic activity. In addition to Tamworth Logistics Park to the south, the north-west quadrant comprises Relay Park, Ace135 (occupied by Movianto) and Tamworth Motorway Service Area (MSA) which includes some coach and HGV parking. The south-west quadrant comprises Centurion Park. To the southeast of the site lies Birch Coppice Business Park and Core 42 Business Park. Further south from Junction 10, 1.5 miles along Trinity Road is another warehouse-led business park called Kingsbury Link, beyond which is the Kingsbury Oil Terminal operated by Essar and Shell.

- 5.1.15. The settlements of Birchmoor to the north, Polesworth to the northeast, Dordon to the east and Tamworth to the west lie within a 2km walking distance of the site.
- 5.1.16. In terms of cycle access, a 7.2km catchment area³ centred on the site includes the residential areas east of Tamworth, such as Kettlebrook, Glascote, Glascote Heath, Belgrave, Wilnecote and Stoneydelph, as well as additional areas of Tamworth including Dosthill, Fazeley and Amington. To the northeast and east, residential areas within Polesworth, Dordon, Grendon, Baddesley Ensor, and Birchmoor are also within this 7km catchment area. To the east, the western residential areas of Atherstone, and to the south, Wood End and part of Kingsbury would also be within a 7km catchment area for cycle access.
- 5.1.17. In terms of public transport, existing bus stops are situated within 400m walking distance of the site at Birchmoor to the north (Bus Route No. 785 / 786) and A5 to the south (Bus Route No. 766 / 767), providing bus services east-west to the settlements of Nuneaton, Atherstone and Tamworth, from which journeys can be continued on train.
- 5.1.18. The settlements of Dordon and Polesworth, the east of Tamworth and Atherstone have been identified as major housing allocations in the respective North Warwickshire and Tamworth local plans; namely, site allocations H1 (620 dwellings) and H2 (1,282 dwellings) at Atherstone, H4 (1,675 dwellings) at Polesworth and Dordon, H5 (1,270 dwellings) to the east of Tamworth and HG2 (1,100 dwellings) at Tamworth Golf Course.
- 5.1.19. The NWBC Local Plan, as defined in Policy LP2 and the Proposals Map, confirms that the majority of Category 1, 2 and 3 settlements in the Local Plan Settlement hierarchy are located in the north of the Borough (such as Atherstone with Mancetter, Polesworth with Dordon, Baddesley with Grendon). These settlements are within a cyclable distance of the site.

³ 7.2km is regarded as an industry standard “reasonable cycling distance” for commuters

5.2 PROPOSED DEVELOPMENT

- 5.2.1. To supplement the summary of the proposed development set out in the SoCG with NWBC (**CD-D13**), I provide a more detailed description of the proposed development, development parameters, access and connectivity proposals and off-site landscape and visual impact mitigation proposals below.
- 5.2.2. The appeal proposal seeks outline planning permission for employment development and an overnight lorry parking facility. The description of development is:
- ‘Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved’*
- 5.2.3. The approval of the development parameters in outline will allow for the scheme to be developed in a number of different ways, within established parameters, through the reserved matters process. The intention is however that the primary use would comprise large scale logistics, along with other complementary uses.
- 5.2.4. The Design & Access Statement (**CD-B34**) and accompanying Design Guide (**CD-B35**) set out the design rationale and overarching framework, including a series of High-Quality Design Principles (HQDP) and Design Parameters, to govern future development at the site.

DEVELOPMENT PARAMETERS

- 5.2.5. The ES (**CD-A7** to **CD-A10**) and other technical reports and plans submitted at the outset and during the determination period of the application (**CD-A** and **CD-B**) were prepared based on the following maximum and minimum development parameters:
- New vehicular and pedestrian access from the A5 trunk road;
 - Public Bridleway AE45 diverted within the development site, providing an enhanced route linking Birchmoor to the proposed green infrastructure, A5 trunk road and local services, such as bus stops located on the A5 trunk road and within Tamworth Logistics Park;
 - A substantial area of green infrastructure (over 9ha) principally to the north, south and east of the plots, incorporating open space, planting, landscaping, public rights of way, sustainable drainage system (SuDS) and a variety of wildlife habitats, provides a minimum development offset of 35m extending to 134m from the built development edge to the site boundary;

- Existing peripheral vegetation retained, enhanced and strengthened to provide a robust landscape buffer;
- Naturalistic earth mounds formed within the green infrastructure, utilising surplus cut material from the development site, to create a transitional zone between the developable area and development site perimeter and to provide visual mitigation where necessary;
- Up to 100,000 sqm (1,076,391sqft) of mixed Class B2, Class B8 and Class E(g)(iii) floorspace;
- Up to a maximum of 10% Class B2 / Class E(g)(iii);
- Maximum development height of +117.8m AOD at the less sensitive westernmost Plot A1 adjacent to the M42 motorway;
- Reduced maximum development height of +113m AOD at Plot A2, north of Plot A1 closer to Birchmoor;
- Reduced maximum development height of +111m AOD at the easternmost Plot B1, closer to Dordon;
- Reduced maximum development height of +102m AOD at Plot B2, at the entrance to site;
- Up to 150 space overnight lorry parking facility;
- Up to 400 sqm amenity building for overnight lorry parking facility (shop, restaurant / takeaway, laundry, gym, changing facilities, showers, toilets, etc);
- Creation of substantial landscaped buffer zones to the development site perimeter (in addition to the off-site areas for potential mitigation), as follows:
 - North - an extensive landscape buffer to the north of Plot A2 extending to 134m at its widest, reducing to 75m at the closest point to Birchmoor;
 - East - an extensive landscape buffer to the east of Plot A1 extending to 106m at its widest reducing to 49m to the north-east of Plot A2, and extending to 65m to the east of Plot B1 and Plot B2 and a minimum 35m to the north-east of Plot B1, where proposed building heights are lower;
 - South - a minimum 35m to the south of Plot A1 extending to 58m in the south-west corner of the plot close to M42 J10 and 35m-37m to the south of Plot B2;
 - West - a minimum 10m landscape buffer to the west of Plot A1 and Plot A2, where existing screening vegetation for the M42 motorway is extensive and mature.

5.2.6. No other plans have been required in order to properly define the nature of the proposed development.

5.2.7. The application is submitted in outline to allow flexibility for it to meet specific occupiers' needs through subsequent reserved matters submissions. As Mr Binks sets out in his proof, it is typical for strategic employment sites to be delivered through outline applications as occupiers need the

certainty of consent to commit to a site and plan the logistics for their operation. As such a full permission cannot normally be sought as the detailed site requirements are not known until an occupier has committed to the site after consent is granted. Occupiers will not commit without a consent, which is not surprising given the time it can take to get an outline consent. Indeed, this application has been submitted for consideration for over two years.

5.2.8. As Mr Binks sets out in his proof, the Appellant has interest in the site and an understanding of the likely form of development. Once outline consent is granted, they will promptly progress reserved matters.

5.2.9. The scheme comprises EIA development. At the time of this appeal, there is no outstanding requests for additional environmental information under Regulation 25 of the 2017 EIA Regulations.

ACCESS AND CONNECTIVITY PROPOSALS

5.2.10. The appeal proposal also includes the following indicative on-site access and connectivity proposals that could be secured by planning conditions and / or S106 obligations as shown on submitted plans (**CD-B17, CD-B18, CD-B19, CD-B23, CB-38** and **CD-B43**):

- Over 3.5km of new and enhanced public footpaths, bridleways and footway/cycleway routes, including:
 - 3m wide dual use footway / cycleway to either side of the site road and access junction;
 - 3m wide dual use footpath / cycle path linking north from the site road to Birchmoor;
 - 3m wide footpath / cycleway linking east from the site road to the nexus of Public Bridleway AE45 and Public Footpath AE46 (east-west route);
- On-site bus stop for A5 east and westbound buses;
- Cycle parking provided to all units in excess of the North Warwickshire standards, incorporating a range of parking facilities to include indoor / outdoor parking, secure parking and covered parking, as well as e-bike charging points, all located at or close to pedestrian entrances;
- Showers and changing facilities provided to all units;
- Communal cycle parking, showers and changing facilities available to use by the general public located at the ancillary Hub Office; and
- Site wide Sustainable Travel Plan applicable to all future occupiers.

5.2.11. Furthermore, a range of indicative off-site active travel improvements that will be secured by planning conditions and / or S106 obligations are also proposed, including:

- New fully signal controlled crossing for the A5, compared to the existing unsignalised junction staggered pedestrian crossing that passes through the central reservation;

- A network of new and improved footpaths / cycleways crossing the broader area, including appropriate surfaces for footpaths, cycleways and bridleways, all of which would be designed to comply with the Equalities Act 2010 providing “access for all”;
- New off line footway / cycleway for the A5 trunk road, connecting east-west from M42 J10 to Dordon creating a new east-west route;
- Upgrade of Public Footpath AE48 (‘The Stumps’) to dual-use footway / cycleway;
- Upgrade of Public Footpath AE46 to dual-use footway / cycleway, and diversion so that it provides a more direct route between Birchmoor / Tamworth and Birch Coppice Business Park;
- New footway / cycleway connecting east-west from Public Footpath AE46 to Barn Close, Dordon, creating a further new east-west route;
- New footway / cycleway connecting south-east from Public Footpath AE46 to the A5 trunk road, providing a direct route between Birchmoor / Tamworth and Core 42 Business Park;
- The proposed signalised junction should contribute to a reduction in overall speeds on this section of the A5 as drivers approaching traffic signal controlled junctions need to evaluate the behaviour of other road users, the traffic signals themselves and so tend to reduce their speed on approach;
- Upgrading existing uncontrolled pedestrian / cycle crossings at M42 J10 to signal controlled crossings;
- Upgrading existing pavement and verge on north side of A5 between M42 J10 and Pennymore Road, providing enhanced east-west pedestrian and cycle links between North Warwickshire and Tamworth;
- Increase the separation between pedestrians / cyclists and A5 carriageway to standard verge; and
- Provision of new leisure routes between Dordon and Tamworth.

OFF-SITE LANDSCAPE AND VISUAL IMPACT MITIGATION

- 5.2.12. As indicated on the plan showing the ‘Area of Interest’ for the purposes of the ES (**CD-A10.1**), a number of additional areas of land within the applicant’s control are included.
- 5.2.13. These areas are to provide potential landscape and visual impact mitigation and biodiversity enhancements through planting as well as the access and connectivity enhancements set out above. The indicative off-site landscape and visual impact mitigation could be secured by planning conditions and / or S106 obligations and includes:
- The provision of c.6.5ha of offsite landscape and visual mitigation measures and biodiversity enhancements through native woodland, hedgerow and community orchard planting, as well as

new and enhanced tree lined routes across the width of the Strategic Gap for pedestrians, cyclists, those wheeling and riders on horseback;

- Community orchard to incorporate planting of local heritage fruit tree varieties;
- Plant a mix of heavy standard and standard trees (i.e. advance structure planting), in both on and offsite locations, to enhance the immediate effects of visual screening. In this regard, two lengths of hedgerow with interspersed trees (both standard and heavy standard) were planted in January-February 2024, over 1.03km in total, to provide an immediate screening effect and these beneficial effects will be established well before any future construction could start on-site;
- In total (including the on-site landscape and visual impact mitigation measures and biodiversity enhancements) approximately 10,000 trees (all native woodland species) would be planted as part of the landscape mitigation measures;
- Reinstatement of historic field boundaries and hedgerows within Strategic Gap. Existing peripheral vegetation to be protected and reinforced with native species planting. Where necessary for it to be removed, for example to allow construction of the site access, peripheral vegetation will be replaced utilising the substantial landscaped buffer zones proposed;
- The Appellant has also suggested a condition which would convert the remaining arable fields to species-rich grassland (i.e. pasture). This measure has potential to further enhance biodiversity, whilst also improving amenity by allowing residents, cyclist, walkers and those on wheel to enjoy wildflower meadows close to their homes.
- On and offsite site landscape mitigation ensured through planning conditions and / or S106 obligations, including an appropriate Management Plan so that dead or dying trees and shrubs are replaced for a period of 10 years. Offsite landscape mitigation measures secured in perpetuity through a legal agreement with the Council.

5.2.14. As summarised in the letter from Aspect Ecology (**Appendix 5.3 of this proof**), the ES and ES Addendum included an assessment of Biodiversity Net Gain, concluding that the on and off-site landscaping, habitat creation and enhancement would deliver significant biodiversity net gains across the site of +26.5% for habitat biodiversity and +298% for linear biodiversity.

5.3 CHRONOLOGY AND BACKGROUND TO PROPOSAL

5.3.1. I set out at **Appendix 1** the background and chronology of the site's promotion for development. It is clear that as a large undeveloped parcel of land adjoining a motorway junction, which is a node for employment development, that the site has always been a good candidate for development. It has been promoted through local plan, but as local plans have failed to address strategic employment need, the site has not been allocated. This is despite its exceptionally advantageous location for commercial development as identified in successive strategic studies.



5.3.2. This failure to be allocated, has led to the application's submission, to allow the site to meet the immediate employment needs and deliver significant benefits to the area.

6 SCHEME BENEFITS

6.1 OVERVIEW

- 6.1.1. The proposal will deliver substantial benefits. It will deliver a multitude of wide-ranging benefits.
- 6.1.2. It does so against the context of very limited dis-benefits, which are more than outweighed by the benefits. In this chapter I therefore respond to main issue (ix) set out at paragraph 14 of the Inspector's CMC Summary Note: (ix) *"How any benefits and disbenefits of the proposed development should be considered in the overall planning balance"*.
- 6.1.3. For the avoidance of doubt, I am comfortable that the appeal proposal constitutes sustainable development based on the policy compliance demonstrated throughout this and other proofs and without the significant added scheme benefits (i.e. those benefits not tied to mitigation) which I set out in detail in this chapter. Indeed, the overall sustainability of the scheme is endorsed further by the significant added economic, social and environmental benefits that I set out in this chapter – benefits that are not generic benefits that could arise out of any form of economic development. Rather, these benefits are directly tied to the location and nature of these proposals and will provide significant benefits directly to the Borough and its inhabitants.
- 6.1.4. Please note, a comprehensive assessment of the many economic and social benefits of the appeal proposal is provided in the proof of Professor Coleman and Mr Nicol and, as such, **it is essential that the proof of Professor Coleman and Mr Nicol is reviewed prior to reviewing the remainder of this chapter.**

6.2 WEIGHTING OF BENEFITS

- 6.2.1. I assess the varying weights to be ascribed to the multitude of positive scheme benefits that the appeal proposal will deliver. To assist in the overall planning balance, I ascribe weight to any benefits and dis-benefits arising from the appeal proposal based on the following hierarchy:
- Very significant / substantial
 - Significant
 - Moderate
 - Limited
- 6.2.2. I identify any relevant planning policies and strategic objectives of the Development Plan that each benefit aligns with or each dis-benefit conflicts with.
- 6.2.3. I summarise the economic, social and environmental benefits and dis-benefits, their weight and policy alignment in a tabular format in the following sections.



1. Economic Benefits	Weight	Alignment with Policies, Strategic/Community Objectives
<p><u>Construction employment</u></p> <p>During demolition and construction, the proposed development is estimated to generate around 255 to 283 person years of temporary construction employment. This net additional construction employment would generate gross value added (GVA) to the regional economy of around £17.9 million to £19.9 million.</p> <p>There will also be opportunities to provide training, apprenticeships and work experience in a range of construction trades. For example, there will be opportunities for local young people to gain NVQ Level 2 and Level 3 training and practical experience in a range of different construction and engineering trades. Initiatives of this sort are typically run by a training provider in partnership with the main contractor for the construction programme.</p>	<p>Significant</p>	<ul style="list-style-type: none"> • Policy LP11 – Economic Regeneration • LP Strategic Objective 3 – Local Economy • Policy DNP12 – Supporting the Local Economy • DNP Community Objective 10 – Local Businesses
<p><u>Operational employment</u></p> <p>Once complete and operational the proposed development will create in the range of 1,000 to 1,400 Full-Time Equivalent new jobs; jobs of a wide range of salary levels and skills that are well-located and highly accessible in respect of nearby settlements.</p> <p>Indeed, the current trends in the logistics sector are for a smaller number of higher paid more technical jobs (linked to increase automation and use of complex software and machinery inside warehouses).</p> <p>These new jobs would help future-proof the local economy. The new space would be of the highest modern standards and the development would be rail-link proofed and built to the highest sustainability standards meeting current and future occupier needs and will be particularly attractive to high-end occupiers with strong ESG credentials. The development would provide a wide range of job opportunities for local residents in NWBC and Tamworth.</p> <p>It is estimated that the jobs to be supported by both the proposed development and the supply chain linkages could contribute approximate GVA to the West Midlands economy of up to £62.5 million to £104.2 million annually in perpetuity.</p>	<p>Very significant</p>	<ul style="list-style-type: none"> • NPPF paragraphs 85, 87
<p><u>Alignment with NWBC Sustainable Community Strategy</u></p> <p>NWBC identifies in its Sustainable Community Strategy that its vision for North Warwickshire in 2026 is a place where people want to live, work and visit. Directing significant new employment opportunities close to build up areas represents positive planning, offering equality of opportunity for people to access work.</p>	<p>Moderate</p>	<ul style="list-style-type: none"> • Local Plan Spatial Vision



1. Economic Benefits	Weight	Alignment with Policies, Strategic/Community Objectives
<p><u>Training and Employability Support</u></p> <p>Employment schemes for both the construction and occupation phases (also covered by a proposed condition) are to be submitted and approved by the LPA. The proposed details of these schemes are set out in the Employment, Skills and Training Statement (CD-B45).</p> <p>The Appellant is also proposing by way of condition the creation of an Employment Panel, which was originally conceived through discussions with the then Chief Executive of Coventry & Warwickshire Local Enterprise Partnership, Martin Yardley. As explained in the Employment, Skills and Training Statement (CD-B45) this panel is designed ensure a consistent approach to recruitment of local people and to collaborate on employment and upskilling opportunities across the development.</p> <p>Relevant officers from NWBC, Tamworth Borough Council and Warwickshire County Council would be invited to attend, and the Panel would include representatives from the different businesses taking up tenancies at the development. As is noted, there would also be the potential to include the Warwickshire Skills Hub within the panel, along with local organisations and/or contacts from the Department for Work and Pensions.</p>	<p>Significant</p>	<ul style="list-style-type: none"> • Policy LP11 – Economic Regeneration • LP Strategic Objective 3 – Local Economy • Policy DNP12 – Supporting the Local Economy • DNP Community Objective 10 – Local Businesses • NPPF paragraphs 85, 87
<p><u>Providing a significant contribution to the sub-regional strategic employment requirement</u></p> <p>The appeal site is very well placed to meet immediate employment need identified as its scale, location, delivery timescale and site characteristics meet all of the key criteria for successful strategic sites and appeal to the large-scale logistics sector. Furthermore, direct access to rail freight logistics infrastructure provides for enhanced sustainability in logistics operations, which is not possible in many other locations.</p> <p>The development of this site will help meet the immediate need and provide a Strategic Employment Site that will help attract inward investment into the sub-region and region. This includes its role in supporting activity linked to the important automotive sector.</p>	<p>Very significant</p>	<ul style="list-style-type: none"> • Policy LP1 – Sustainable Development • Policy LP5 – Amount of Development • Policy LP6 – Additional Employment Sites • Policy LP11 - Economic Regeneration • LP Strategic Objective 3 – Local Economy • Policy DNP12 – Supporting the Local Economy • DNP Community Objective 10 – Local Businesses



1. Economic Benefits	Weight	Alignment with Policies, Strategic/Community Objectives
		<ul style="list-style-type: none"> NPPF paragraphs 11, 60, 85, 87
<p><u>Supporting and helping to facilitate delivery of the Local Plan</u></p> <p>Paragraph 289 of the Inspector’s Report on the adopted Local Plan recognises that <i>“A plan must represent a deliverable strategy. As submitted, delivery of a significant element of the development proposed via the Plan, is reliant on upgrades to the A5 (around which allocations are primarily focussed)”</i>.</p> <p>The delivery of the majority of the Local Plan allocations is predicated on the A5 improvements identified in the NWBC’s response to the Inspector at the Local Plan Examination (CD-F19) being implemented by 2028 – the A5 improvements are identified as being “critical” (by 2028) in terms of their importance to the Local Plan Spatial Strategy and the reason given is <i>“to facilitate development”</i>. The delivery of these critically important infrastructure improvements is therefore vital to the soundness of the Local Plan.</p> <p>NWBC has established a stepped trajectory for housing delivery, with it being limited to 265 dwellings per year, and a maximum 800 dwellings until completion of the A5 Dordon – Atherstone scheme. Following its completion which is indicated as being by 2028, the rate of housing delivery can increase to 775 dwellings per year.</p> <p>However, as detailed in the proof of Dr Bunn, due to A5 scheme costs exceeding the HIF Grant and the postponement of RIS3 schemes to RIS4 (2030 to 2035) there is now considerable uncertainty as to the delivery of the scheme to the Local Plan timetable, or if at all – and certainly not by the 2028 Local Plan target. As such, the infrastructure required to deliver a number of Local Plan allocations along or near to the A5 Corridor (which the Inspector acknowledges as the location in which allocations are primarily focused) is highly likely to not be delivered in time and, as a consequence, significant Local Plan allocations will be unable to be delivered in accordance with the Local Plan housing trajectory. Therefore, the soundness of the Local Plan is brought into serious doubt.</p> <p>As demonstrated in the proof of Dr Bunn, the appeal proposal can provide a notable infrastructure boost – up to 80% of the Local Plan could be accommodated at Junction 10 M42. At Dordon Roundabout, the Local Plan is currently constrained, and the technical assessment work evidenced in the proof of Dr Bunn also shows that up to 30% of the Local Plan traffic can be delivered prior to the need for any improvements.</p> <p>As such, the appeal proposal would act as a Local Plan enabler rather than having an adverse effect on its delivery. Policy LP1 is clear that weight in favour will be given to development that would assist in the provision of enabling infrastructure, particularly that which would help facilitate development in the long term, which I consider Local Plan allocations to constitute. This is therefore a very significant benefit of the scheme.</p>	Very significant	<ul style="list-style-type: none"> Policy LP1 – Sustainable Development Policy LP5 – Amount of Development Policy LP6 – Additional Employment Sites Policy LP11 - Economic Regeneration LP Strategic Objective 3 – Local Economy Policy DNP12 – Supporting the Local Economy DNP Community Objective 10 – Local Businesses NPPF paragraphs 11, 60, 85, 87



1. Economic Benefits	Weight	Alignment with Policies, Strategic/Community Objectives
<p><u>Attracting significant operator(s) to boost the profile of the Borough</u></p> <p>As a Strategic Employment Site, the proposed development presents an opportunity to attract a significant multi-national and/or national operator(s) to the area which could potentially provide jobs and sustained economic benefits for generations to come.</p>	Significant	<ul style="list-style-type: none"> • Policy LP1 – Sustainable Development • Policy LP5 – Amount of Development
<p><u>Supporting local businesses and SMEs</u></p> <p>There is also potential to provide small mixed use starter units for local businesses and SMEs in a location where currently there is an almost complete dearth of available modern light industrial space for SMEs, directly responding to the shortage identified in the Coventry & Warwickshire Sub-Regional Employment Market Signals Study, July 2019.</p> <p>Furthermore, adding to the overall local supply of employment land would help take the pressure of existing employment sites and allocations where there appears some evidence of a degree of “crowding out” of other uses by large scale logistics.</p>	Significant	<ul style="list-style-type: none"> • Policy LP6 – Additional Employment Sites • Policy LP11 - Economic Regeneration • LP Strategic Objective 3 – Local Economy • Policy DNP12 – Supporting the Local Economy
<p><u>Addressing regional inequalities</u></p> <p>The delivery of up to 100,000sqm of new employment floorspace supports the Government’s objectives to address regional inequalities (e.g. “levelling up”).</p> <p>Neither NWBC or nearby Tamworth Borough Council have been successful recipients of central government support for the earlier Towns Deal fund or the more recent Levelling Up Fund (the main flagship policy to deliver levelling up). This relative lack of success in attracting public funding makes the delivery of private sector investment all the more important to the local economies in “levelling up”.</p>	Significant	<ul style="list-style-type: none"> • DNP Community Objective 10 – Local Businesses • NPPF paragraphs 85, 87
<p><u>Co-location of employment and housing growth</u></p> <p>Furthermore, the co-location and timing of the substantial job creation estimated, in proximity to residential development, would align with the delivery of major new housing sites nearby, most notably at Polesworth with Dordon (site allocation H4) and Tamworth (site allocation H5), in the North Warwickshire Local Plan.</p>	Significant	



2. Social Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p><u>Active travel proposals</u></p> <ul style="list-style-type: none"> • Over 8.5km of new and enhanced on and offsite public footpaths, bridleways and footway/cycleway routes, linking the site with Birchmoor to the north, Dordon to the east, opening up foot, wheel and bicycle commuting opportunities from settlements further afield including Polesworth and Tamworth. • On-site active travel improvements include: <ul style="list-style-type: none"> ○ 3m wide dual use footway/cycleway to either side of the site road and access junction; ○ 3m wide dual use footway/cycleway linking north from the site road to Birchmoor; ○ 3m wide footway/cycleway linking east from the site road to the nexus of Public Bridleway AE45 and Public Footpath AE46; ○ New offline footway/cycleway connecting east-west from M42 J10 to Browns Lane, Dordon; ○ These will include appropriate surfaces for footpaths, cycleways and bridleways, all of which would be appropriate to the location and compliant with the Equalities Act 2010 providing “access for all”; ○ Through provision of the internal pedestrian and cycle link connecting the A5 to Birchmoor, the proposals would offer a higher quality route for pedestrians and cyclists travelling between the A5 (Birch Coppice and Core 42) and areas to the north and west (particularly within Tamworth); • Off-site active travel improvements include: <ul style="list-style-type: none"> ○ Upgrade of Public Footpath AE48 to dual-use footway/cycleway; ○ Upgrade of Public Footpath AE46 to dual-use footway/cycleway, and diversion so that it provides a more direct route between Birchmoor/Tamworth and Birch Coppice Business Park; ○ Reduction in overall vehicle speeds due to the proximity of an additional signal controlled junction, thereby improving the overall environment for pedestrians and cyclists using the A5; ○ Upgrading of existing uncontrolled pedestrian/ cycle crossings at M42 J10 to signal controlled; ○ Upgrading the existing pedestrian / cycle pavement infrastructure along the A5 between M42 J10 and the Pennine Way roundabout; ○ Increase the separation between pedestrians/cyclists and A5 carriageway to standard verge; and ○ New leisure routes through an enhanced rural landscape between Dordon and Tamworth. • These extensive active travel proposals are supported by Cycling UK (CD-E39), Ramblers Association (CD-E10), WCC PRoW Team (CD-E37). Furthermore, the Warwickshire Local Cycling and Walking Infrastructure Plan (WLCWIP), WCC (February 2024) (CD-H30) includes route refs: P03, P07, P08 and P09, all of which either pass through the appeal site or run directly adjacent to the boundary of the appeal site and/or land within 	Very significant	<ul style="list-style-type: none"> • Policy LP23 – Transport Assessments • Policy LP27 – Walking and Cycling • LP Strategic Objective 1 – Securing a Sustainable Pattern of Development • LP Strategic Objective 8 – Access to Green Infrastructure, Sports and Recreational Facilities • DNP Policy 5 – Creating a Local Green Network • DNP Community Objective 2 – Access to the Countryside • DNP Community Objective 5 – Getting Around • NPPF paragraphs 96, 97, 109, 114, 116



2. Social Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p>the Appellant’s control. The Appellant’s active travel proposals are broadly aligned with the routing of these four routes, which WLCWIP 2024 identifies as potential new or upgraded cycle routes, and these routes would therefore be delivered by the Appellant rather than WCC, which is considered to be a significant benefit in its own right. In addition, the proposed enhancements would address an identified ‘barrier’ for walking and cycling movements between Polesworth, Dordon and Tamworth, as identified in WLCWIP 2024, namely M42 J10.</p> <ul style="list-style-type: none"> In the case of the proposed improved pedestrian / cycle pavement along the A5 between Pennine Way roundabout, Tamworth and Browns Lane, Dordon, this upgrade is also supported by the Route Strategy Initial Overview Report: South Midlands Route, National Highways (May 2023) (CD-I74), which notes the opportunities that exist to reduce the number of short journeys by car and encourage active travel along the A5 and identifies an increase in sustainable and active travel journeys as an key outcome of the strategy. 		
<p><u>Encouraging healthy and active lifestyles</u></p> <ul style="list-style-type: none"> New enhanced fully signal controlled crossing for the A5, compared to the existing junction staggered pedestrian crossing that passes through the central reserve; Cycle parking provided to all units at in excess of the North Warwickshire standards, incorporating a range of parking facilities to include indoor/outdoor parking, secure parking and covered parking, as well as e-bike charging points, all located at or close to pedestrian entrances; Showers and changing facilities provided to all units; Communal cycle parking, showers and changing facilities available to use by the general public, including staff from neighbouring business parks, located at the ancillary Hub Office. The network of new and improved public footpaths and bridleways, footpaths and cycleways crossing the site and broader area will promote sustainable modes of travel/commuting and create local community health (both physical and mental health) and fitness benefits. The aforementioned foot and cycleway enhancements will encourage active travel patterns and exercise, which can help mitigate physical and mental health issues. Fitness trail, indicatively located around the site, linking into existing trim trail at Tamworth Logistics Park and provision of hydraulic gym equipment that is free and accessible to all. 	Significant	<ul style="list-style-type: none"> Policy LP23 – Transport Assessments Policy LP27 – Walking and Cycling LP Strategic Objective 1 – Securing a Sustainable Pattern of Development LP Strategic Objective 8 – Access to Green Infrastructure, Sports and Recreational Facilities DNP Policy 5 – Creating a Local Green Network



2. Social Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p><u>Bus connectivity</u></p> <ul style="list-style-type: none"> New enhanced bus stop within the site boundary, providing bus turning area and bus shelter, linked by a segregated cycleway and footway and associated street furniture. The Appellant has accepted WCC’s request for the provision of a real-time passenger information display(s) at the bus shelter. Furthermore, subject to the agreement of the relevant highway authority and bus operator, it is proposed that this will be a ‘green bus shelter’ as currently being delivered elsewhere in the West Midlands, incorporating the following sustainability features – made from recycled materials with green roof and solar panels to power digital information board. 	<p>Significant</p>	<ul style="list-style-type: none"> DNP Community Objective 2 – Access to the Countryside DNP Community Objective 5 – Getting Around NPPF paragraphs 96, 97, 109, 114, 116, 135
<p><u>Sustaining the operation of bus service 766/767</u></p> <ul style="list-style-type: none"> Stagecoach, in its letter of support (CD-E55) notes that the proposed ‘pump-prime’ funding “<i>is necessary for the route to be sustainable and continue to operate, in an environment where the covid-19 pandemic has reduced overall bus patronage...</i>”. The 766/767 bus service is currently the only route serving Birch Coppice Business Park, Core 42 and Local Plan Site Allocations E2 and E3, and is a key service for several North Warwickshire settlements along the route between Nuneaton and Tamworth, including Dordon, Polesworth, Atherstone, Grendon, Baxterley, Baddesley Ensor, Mancetter and Hartshill. The importance of the proposals in facilitating the continued operation of the 766/767 bus service cannot be understated therefore, which will cease to exist without the proposed ‘pump-prime’ funding. The impact of this will be felt most acutely by the most vulnerable in society that may not have access to a private vehicle or are unable to drive (e.g. the elderly, the young and people with disabilities), as well as making the above North Warwickshire settlements less sustainable in transport terms. It is understood that both WCC and Staffordshire County Council (SCC) are going out to tender on two separate truncated and much reduced services to replace the 766/767, which would run between Birch Coppice Business Park and Nuneaton and Tamworth respectively. It is agreed between all parties that reinstatement of the inter-urban 766/767 at the present service level is preferable and S106 contributions have been requested and agreed by the Appellant to facilitate this. 	<p>Very significant</p>	



2. Social Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p><u>Hub Office</u></p> <ul style="list-style-type: none"> An ancillary Hub Office which will act as a site office incorporating management suite, security and maintenance functions and a marketing space during construction of the buildings. The Hub Office will also act as a communal training facility for use by local training and education programmes associated with the site as well as site occupiers. These parties will be able to use the communal facilities including meeting room, presentation room, computer suite and office space. Furthermore, The Hub Office will incorporate communal bike parking and male and female changing rooms and showers that are open to use by the general public, to encourage local residents to cycle/walk to work, be they working at the site or cluster of other business park sites nearby. 	Moderate	<ul style="list-style-type: none"> Policy LP11 – Economic Regeneration LP Strategic Objective 3 – Local Economy Policy DNP12 – Supporting the Local Economy DNP Community Objective 10 – Local Businesses NPPF paragraphs 85, 87
<p><u>Combating Anti-Social Behaviour and Crime</u></p> <ul style="list-style-type: none"> The provision of a 150 space overnight lorry parking facility and associated welfare facilities will help combat the anti-social behaviour and criminal activity that can arise from informally and/or illegally parked HGVs overnight. Evidence points to this being a key issue in the Junction 10 area and the benefits of the scheme in addressing this local issue should be given significant weight. Furthermore, the benefits of the overnight lorry parking facility are supported by key organisations in this field including Warwickshire Police (CD-E22) and NaVCIS (CD-E40). 	Significant	<ul style="list-style-type: none"> Policy LP29 – Development Considerations Policy LP34 – Parking LP Strategic Objective 6 – Addressing Crime and Safety NPPF paragraph 113, 135
<p><u>Providing Cultural Awareness and Celebration of the Area’s Heritage</u></p> <ul style="list-style-type: none"> Information boards on new on site footpaths to provide details of local heritage, including mining history, A5 Watling Street and Hall End Hall. Incorporation of public art into the scheme in collaboration with the local artists. Public art might reflect the history of the area (A5 Watling Street (roman road) or its mining heritage, for instance) to capture and inspire the imagination of future generations. 	Limited	<ul style="list-style-type: none"> Policy LP15 – Historic Environment LP Strategic Objective 7 – Conserve and Enhance Historic Environment Policy DNP6 – Protecting and Enhancing Heritage Assets

2. Social Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
		<ul style="list-style-type: none"> • DNP Community Objective 6 – Protecting the Historic Environment • NPPF paragraph 203
<p><u>Training, Education and Skills</u></p> <ul style="list-style-type: none"> • The development proposals would deliver a series of new work placements and apprenticeships on site, during the construction phase. These work placements and apprenticeships will offer hands-on experience and training to young people, through partnership with the local training colleges (e.g. North Warwickshire and South Leicestershire College). This benefit directly helps to meet the Council’s wider priority to raise educational attainment (as set out within the Sustainable Community Strategy 2009-2026). • Training and education facilities (e.g. meeting rooms, presentation / conference rooms and computer suite) are to be provided in the ancillary Hub Office, available to site occupiers and local education and training providers, to run courses and programmes associated with the site. The Hub Office would also be delivered as part of the first phase of development so that it could also be used for training, apprenticeships and work placement programmes during construction of the main phases of the development. • As indicated above, employment schemes for both the construction and occupation phases (also covered by a proposed condition) are to be submitted and approved by the LPA. The proposed details of these schemes are set out in the Employment, Skills and Training Statement (CD-B45). 	<p>Significant</p>	<ul style="list-style-type: none"> • Policy LP11 – Economic Regeneration • LP Strategic Objective 3 – Local Economy • Policy DNP12 – Supporting the Local Economy • DNP Community Objective 10 – Local Businesses • NPPF paragraphs 85, 87



3. Environmental Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p><u>On-site green infrastructure</u></p> <p>Creation of over 9ha of green infrastructure incorporating significant habitat creation, to include native woodland, native shrubland, mixed native hedgerows, wildflower meadows, wetland meadows and amenity grassland in addition to formal planting surrounding the buildings.</p>	Significant	<ul style="list-style-type: none"> • Policy LP16 – Natural Environment • Policy LP17 – Green Infrastructure
<p><u>Off-site green infrastructure</u></p> <p>An additional 6.5ha of offsite green infrastructure incorporating native woodland and hedgerow planting and a community orchard, along the route of the existing and enhanced PRoW network.</p>	Significant	<ul style="list-style-type: none"> • LP Strategic Objective 7 – Conserve and Enhance Historic Environment • Policy DNP2 – Protecting the Natural Environment and Enhancing Biodiversity
<p><u>Biodiversity Net Gains</u></p> <p>As summarised in the letter from Aspect Ecology (Appendix 5.3 of this proof), the ES and ES Addendum included an assessment of Biodiversity Net Gain, concluding that the on and off-site landscaping, habitat creation and enhancement would deliver significant biodiversity net gains across the site of +26.5% for habitat biodiversity and +298% for linear biodiversity.</p>	Very significant	<ul style="list-style-type: none"> • DNP Community Objective 1 – Environmental Protection • NPPF paragraph 180, 185 and 186
<p><u>Zero Emission Goods</u></p> <p>As evidenced in detail in the proof of Mr Hatfield and the Zero Emission Goods Statement (CD-B44), the proposal will include a significant portion of charging and fast-charging points for EVs (and the ability to retro-fit additional points at a later date), could support the receipt and storage of hydrogen and, should the electric road system emerge as a suitable alternative, it is more than likely that the M42 and A5 would be included given that they form part of the long-distance strategic highway network.</p> <p>Furthermore, the proposed flexible building design, incorporating measures such as ‘solar PV ready’ steel portal frame and connected battery technology, would facilitate up to 100% of EV charging from on-site renewable energy sources 24/7. Taken together, the measures mean the scheme has the potential to be ‘all-electric’, with connected battery technology serving SMART EV charging and rapid charging points and up to 100% electricity generated from maximum solar PV coverage. The proposal would therefore be able to accommodate zero-emission goods vehicles</p>	Significant	<ul style="list-style-type: none"> • LP Strategic Objective 1 – Securing a Sustainable Pattern of Development • Policy LP23 – Transport Assessments • LP Strategic Objective 1 – Securing a Sustainable Pattern of Development

3. Environmental Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p>(both LGVs and HGVs), which ever emerging technology or technologies eventually becomes the long-term solution. It is therefore 'net-zero ready' and will contribute to the process of decarbonising the road transport sector.</p>		<ul style="list-style-type: none"> • NPPF paragraphs 108, 109, 114 and 116
<p><u>Decarbonising transport</u></p> <ul style="list-style-type: none"> • Creation of new pedestrian, wheel and cycle links throughout the site and other land within the Appellant's control for members of the public will in itself contribute positively towards decarbonising transport as there will be less reliance on cars to access the site and surrounding area. • As demonstrated in the proof of Mr Hatfield, locating the development proposals at the site will provide an opportunity to support the two nearby rail freight terminals (Birmingham Intermodal Freight Terminal (BIFT) and Hams Hall), which are far more sustainable mode of freight distribution than road. Indeed, the site would be classed as 'rail served' by virtue of its close proximity to BIFT. • Future development at the site will be able to access BIFT on the same basis as those currently located within Birch Coppice Business Park, thereby generating direct financial benefits to shippers and occupiers (lower transport costs), and wider societal benefits that are generated through modal shift to rail, supporting the Government's desire to decarbonise freight and grow the rail freight sector. • In terms of the rail connectedness of the site, this substantial scheme benefit is supported by Rail Freight Group (CD-E52) and the operators of BIFT, Maritime Transport in September 2022 (CD-E53) and more recently a letter of May 2024 (Appendix 3 of this proof). • The significance of the rail connectedness of the site is supported by the Daw Mill appeal decision (CD-K5), which related to an employment scheme elsewhere in North Warwickshire – the Inspector noted at paragraph 391 that the scheme would make a “<i>contribution to the provision of general employment land, along with rail related sites, both locally and regionally [and] between 50 and 500 jobs would be provided...[which] would weigh heavily in the positive side of the balance</i>”. However, the Inspector went on to note that the remote location of the Daw Mill site in comparison to the rail freight terminals of Hams Hall and Birch Coppice would “<i>significantly diminish the initial weight to be ascribed to its contribution to employment provision</i>”. As such, given that the M42 J10 appeal site would demonstrably more sustainably located than the Daw Mill site given that the former would be classified as 'rail served' owing to its close proximity to Birch Coppice and directly accessed off the Strategic Road Network, the heavy weight ascribed by the Inspector in the Daw Mill appeal to the provision of employment land, rail related sites and job creation, should equally apply the M42 J10 appeal proposals. 	<p>Very Significant</p>	<ul style="list-style-type: none"> • Policy LP12 – Employment Areas • Policy LP23 – Transport Assessments • Policy LP27 – Walking and Cycling • LP Strategic Objective 1 – Sustainable Pattern of Development • DNP Policy 5 – Creating a Local Green Network • DNP Community Objective 2 – Access to the Countryside • DNP Community Objective 5 – Getting Around • NPPF paragraphs 108-109, 114 and 116



3. Environmental Benefits	Weight	Alignment with Policies, Vision, Strategic/Community Objectives
<p><u>An aspiration to create the “Greenest Business Park in the West Midlands” through Sustainable Design Measures</u></p> <ul style="list-style-type: none"> • Delivery of new high quality Net Zero Carbon Ready standard warehousing space; • All buildings to be BREEAM ‘Excellent’ as a target, and Energy Performance Certificate ‘A’ rating; • Generate at least 10% of energy from on-site renewable or low carbon sources, and ensure the buildings can easily accommodate future connections to advancing technology – e.g. ‘solar PV ready’ steel portal frame and connected battery technology; • Electricity to sitewide infrastructure to be 100% renewably generated; • Air and/or ground source heat pumps to provide heating for offices; • Rainwater capture (for flushing toilets, water landscaping area and cleaning interiors and vehicles); • Sustainable drainage system (SuDS) to mitigate onsite flood risks; • LED lighting with both motion and daylight sensors; • SMART EV charging and ‘rapid’ charging points to 20% of all car, motorcycle and LGV parking spaces, with futureproofed (ducting) to a further 80% of spaces (100% in total); • SMART EV charging and ‘rapid’ charging points installed to 10% of HGV parking spaces and/or loading docks for battery electric and hybrid electric vehicles, with ducting provided to the remaining 90% to future proof the development (100% in total); • Fully recyclable structure and cladding system; • Use of low environmental impact and bio-based materials that also provide good insulation; • High air tightness rating and sun awnings / brise-soleils to create ambient temperature and negate need for energy intensive mechanical heating and cooling; • Topsoil/subsoil cut and fill balance achievable across site; • Communal cycle parking, showers and changing facilities at ancillary Hub Office, available for use by site occupiers and general public (including staff of neighbouring business parks); • Showers and changing facilities to all buildings on site, to promote walking and cycling to work; • Provision of a Site Materials Management Plan (SMMP) to minimise construction waste from site. 	<p>Significant</p>	<ul style="list-style-type: none"> • Policy LP1 – Sustainable Development • Policy LP29 – Development Considerations • Policy LP35 – Renewable Energy, Energy Efficiency • LP Strategic Objective 1 – Securing a Sustainable Pattern of Development • LP Strategic Objective 6 – High Quality/Sustainable/ Inclusive Designs • DNP Policy 8 –Design • DNP Policy 10 – Renewable Energy, Energy Efficiency and Low Carbon Technologies • DNP Community Objective 7 – Design • DNP Community Objective 11 – Climate Change • NPPF paragraphs 131-139

6.3 WEIGHTING OF ANY DIS-BENEFITS

Dis-benefit identified	Weight and Commentary
<p>The physical reduction of the Strategic Gap</p>	<p>Limited – Whilst the appeal is demonstrably policy compliant with Strategic Gap policy (LP4) as set out in Chapter 10 if this proof and in the proof of Mr Smith, I accept that the appeal proposal would reduce the physical width of the gap, albeit the remaining gap, post-development would still be a significant gap of c.750m between the eastern most boundary of the development site and the west of Dordon, ensuring that there is an unequivocal sense of separation between Tamworth and Dordon by continuing to provide an expanse of open, enhanced farmland between the two settlement edges. Furthermore, the off-site mitigation and planting is considered to improve the quality of the significant amount of Gap that would remain and the extensive active travel proposals would improve and promote greater access and appreciation of the remaining Gap.</p> <p>As such, I consider this dis-benefit of limited weight as the magnitude of the impact would reduce over time as planting establishes.</p>
<p>Landscape and visual effects</p>	<p>Limited – The proof of Mr Smith concludes, and as accepted by NWBC through the Landscape Statement of Common Ground (LsoCG) (CD-D15), that the appeal proposal would result in a localised negative landscape and visual effects, but these effects would reduce over time due to the proposed new native woodland and hedgerow planting both around the appeal site as well as in the offsite mitigation area.</p> <p>I therefore consider the weight of this dis-benefit to be limited and a dis-benefit that will reduce as the on-site and off-site planting establishes over time.</p>
<p>Loss of agricultural land</p>	<p>Moderate – The loss of potentially 29ha of predominately Best and Most Versatile land is considered to be a dis-benefit of moderate weight. I also accept that this dis-benefit cannot be mitigated.</p> <p>However, as set out in the agricultural evidence of Mr Kernon (Appendix 6 of this proof), the economic and food production benefits of 29ha of BMV, compared to poor quality land were the development be located on such land, are limited.</p> <p>Furthermore, the locational requirements of the proposed development and the grading of all agricultural land within Area A/Area 2 mean that BMV land will inevitably be required for the employment need to be addressed – Mr Kernon’s assessment of land around junctions 9, 10 and 11 has identified that almost all of</p>

	<p>the land is known or is predicted to be of BMV quality. There are, therefore, no obvious areas of poorer quality land available for the development proposed. In any case, the requirements under NPPF paragraph 181 for development to be preferentially located on areas of poorer quality agricultural land is a plan making policy, not a decision taking policy and not applicable in the determination of this appeal therefore.</p>
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6.4 CONCLUSIONS ON SCHEME BENEFITS AND DIS-BENEFITS

- 6.4.1. The proposed development will deliver a multitude of significant planning benefits that vastly outweigh the limited number of dis-benefits identified. These benefits are fully aligned to the economic, social and environmental objectives defined by paragraph 8 of the NPPF and the strategic objectives and policies in the Local Plan and DNP.
- 6.4.2. In any case, with the exception of loss of agricultural land, the magnitude of impact of the dis-benefits identified (which as demonstrated is, overall, limited) would reduce over time as mitigation measures take effect and (in the case of landscaping mitigation) mature over time. Such mitigation will be secured by planning conditions and/or S106 Obligations.
- 6.4.3. The scheme benefits are not generic benefits that could arise out of any form of economic development. Rather, these benefits are directly tied to the location and nature of the proposals and will give substantial benefits directly to the Borough and its inhabitants. They are aligned with a number of strategic objectives in the Local Plan and the DNP. Further, the majority of the benefits are above and beyond any benefits that might arise due to mitigation requirements – i.e. they are true ‘added benefits’ of the proposal. Indeed, as evidenced by Dr Bunn, the proposal can provide a notable highways infrastructure boost and would act as an enabler for the Local Plan rather than having an adverse effect on its delivery, which it as noted Local Plan Policy LP1 gives weight in favour of.
- 6.4.4. The benefits individually are **significant**, but collectively must be afforded **added significance** due to their extensive and far-reaching nature and operation together. Scheme benefits should be afforded **significant weight** in the overall planning balance. With this in mind, the following chapters of this proof will now address how the appeal proposal accords with the Development Plan as a whole and any key material considerations.

7 POLICY FRAMEWORK

- 7.1.1. The SoCG with NWBC (**CD-D13**) sets out all planning policy, guidance and legislation relevant to the appeal and is not repeated here. This Chapter simply summarises the legislative framework for decision-making and the weighting considered to apply to the different components of the Development Plan.
- 7.1.2. The weighting of individual policies, guidance and material evidence base documents is addressed in the following chapters of this and other proofs, where appropriate.

7.2 THE DEVELOPMENT PLAN

- 7.2.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the development plan unless material considerations indicate otherwise.
- 7.2.2. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.

NWBC LOCAL PLAN

- 7.2.3. The NWBC Local Plan (**CD-F1**) was adopted in September 2021 and incorporates both site allocation and development management policies. The plan period runs until 2033. The plan is considered to have **full weight** in planning decision-making.

DORDON NEIGHBOURHOOD PLAN

- 7.2.4. The DNP (**CD-F4**) was adopted in December 2023. The plan area includes the whole of Dordon Parish within which the appeal site is located. The plan period runs until 2033 and is aligned to run alongside NWBC's Local Plan. The plan is also considered to have **full weight**.

7.3 OTHER MATERIAL CONSIDERATIONS

- 7.3.1. The revised **National Planning Policy Framework (NPPF) (CD-F11)** was published in December 2023 and is a key material consideration in planning decision-making.
- 7.3.2. **Planning Practice Guidance (PPG)** and the detailed policy guidance within, that adds further context to NPPF (and indeed should be read alongside it), is an important material consideration.
- 7.3.3. As stated above, the weighting of individual policies, guidance and **material evidence base documents** is addressed in the following planning assessment chapters of this and other proofs, where appropriate.

8 PRINCIPLE OF DEVELOPMENT – NEED FOR ADDITIONAL EMPLOYMENT LAND (LOCAL PLAN POLICY LP6)

8.1 MAIN CONSIDERATION

- 8.1.1. This Chapter addresses main issue (v) set out at paragraph 14 of the Inspector’s CMC Summary Note (CD-D12): *“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 represents an appropriate location to meet such a need”*.
- 8.1.2. This main issue stemmed in part from putative reason for refusal 1 in which NWBC allege that *“the proposal does not accord with Policy LP4 of the NWLP 2021 together with Policies DNP1 and DNP4 of the DNP 2023 [and] 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...are not fully demonstrated”*. (my emphasis)
- 8.1.3. My colleagues Mr Binks and Mr Turner provide commercial and technical evidence on the matters of employment need and demand as well as the locational suitability of the site from a commercial perspective. Importantly a jointly authored report titled Employment Land Study May 2024 by Cushman and Wakefield (**Appendix 1 to the proofs of Mr Binks and Mr Turner**) has been prepared which goes through the substantial evidence over the last decade or so, all of which points to the acute need for additional facilities such as the appeal proposals – together with explaining the failure of the plan led system to address that need.
- 8.1.4. My proof considers the planning merits of the proposal in the context of Policy LP6 and I also have regard to NWBC’s Statement of Case (CD-D9) below.

8.2 LOCAL PLAN POLICY LP6

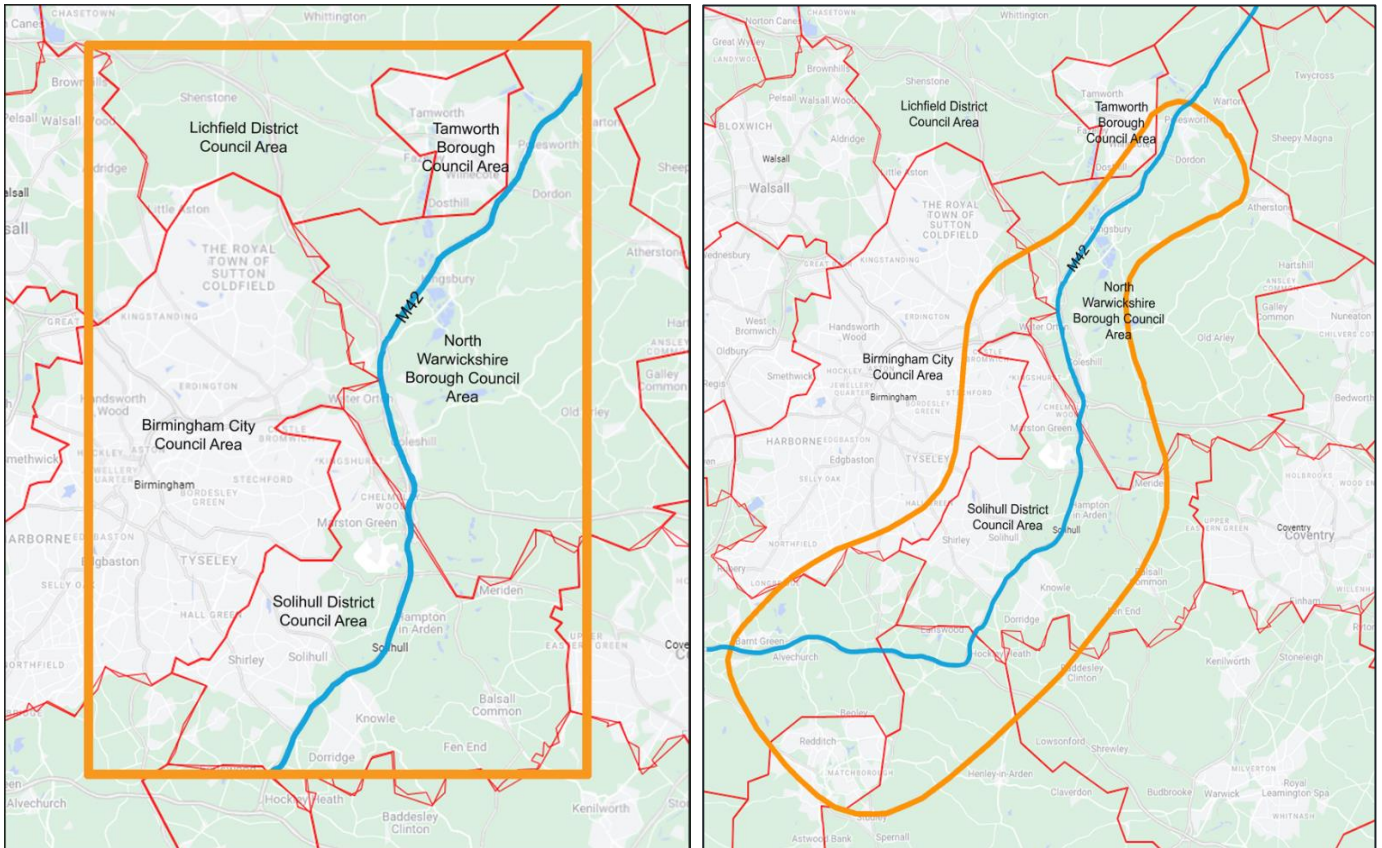
- 8.2.1. Local Plan Policy LP6 states that:
- ‘Significant weight will be given in decision taking to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations. The relevant scheme will be required to demonstrate: -*
- i) access to the strategic highway network is achievable and appropriate;*
 - ii) the site is reasonably accessible by a choice of modes of transport; and,*

iii) *it is otherwise acceptable, taking account of the living conditions of those nearby.’ (our emphasis)*

8.2.2. “Area A” referred to in Policy LP6 is a reference to the M42 corridor in the West Midlands Strategic Employment Sites Study 2015 (WMSESS 2015). The successor Study – the WMSESS of 2021 (WMSESS 2021) – refers to the M42 corridor as “Area 2”, as illustrated on the two figures below:

Area A (WMSESS 2015)

Area 2 (WMSESS 2021)



Figures 8.1 and 8.2: Maps showing the extent of Area A (WMSESS 2015) and Area 2 (WMSESS 2021) – both outlined in orange, transposed onto LPA boundaries base map; the M42 corridor identified in blue.

8.2.3. **Figure 8.3** (overleaf) provides a contextual plan identifying the appeal site’s location within Area 2 (orange line) as defined in WMSESS 2021 with the appeal site shown in red and the extent of Green Belt shown as green.

8.2.4. **Figures 8.1 to 8.3** are important contextual plans that are highly relevant to the consideration of the appeal proposal in the context of Policy LP6, hence it was appropriate to include these at the outset of this chapter.

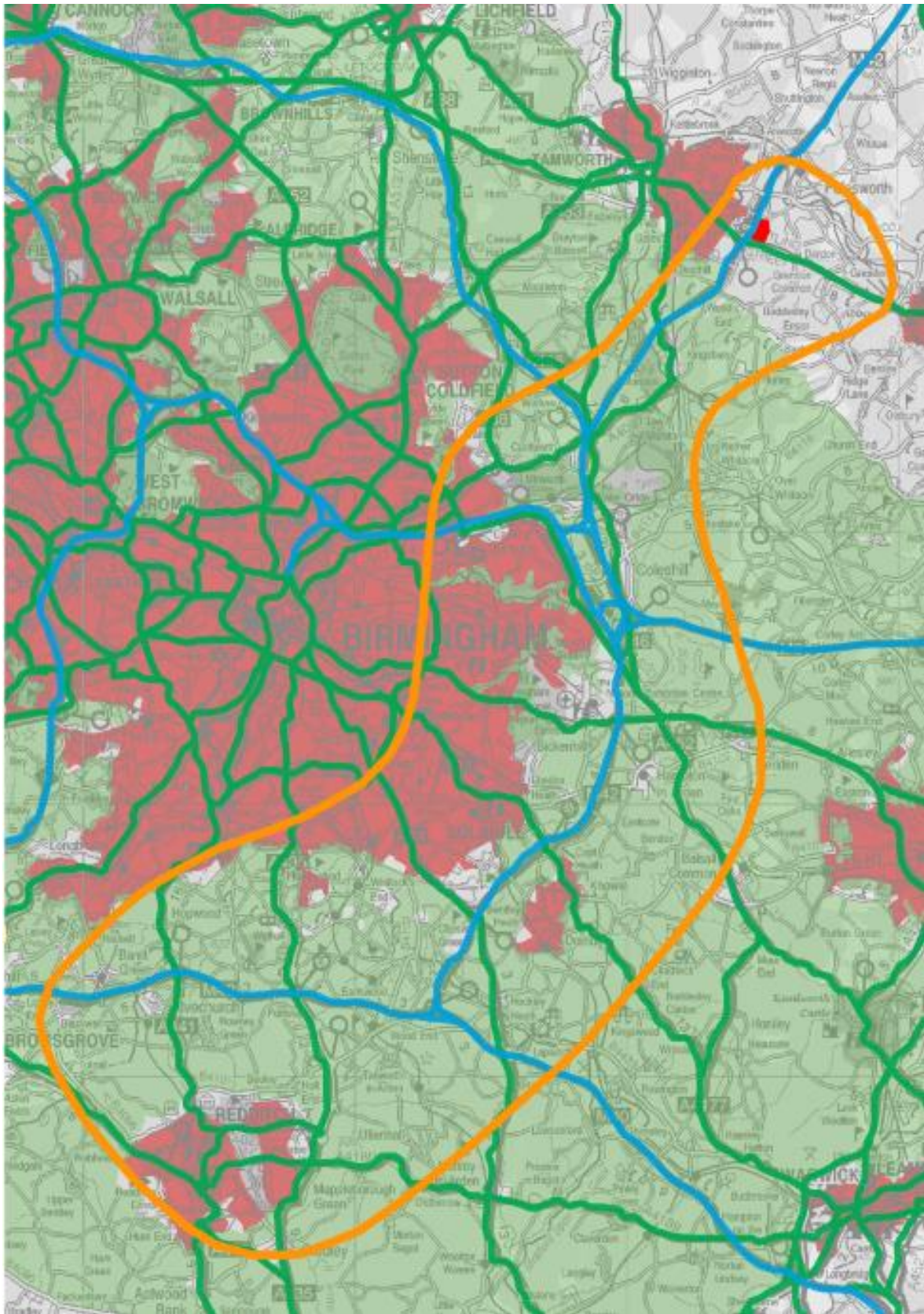


Figure 8-3: Extent of Area 2 (orange line) as defined in WMSESS 2021, transposed on Green Belt map with the appeal site shown in red and the extent of Green Belt shown as green.

8.3 BACKGROUND TO POLICY LP6

- 8.3.1. The provision of strategic employment land and logistics is a matter that has a long history of not being addressed in plan making in North Warwickshire. The letter of Mr Blincoe, former employee of the Coventry & Warwickshire Local Enterprise Partnership, contained at **Appendix 2 of my proof**, provides a helpful market and policy context in this regard.
- 8.3.2. The previous Core Strategy (adopted October 2014) only met local needs in Policy NW9.
- 8.3.3. The Inspector's report into the Core Strategy (**CD-F21**) sets out at paragraph 46 that the conclusion reached was that *"Nevertheless, the ELR identifies a significant requirement for additional land for logistics use, a requirement that the Core Strategy does nothing to meet"*. The Inspector took the stance of not allocating more land or increasing the provision, but instead to agree a modification for *"a commitment to review the Core Strategy should these studies [regional/sub regional employment studies] identify a need for more RLS floorspace in the Borough"* (paragraph 47).
- 8.3.4. That review never occurred as the proposed Allocations plan was abandoned.
- 8.3.5. Therefore, it fell to the current local plan to address the need. This failed to address the need as Policy LP5 and LP39 again meet only local needs, although now by virtue of Policy LP6, there is a policy mechanism to support additional employment land.
- 8.3.6. The current Local Plan Inspector's Report (**CD-F15**) deals with employment land in paragraphs 163-180.
- 8.3.7. The Inspector considered the various reports and methodologies relating to calculating the employment needs of the borough and what should be the appropriate provision. He noted that the proposed 100 Ha provision was an uplift on the previous Core Strategy 60 Ha provision, so constituted planning positively for growth. He considered the various approaches based on housing growth, the requirement to meet some of Tamworth's needs, and strategic studies seeking additional growth to support the West Midlands, and concluded at paragraph 169 that *"Subject to the incorporation of MM21 and MM39, the Local Plan would provide reasonable flexibility for provision above 100 Ha of employment and if such scenarios and projects were to become concrete"*. These modifications relate to Policy LP6. He noted at paragraph 173 *"Indeed, establishing 'needs' for large scale employment provision serving national and international operations is well-nigh unquantifiable, as is establishing an appropriate functional economic area in that context"*.
- 8.3.8. He then went on at paragraph 177 to state that *"Nevertheless, various studies were referenced during the examination which point to the paucity of readily available land for large scale employment provision, particularly in respect of storage and distribution. Of particular note is the*

WMSESS. WMSESS paragraph 4.71 explains that ‘demand for large-scale industrial space in the West Midlands is most intense along an ‘M42 belt’...’ shown on the map overleaf as Area A [Figure 4.10]”.

8.3.9. He continued at paragraphs 178 to 180 to conclude:

“A significant proportion of North Warwickshire falls within WMSESS ‘Area A’. Table 4.8 of the WMSESS explains how, at that juncture, land supply stood at around 3.7 years’ worth relative to demand (albeit that the WMSESS also indicates that there is a high level of demand for large-scale facilities across the West Midlands broadly). Other studies corroborate the paucity of storage and distribution facilities at a strategic level. The examination of the Core Strategy in 2014 grappled with similar issues. Whilst I accept circumstances have moved on, there remains no clear evidence as to what level of development should necessarily be delivered in the Borough as opposed to elsewhere”.

“Nonetheless by consequence, and for consistency with NPPF2012 paragraph 17 and paragraph 82, the Plan needs to address this issue. That would be achieved via the incorporation of MM40 and MM120. MM40 would provide a clear basis for decision-taking where there is evidence of immediate needs for employment land within WMSESS Area A consistent with NPPF2012 paragraph 145. In my view it would also not be advantageous to delay the Plan in the expectation of greater clarity emerging in time. MM120 would include a monitoring indicator of the types of employment land provision coming forward, thereby allowing for robust assessment of trends over time in respect of different employment sectors”.

“There was extensive discussion of potential variants to MM40 during the examination hearings. In my view MM40 strikes an appropriate balance between according weight to provision of employment growth whilst not undermining the value accorded to a plan-led system in the NPPF2012. It 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).” (my emphasis)

8.3.10. The above clearly confirms that the Inspector acknowledged that the provision of employment at Policy LP5 (100 Ha) and the allocations at Policy LP39 met local employment needs, but there was potential unaddressed need for large scale employment space and logistics beyond that allowed for in the plan, but rather than allocate a requirement in policy, he concluded the plan would be sound with the inclusion of the development management framework in what is now Policy LP6. Given the urgency of need, it wouldn’t be in the public interest to delay the adoption of the plan until the extent of the need for strategic employment land had been more clearly established. Policy LP6 provided

the policy support where there was an immediate need for employment land, or a certain type of employment land, and the weight for decisions to meet it.

- 8.3.11. In how to apply policy, the Inspector was clear that it accords weight, and must be read in conjunction with other local plan policies rather than ‘automatically taking weight over’ them (given Area A includes Green Belt and Strategic Gap). His careful use of the language ‘automatically taking weight over them’ implies the policy has weight that can be considered by the decision maker to take precedence over other considerations, however it is not automatic. It does not imply all policies are of equal weight in the planning balance.
- 8.3.12. Indeed, NPPF confirms the justification for this weight as paragraph 85 states “*Planning policies and decisions should help 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, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future*”. (my emphasis).
- 8.3.13. NPPF paragraph 86 also validates the Policy LP6 approach as the policy is designed to “*set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period*” and “*be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances*”. (my emphasis).
- 8.3.14. Of specific relevance to this appeal, the Policy LP6 approach is fully supported by NPPF paragraph 87 which gives weight to “*Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations*”.
- 8.3.15. Policy LP6 does this precisely, providing the weight to supporting needs not anticipated in the plan, and meeting the locational requirements of strategic employment and logistics needs.

8.4 POLICY INTERPRETATION AND WEIGHT

- 8.4.1. The policy is carefully constructed to provide a framework to assist the decision maker in addressing additional employment land and the weight to be afforded to policy.
- 8.4.2. The policy addresses ‘additional employment land’ as set out in the title. The purpose of the policy is to apply to decision taking, with the objective of applying ‘significant weight’ to supporting

economic growth and productivity where the various specified criteria are met. It is intended to enable needs to be met explicitly for the kind of development proposed in this case.

- 8.4.3. The policy criteria have a geographical element (the location where the development must be proposed to gain significant weight), and need criteria. The need must also not be able to be met via forecast supply or allocations. This aligns with NPPF. The appeal proposal, as I set out later, provides significant economic growth, jobs and investment and therefore attracts the significant weight set out in policy.
- 8.4.4. The starting point is therefore that proposals that support economic growth and productivity under the framework of providing additional employment land gain significant weight. The policy then clarifies that this significant weight will be ‘particularly given’ (i.e. focused) where evidence demonstrates “*an immediate need for employment land, or a certain type of employment land, within Area A... which cannot be met via forecast supply or allocations*”.
- 8.4.5. Therefore, to gain the significant weight the site must:
- Support economic growth and productivity;
 - Benefit from a location within Area A/Area 2;
 - Demonstrate evidence of an immediate need for employment land, or a need for a certain type of employment land;
 - Demonstrate the need cannot be met via forecast supply or allocations; and
 - Then pass the three site specific criteria relating to access and living conditions.
- 8.4.6. Significant weight is given where there is “*an immediate need for employment land, or a certain type of employment land*”. The position of the comma, and the inclusion of “or” is an important component of the policy. It confirms that the test is to demonstrate either; an immediate need for employment land exists within Area A; or a need for a certain type of employment land within Area A exists. The second clause does not require an immediate need test to be surmounted for a certain type of employment land, otherwise the policy would clearly include the words “immediate need” before the clause. Indeed, if the immediacy of need was the main factor, the reference to a certain type of employment land would be superfluous.
- 8.4.7. The demonstration of ‘an immediate need for employment land’ or ‘a certain type of employment land’ are thus both routes to gaining significant weight through this policy.
- 8.4.8. In applying the weight to Policy LP6, the reasoned justification is helpful at paragraph 7.46 (which was introduced by virtue of Main Modification 40) which states:

“Area A encompasses land covered by the Strategic Gap, designated Green Belt, and land which is not in Categories 1, 2, 3 or 4 of plan policy LP2. This policy does not automatically override other policies, but recognises that there are particular locational requirements specific to certain employment uses and economic benefits to addressing needs in these locations. As such, any weight accorded to proposed employment provisions 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.”

- 8.4.9. As the Inspector has stated that Policy LP6 should not ‘automatically take precedence’ over other policies, such as Strategic Gap, it clearly shows that the policy was designed that accordance with it could take precedence over other policy objectives, just not automatically. This was because Area A contains Green Belt as well as Strategic Gap, with Green Belt a national designation which is much more stringent in controlling development. The policy is designed to be able to take precedence in order for it to enable the meeting of strategic need not anticipated in the plan. If the policy was read as equal to other strategic policies, then it would not serve its purpose and be at odds with why the plan was found sound in this regard. The policy provides significant weight where there are particular locational requirements and economic benefits to meeting those requirements. It does so particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A of the WMSESS (or successor study) which cannot be met via forecast supply or allocations.
- 8.4.10. It follows that when considering the weight of Policy LP6 against the context of other policies in the plan, where those policies are met the significant weight takes clear precedence. Where there is tension or conflict with those policies, the weight afforded to the conflict must be weighed against the significant weight provided by Policy LP6. Strategic Gap policy as I set out later is a local policy permissive of development. Conversely, the Government attaches great weight to Green Belt and keeping it permanently open. The lower bar of Strategic Gap will thus be more readily outweighed than Green Belt.
- 8.4.11. I demonstrate below that the appeal site benefits from the full ‘**significant weight**’.
- 8.4.12. It unequivocally proposes economic growth, within Area A, where there is a compelling need for additional strategic employment land and in particular a locational need for logistics land, with the site the best placed site in Area A to meet the need, not least as it is rail served being adjacent to the BIFT at Birch Coppice. The forecast supply of land is insufficient, and the local plan does not make sufficient allocations in scale, location and nature to meet the need. The scheme therefore benefits from the full significant weight afforded by Policy LP6.

8.5 SUPPORTING ECONOMIC GROWTH AND PRODUCTIVITY

- 8.5.1. The proposal will deliver up to 100,000sqm of new employment floorspace. The appeal proposal is in outline to allow flexibility to meet a range of needs within those sectors.
- 8.5.2. The scheme will deliver significant economic growth and productivity benefits as set out in the proof of Professor Coleman and Mr Nicol, including:
- Estimated between **£62.5 to £104.2 million** GVA contribution to the economy per annum;
 - 255 to 283 person years of temporary construction employment during construction;
 - Creation of in the range of 1,000 to 1,400 Full-Time Equivalent new jobs; jobs of a wide range of salary levels and skills that are well-located and highly accessible in respect of nearby settlements;
 - Space for SME businesses as well as national and multi national occupiers;
 - New business space with infrastructure to support modern business and productivity; and
 - Training and development opportunities.
- 8.5.3. I note delivery of significant economic growth and productivity is not a matter that NWBC takes issue with.
- 8.5.4. The Rule 6 Party's raise at 3.21 of their SoC (**CD-D9**) that the area is one of high employment, has a high amount of logistics and is becoming increasingly vulnerable to automation. They suggest other areas of North Warwickshire are earmarked for such development but have not yet been developed.
- 8.5.5. I strongly disagree with these assertions, which seek to diminish the contribution of the proposal to economic growth and productivity. The proof of Professor Coleman and Mr Nicol addresses these matters head-on demonstrating that the proposal will deliver significant economic value, and that automation is not a negative aspect of logistics or any commercial development, rather it brings productivity benefits, and new employment opportunities (especially in higher skill grades). It will assist in providing job opportunities in the area to counter any lost from automation.

8.6 APPROPRIATENESS OF LOCATION TO MEET THE NEED

- 8.6.1. The appeal site lies within Area A identified in WMSESS 2015. As stated, for the avoidance of doubt, "Area A" referred to in Policy LP6 is a reference to the M42 corridor in the WMSESS of 2015. The successor Study – the WMSESS of 2021 – refers to the M42 corridor as "Area 2".
- 8.6.2. The appeal site, as Mr Binks and Mr Turner set out in their proofs, is ranked the joint best site in the WMSESS study Area 2 to deliver the needed development.
- 8.6.3. The site therefore fully accords with policy in this regard, and aligns with NPPF paragraph 87.

- 8.6.4. Whilst clearly located within Area 2 of the WMSESS 2021 (Area A of the predecessor study), as required by Policy LP6, the site benefits from a number of locational benefits (with respect to other locations in Area A/Area 2) that further endorse the suitability of the site for strategic employment development, as summarised below:
- The site is located within the key 'Golden Triangle' for logistics, broadly formed by the M1 in the east, M6 in the south and M42 in the west.
 - This prime logistics market is located in the East and West Midlands because 90% of the UK population and the majority of the major sea ports are within 4.5 hours HGV drive time of the area, making it a highly sustainable location.
 - At the Borough-level, North Warwickshire lies at the crossroads of the country, with a number of major roads of national and regional significance passing through it.
 - The site lies at an important east-west, north-south axis, immediately adjacent to the Strategic Road Network, specifically the M42 motorway and the A5 trunk road. The M42 is the key route into Birmingham from the north east and connects Birmingham with Nottingham and Derby in the East Midlands as well as providing connections to the wider national motorway network.
 - The A5 is one of the Midlands' most important east-west road corridors, connecting businesses with ports, airports, rail freight interchanges and motorways, allowing them to access major UK and international markets. The route connects the M1 and M6 and intersects with the M42 and M69, four of the region's busiest motorways. It also sits at the heart of the so-called "Logistics Golden Triangle". Furthermore, the A5 is the subject of strategic improvement proposals which form a key component of the strategy within the North Warwickshire Local Plan.
 - The site lies just to the north of Birmingham Intermodal Freight Terminal (BIFT) located at Birch Coppice Business Park and meets the technical criteria for being a 'rail-served site', which Policy LP12 acknowledges as being of 'strategic significance' whereby development proposals at the estate will be encouraged to use the rail freight terminal. As set out at **Appendix 3** of my proof, the letter from Maritime, operators of BIFT, provides clear support to then location setting out that most of the J10 occupiers (Beko, Euro Car Parts, Mobis, Volkswagen, Maersk and Bond International all use BIFT, and that the close relationship is a key locational advantage of the appeal site.
- 8.6.5. The site is also recognised as the joint top-performing site in WMSESS 2021, when assessed against a range of criteria including motorway/trunk-road access, Local Plan allocations, statutory designations, public transport, flood risk, ground conditions, ecology, topography, proximity to existing settlements and air quality. Furthermore, and crucially, it is the only site assessed in Area A/Area 2 that is not located within the Green Belt, all of which further endorses the site suitability.

ALTERNATIVE SITES IN AREA A/AREA 2

- 8.6.6. In terms of alternative sites in Area A/Area 2, a key planning principle is to focus on areas that lie outside the Green Belt (NPPF Paragraph 146).
- 8.6.7. The site is the joint top-performing site in WMSESS 2021 and, crucially, the only motorway junction site in the M42 Corridor that lies outside of the Green Belt.
- 8.6.8. NPPF is clear that Green Belt land should not be released where there are realistic non Green Belt alternatives to meet the need. It states “*Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.*” (Paragraph 145, my emphasis).
- 8.6.9. NPPF continues that “*Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development*” (Paragraph 146).
- 8.6.10. In this case, the land in Area A/Area 2 close to Motorway junctions and SFRI (where locationally land is required) is Green Belt or Strategic Gap. The appeal site is within the Strategic Gap, and therefore represents a very reasonable alternative to Green Belt release, and in my view is preferable as the appeal site is locationally ideal to meet the employment needs.
- 8.6.11. Therefore, with respect to the application of Policy LP6, of the potential employment sites in Area A/Area 2, by virtue of its location and accessibility, the appeal site is a preferable site on its own merits, and more so when compared to other Green Belt sites.
- 8.6.12. As concluded in the Cushman & Wakefield Employment Land Study at **Appendix 1 of the proofs of Mr Binks and Mr Turner**, none of the employment allocations in the Local Plan are suitable and available for strategic and logistics development on an immediate basis. They are not alternatives to the appeal site.
- 8.6.13. It follows therefore that the site is the most appropriate location for the proposed development.
- 8.6.14. The proposal therefore robustly demonstrates that it lies within Area A of WMSESS 2015/Area 2 of WMSESS 2021, as required by Policy LP6 and there are no better alternative sites.

8.7 DEMONSTRATION OF EMPLOYMENT NEED

IMMEDIATE NEED

- 8.7.1. In addressing the policy, the next step is to demonstrate that there is “...an immediate need for employment land, or a certain type of employment land within Area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations”.
- 8.7.2. Before presenting the need, it is helpful to define the term ‘immediate need’ in the context of Policy LP6. Policy LP6 does not provide a definition. The Inspector’s report into the local plan does not provide a definition either.
- 8.7.3. Policy LP6 deals with additional employment land, i.e. land not provided for in the plan which can be developed to provide the necessary premises and external areas to meet occupiers’ needs. The compelling need is set out in **the proofs of Mr Binks and Mr Turner** and the joint **Appendix 1** to their proofs (Employment Land Study May 2024). This sets out that based on the supply and demand positions, the need is significant, immediate and urgent. Providing land to meet an immediate need must allow for the time required to secure a site, gain planning approval, procure a contractor and construct buildings, market and secure an occupier. This effective lead in time necessary to meet the ‘immediate need’ is thus likely to be around 2-3 years. Therefore, the need is immediate and granting consent for an application such as this, will provide the quickest time to satisfy the immediate need. I set out later that the plan making process cannot address the immediate need.
- 8.7.4. With reference to the Council’s Planning & Development Board report from March 2024 (**CD-E59**), at paragraph 10.55 they consider that as it is an outline application that it is ‘speculative’ and as such does not meet an immediate need, in particular stating “*There is no named occupier and the individual requirements of a prospective occupier are not identified within the proposal*”.
- 8.7.5. This confuses demand and need. As set out in the proofs of Mr Binks and Mr Turner and explained in PPG establishing employment need is an evidenced based approach. PPG sets out that councils will need to assess their functional economic market areas, stock of employment land, patterns of supply and loss, market demand and signals (Paragraph: 026 Reference ID: 2a-026-20190220).
- 8.7.6. NWBC’s confusion over the interpretation of “immediate need” is illustrated when applied to other real estate sectors. For example, would NWBC require a list of occupants ready to move into new homes or purchase agreement for ‘off plan’ houses in order to demonstrate an immediate need in relation residential development?

- 8.7.7. Demand conversely is based on underlying occupier/market requirements. PPG Paragraph: 029 Reference ID: 2a-02920190220 deals with this.
- 8.7.8. As such the reference to not having a named occupier does not evidence a lack of immediate need. Rather, the immediate need is evidenced by the various technical studies prepared for NWBC and other local authorities that have looked at the need and supply of employment land. These conclude there is an urgent and extensive need.
- 8.7.9. The proof of Mr Binks spells out the urgent need in compelling terms.

EVIDENCE OF NEED

- 8.7.10. The evidence of need has been assessed in the proofs of Mr Binks and Mr Turner which heavily draw on their Employment Land Study May 2024 which comprehensively assesses national to regional evidence. Mr Binks and Mr Turner strongly encourage those reading their proofs to read that Study. These are significant material considerations as they provide up to date Government direction and both national and regional objectives for economic development. It is overwhelming.
- 8.7.11. The appeal proposal is also wholly aligned with the NPPF's drive to build a strong and competitive economy, providing a strategic-scale level of floorspace within a prime market facing location - the M42 Corridor - as identified in WMSESS 2015 and WMSESS 2021, and the clear alignment with economic strategies at regional and national levels, in particular the post-Covid economic response and the identification of the A5 Corridor as a key growth corridor.
- 8.7.12. With respect to Policy LP6, the WMSESS 2021 study (which is the successor study to the 2015 study referred to in Policy LP6) recognised demand for large scale industrial floorspace in the West Midlands was most intense along the M42 Corridor, where the boundaries of Birmingham, Solihull, North Warwickshire and Tamworth converge, however it had the lowest level of immediate available supply (just 0.71 years supply).
- 8.7.13. The M42 Corridor is widely considered to offer the most accessible location as it offers the best travel times to the UK population and ports, as well as access to rail freight facilities which benefit logistic operators, in addition to benefiting manufactures and their suppliers due to the proximity to the main automotive facilities.
- 8.7.14. As such, Area 2 (previously Area A) is agreed as being the most appropriate location for meeting this need because:
- This is where demand for such floorspace is highest; and
 - This is the most accessible location in terms of proximity to the wider strategic road network, rail freight interchanges and other associated industries.

8.7.15. The Employment Land Study prepared by Cushman & Wakefield (**Appendix 1 of the proofs of Mr Binks and Mr Turner**), is a key document in evidencing employment need and provides a compelling up to date case for the immediate need for B8 floorspace, in particular large floorplate units, within Area 2 identified in WMSESS 2021 (Area A in WMSESS 2015). It brings up to date an Employment Land Statement produced by JLL in 2021 that was submitted with the application (**CD-A12**) and reached similar conclusions in respect of employment need and demand in the area.

WHY THE IDENTIFIED NEED CANNOT BE MET BY FORECAST SUPPLY OR ALLOCATIONS

Inadequacy of Forecast Supply

8.7.16. The Employment Land Study at **Appendix 1 of the proofs of Mr Binks and Mr Turner** sets out the up to date employment land supply position in the borough and wider West Midlands area for large scale strategic development of the kind proposed here (i.e. single buildings of at least 100,000sqft). This demonstrates that within Area A/Area 2/M42 Corridor there is a 3-3.5 month land supply (0.25-0.29 years), and in North Warwickshire there is a 0 (zero) months land supply.

8.7.17. This supply in quantitative terms is wholly inadequate to meet needs.

8.7.18. This supply in location terms is wholly inadequate to meet needs.

Inadequacy of Allocations

8.7.19. The adopted Local Plan through Policy LP5 sets a requirement for a minimum of 100 Ha of employment land to be delivered over the plan period. Policy LP39 then provides a number of allocations to deliver towards this minimum requirement.

8.7.20. As set out in the reasoned justification for Policy LP5, the plan identifies 100 Ha of employment land which is based on that required to meet the Borough's need and 14 Ha to meet that of Tamworth which could not be met within its tight administrative boundary. The policy does not address strategic employment land, only local needs.

8.7.21. Policy LP39 then allocates four sites totalling 57.35 Ha. Taking each in turn, I demonstrate below that they will not meet the identified strategic need:

- **Site E1 Land south of Rowlands Way east of Aldi (6.8 Ha)** - This site is too small, is distanced from the Motorway network and rail freight access. It is in the control of Aldi, and is proposed for their expansion. Allocation E1 confirms it is not suitable for large scale employment /logistics stating *"In the event that the allocation becomes surplus to the requirements of Aldi, who currently have an interest in it, the site it will continue to be safeguarded as a long term employment site for smaller scale, mixed E(g)(ii) and B2 uses appropriate to the location*

reflecting the proximity with existing residential development to the north and accessed off Holly Lane and/or Abeles Way". (my emphasis)

- **Site E2 Land to the west of Birch Coppice, Dordon (5.1 Ha)** – This is a smaller site and will require the relocation of 1.5 Ha of allotments to a suitable site north of the A5. Its scale and need to relocate the allotments, make this less suitable for meeting large scale immediate need.
- **Site E3 Land including site of playing fields south of A5 Dordon, adjacent to Hall End Farm (3.45 Ha)** – The allocation of the playing fields south of the A5 at Dordon reflects an opportunity to relocate the current recreational use (Birch Coppice Football club ground) to a site closer to existing residential areas north of the A5 and help rationalise accesses onto the A5. The site, if redeveloped, can utilise access from the adjoining allocated employment site allowing closure of the current access onto the A5. Its scale and need to relocate the sports club, make this less suitable for meeting large scale immediate need.
- **Site E4 Land to the south of Horiba MIRA Technology Park & Enterprise Zone (42 Ha)** – This is an allocation to expand the MIRA site, targeted at “E(g)(ii) (*research and development*) and B2 uses. B8 (*warehouse and distribution*) will not be permitted unless it is ancillary to the main use” (local plan paragraph 14.51). It is distanced from rail freight and motorway access and expressly not identified for logistics.

8.7.22. Having demonstrated that the identified strategic need cannot be met from forecast supply or allocations, I then demonstrate accordance with the three site specific criteria of Policy LP6.

8.8 POLICY LP6 TECHNICAL CRITERIA

8.8.1. The proposed development accords with each, as addressed below:

i) **Access to the strategic highway network is achievable and appropriate**

8.8.2. As set out in detail in the Highways SoCG with NH (**CD-D18**) and the proof of Dr Bunn, the proposed development would be served by a signal-controlled access junction at the northern edge of the A5 carriageway. The proposed site access layout has been prepared in accordance with all necessary guidance, including the design Manual for Roads and Bridges, and incorporates input from WCC Highways and NH during the course of the pre-application and planning application stages. Traffic modelling has shown how the access and highway network would operate satisfactorily once the development is operational.

ii) **The site is reasonably accessible by a choice of modes of transport**

8.8.3. The site is reasonably accessible by a range of transport modes:

Road –

- The site is located adjacent to the Strategic Road Network (M42 J10 and A5 trunk road) providing direct links to a network of nationally significant highways.
- The proposals include the provision of a new enhanced fully signal controlled crossing for the A5, compared to the existing junction staggered pedestrian crossing that passes through the central reserve, which will encourage both safer usage of the A5 for road users and improve accessibility for foot and cycle users.

Foot and cycle –

- The settlements of Birchmoor to the north, Polesworth with Dordon to the east and Tamworth to the west lie within a 2km walking distance.
- In terms of cycle access, a 7.2km catchment area centred on the site captures a significant proportion of the surrounding towns and villages within a comfortable cycling distance, including the eastern half of Tamworth, Dordon, Polesworth, Grendon, Baddesley Ensor, Birchmoor, Wood End and western half of Atherstone.
- As demonstrated in detail in the proof of Dr Bunn, upgrades to surrounding public rights of way and the creation of new public rights of way and footway / cycleways will further enhance accessibility by foot and bicycle, bringing a greater number of residents from the surrounding area within commuting distance of the site.
- These extensive active travel proposals have received letters of support from the Ramblers Association (CD-E10) who consider that *“whilst the site does fall within the Strategic Gap...the better local pedestrian and cycle access would be of benefit for both people working at the site as well as leisure users of the surrounding public rights of way network”* and Cycling UK (CD-E47) which is supportive of the significant enhancements to the cycle infrastructure along the A5 and around Junction 10, and increase in the number and safety of crossing points on the A5 and Junction 10 for non-motorised users which will make it easier for cyclists and encourage more cycling in the area.
- Notably, four of the routes identified within the adopted Warwickshire Local Walking and Cycling and Walking Infrastructure Plan (WLCWIP), WCC (February 2024) (CD-H30), namely route refs: P03, P07, P08 and P09, all either pass through the appeal site or run directly adjacent to the boundary of the appeal site and/or land within the Appellant’s control. The Appellant’s active travel proposals are broadly aligned with the routing of these four routes, which the WLCWIP 2024 identifies as potential new or upgraded cycle routes, and these routes would therefore be delivered by the Appellant rather than WCC, which is considered to be a significant benefit. In addition, the proposed enhancements would address an identified ‘barrier’ for walking and

cycling movements between Polesworth, Dordon and Tamworth, as identified in WLCWIP 2024, namely M42 J10.

- In the case of the proposed improved pedestrian / cycle pavement along the A5 between Pennine Way roundabout at Tamworth and Browns Lane at Dordon, this upgrade is also supported by the Route Strategy Initial Overview Report: South Midlands Route, National Highways (May 2023) (**CD-I74**), which notes the opportunities that exist to reduce the number of short journeys by car and encourage active travel along the A5 and identifies an increase in sustainable and active travel journeys as a targeted outcome of the strategy.

Bus –

- Existing bus stops are situated within 400m walking distance of the site at Birchmoor to the north (Bus Route No. 785/786) and A5 to the south (Bus Route No. 766/767), providing bus services to the east-west.
- The proof of Dr Bunn sets out details of the Public Transport Strategy which was developed in consultation with Stagecoach, the local bus operator, and with the WCC Transport Operations Team. The Strategy proposes amending the route of the 766/767 Nuneaton to Tamworth bus service which operates along the A5, to divert both eastbound and westbound services into the site with a dedicated bus turning area with shelter.
- Stagecoach is supportive of the proposals for a new and enhanced bus stop within the site noting also in its letter of support (**CD-E55**) that the proposed ‘pump-prime’ funding “*is necessary for the route [service 766/767] to be sustainable and continue to operate*”. This is an important added benefit of the scheme.
- As outlined above, both WCC and SCC are going out to tender on two separate truncated and much reduced services to replace the 766/767, which would run between Birch Coppice Business Park and Nuneaton and Tamworth respectively. It is agreed that reinstatement of the existing inter-urban 766/767 at the present service level is preferable, which could be funded through S106 contributions. It is only through this necessary ‘pump-prime’ funding that an inter-urban bus service between Tamworth and Nuneaton with remain.
- The proposals for a new and enhanced bus stop and extended service are also supported in principle by WCC Transport Operations (**CD-E56**).

Rail -

- The site is in close proximity to the Birmingham Intermodal Freight Terminal (BIFT) at Birch Coppice, and as set out in the proof of Mr Hatfield of MDS Transmodal, its proximity allows it to constitute a ‘rail served site’. That means it is able to support the sustainable distribution of

freight. The letter at Appendix 3 of my proof, from Maritime, operators of BIFT, confirms the locational advantages (which already underpin nearby key occupiers such as Volkswagen and Beko) of the site and the criticality of its rail served status.

- Furthermore, in the Daw Mill Appeal Decision (**CD-K5**) – which related to an employment scheme elsewhere in North Warwickshire - the Inspector noted at paragraph 391 that the scheme would make a “*contribution to the provision of general employment land, along with rail related sites, both locally and regionally [and] between 50 and 500 jobs would be provided...[which] would weigh heavily in the positive side of the balance*”. However, the Inspector went on to note that the remote location of the Daw Mill site in comparison to the rail freight terminals of Hams Hall and Birch Coppice would “*significantly diminish the initial weight to be ascribed to its contribution to employment provision*”. As such, given that the M42 J10 appeal site would demonstrably more sustainably located than the Daw Mill site given that the former would be classified as ‘rail served’ owing to its close proximity to Birch Coppice and directly accessed off the Strategic Road Network, the heavy weight ascribed by the Inspector in the Daw Mill appeal to the provision of employment land, rail related sites and job creation, should equally apply the M42 J10 appeal proposals.

- 8.8.4. As indicated in the proof of Dr Bunn, the Appellant has committed to implementing a sustainable transport active travel strategy (Vision Based Travel Plan - contained at Appendix P of the TA Addendum – **CD-B39**) that will significantly enhance existing connectivity to maximise the potential to harness a substantial local workforce whilst providing added community benefits through increased and enhanced connectivity. It will encourage the use of sustainable modes which will inform the Full Travel Plan. This commitment and the benefits arising from it will be secured by planning condition.
- 8.8.5. As a consequence of the sustainable location and active travel proposals, the site is accessible to a large working age local population in Tamworth and North Warwickshire. The Proof of Professor Coleman and Mr Nicol shows that Tamworth and North Warwickshire collectively have 64,000 residents in work, but also around 1,900 residents out of work. The proposal will provide a range of employment opportunities which can readily be accessed, reducing the need to travel further afield. It is also logical to co-locate new employment uses close to existing and future residential areas (with North Warwickshire having major housing allocations close by at H4 Land East of Polesworth 1,675 dwellings and H5 Land West of Robey’s Lane Tamworth 1,270 dwellings), i.e. close to the labour catchment.
- 8.8.6. As indicated above and set out in the proof of Mr Hatfield a further important factor is the fact that locating the development proposals at the site will provide an opportunity to support the two nearby

rail freight terminals (Birmingham Intermodal Freight Terminal (BIFT) and Hams Hall), which offer a far more sustainable mode of freight distribution than road. Indeed, the site would be classed as 'rail served' by virtue of its close proximity to BIFT. Future development at the site will be able to access BIFT on the same basis as those currently located within Birch Coppice Business Park, thereby generating direct financial benefits to shippers and occupiers (lower transport costs), and wider societal benefits that are generated through modal shift to rail, supporting the Government's desire to decarbonise freight and grow the rail freight sector. This is confirmed in the letter at Appendix 3 of my proof, from Maritime, who operate BIFT, which confirms that developments at J10 are actively served by BIFT, with this critical in attracting and supporting key international occupiers coming to the location such as Volkswagen, Beko and Maersk.

8.8.7. Overall, the site is reasonably accessible by a choice of modes of transport, and the proposed infrastructure improvements will further enhance the accessibility of the site.

iii) It is otherwise acceptable, taking account of the living conditions of those nearby

8.8.8. I consider the reference to 'living conditions' to effectively be the 'amenity' of residents. Amenity typically includes matters such as noise and disturbance, air quality, visual intrusion (including from light), crime impact and safety. 'Those nearby', in the context of the appeal site, is considered to the properties on Birch Grove, Cockspur Street and Green Lane in Birchmoor to the north, the cluster of properties along A5 to the south east and the properties along the western edge of Dordon (Kitwood Avenue) to the east of the site.

8.8.9. The starting point here, is that NWBC has not alleged any conflict or reason for refusal. Indeed, statutory consultees (including the Environmental Health officer) are satisfied with the proposal subject to imposition of conditions. There is thus no criticism that living conditions are adversely affected.

8.8.10. The Rule 6 party does allege, adverse effects, but has to date provided no supporting evidence.

8.8.11. In response, the maximum development parameters upon which the proposals are based and has been assessed were carefully devised to ensure that the proposed development will not result in any adverse impacts on residential amenity (or living conditions) of nearby residents and businesses, as demonstrated below:

Noise and air quality

8.8.12. The ES (**CD-B1, CD-A9.3, CD-A9.4, CD-A10.3 and CD-A10.4**) and ES Addendum (**CD-D14.1**) comprehensively assessed noise and air quality impacts on the nearest residential receptors based on a worst-case scenario (i.e. based on the maximum development parameters being implemented). Assessment included both construction and operational phase impacts.

8.8.13. The ES concluded that the proposed development, with the adoption of mitigation measures where appropriate, would not result in any significant adverse environmental effects, including the amenity (or living conditions) of nearby residents, as evidenced in the SoCG with NWBC (**CD-D13**) and the NWBC Environmental Health Officer acceptance (**CD-E31**) that the scheme would not result in any adverse noise or air quality impacts, subject to conditions.

Visual amenity

- 8.8.14. The development parameters include substantial areas of on-site green infrastructure (over 9ha) principally to the north, south and east of the plots, incorporating open space, planting, landscaping, public rights of way, sustainable drainage system (SuDS) and a variety of wildlife habitats.
- 8.8.15. Naturalistic earth mounds will be formed within the green infrastructure, utilising surplus cut material from the development site, to create a transitional zone between the developable area and development site perimeter and to provide visual mitigation where necessary.
- 8.8.16. The proof of Mr Smith, at Chapter 4, comprehensively assesses the visual effects of the proposal, including the potential effects upon residential amenity. Mr Smith concludes that the visual effects of the proposals would be localised (as accepted by NWBC within the Planning & Development Board report from March 2024 (**CD-E59**)), with significant effects by year 15 focused upon the appeal site itself and rights of way across the agricultural land to the east of the appeal site. By year 15, and thereafter, there would also be no significant visual effects for residential receptors at Birchmoor or Dordon, and no significant effects for vehicle users on the road network around the site.
- 8.8.17. Regarding the closest residential receptors at Birchmoor, Mr Smith's proof states that the closest residents would still be approximately 100 metres from the nearest building on the appeal site at the nearest point, which would have a maximum parapet height of 113m AOD. This compares with an approximate ground level at Birchmoor of between 100m and 105m AOD, with house heights on the southern edge of the settlement being approximately 6 to 7 metres. This means that the roof height of the northern edge of the proposals would be at most 7m higher than the houses at Birchmoor, and approximately 100 metres away from those houses, with the intervening land including the existing paddocks and hedgerows on the southern edge of the settlement, plus a minimum of 75 metres of gently grading screening mounds and woodland planting.
- 8.8.18. In this context it is clear that the proposals would not be overbearing for even the closest local residents, and would therefore have no significant effects on residential amenity. As Mr Smith points out, the test here – sometimes referred to as the Lavender test – is not one of clear visibility of the development but whether the development would render the nearest residences “an unsatisfactory place to live”, which the development would not.

8.8.19. Furthermore, the proposals would ensure that there would remain approximately 750 metres of open farmland between the two settlement edges at the nearest point. The provision of additional native hedgerow and woodland planting within the offsite mitigation areas would reinforce the rural characteristics of this space, ensuring that there remains a marked difference in character between settlement edges and the intervening space.

Crime impact and safety

8.8.20. The Design Guide (**CD-B35**) that, by virtue of the SoCG with NWBC, would be secured by planning condition sets out a range of design parameters that future development would have to adhere to in order to ensure that the proposed development does not lead to an increase in crime impact or be detrimental to safety of future site users and residents nearby.

8.8.21. Warwickshire Police (**CD-E22**) confirmed its support for the proposals and commended the design measures incorporated into the Design Guide (**CD-B35**) in order to mitigate potential crime and safety issues.

8.8.22. Warwickshire Police (**CD-E22**) and the National Vehicle Crime Intelligence Service (NaVCIS) (**CD-E40**) also noted in their consultation responses that the proposed secured overnight lorry parking facility would in itself contribute positively to crime and anti-social behaviour in the area, which is considered to be a benefit with significant weight.

Lighting

8.8.23. As the appeal proposal is in outline only and detailed matters such as layout and appearance would be dealt with as reserved matters, external lighting impact has not been assessed and in any case is a matter that can be suitably controlled by planning condition.

8.8.24. Furthermore, the Design Guide (**CD-B35**), which as mentioned above would be secured by planning condition as set out in the SoCG with NWBC (**CD-D13**), sets out a number of design parameters that future lighting schemes would have to adhere to in order to ensure that lighting impact is kept within acceptable thresholds.

8.9 INDUSTRY SUPPORT

8.9.1. The proposals have received extensive support from key industry bodies with an economic and employment land interest, with a synopsis of the support received set out below. The extent of this industry support is a key material consideration in favour of the proposals.

Coventry & Warwickshire Chamber of Commerce (CD-E50) –

- The business network for Coventry and Warwickshire; one of the largest and most active chambers in the UK representing over 1,000 businesses across the sub-region.
- Letter of support from the Chief Executive, Mr Corin Crane, on behalf of the Coventry & Warwickshire Chamber of Commerce and the business community it represents.
- Notes the shortage of employment land that exists in the sub-region and the consequential high price of land that is available for employment uses, the sum of which is prejudicially impacting upon economic growth.
- Supports the proposals outright.

JLL National I&L Transactions Team (CD-E41) –

- 98 sector professionals covering the entire UK, with offices in London, Birmingham, and 9 further regional locations.
- Sets out the enduring structural changes to the UK economy which are driving the need for new highly sustainable I&L employment space, in terms of Brexit, the Global Pandemic, and War in Ukraine, but also the highly skilled roles being created as technology replaces manual tasks.
- JLL I&L Team is currently tracking 15 million sq ft of requirements along the M42 corridor (J2-J10), of which two enquires equating to circa 100 acres of land are centred on M42 J10.
- Sets out details of interest in the Site from multiple major corporate occupiers, some of which have an existing presence in North Warwickshire, despite it not yet being actively marketed.
- Sets out details of specific ongoing discussions with a major corporate occupier already based in North Warwickshire, and confirms that the Site is the only one in the Borough which is capable of meeting their operational requirements in terms of scale, location and timing.
- Supports the proposals outright and encouraged the Council to seriously consider the opportunities that this application could bring to the Borough.

Logistics UK (CD-E51) –

- One of the largest trade associations in the UK with over 20,000 member companies from the transport industry covering the movement of goods by road, rail, sea, and air, including large multinationals and PLCs down to regional and local SMEs.
- Sets out the UK Government's national policy agenda in terms of the logistics and freight sector being central to addressing the country's most pressing national priorities, from building back better after the pandemic, levelling up, and reducing greenhouse gas emissions.
- Highlights the benefits of the planning application proposals in terms of driving economic growth, providing sufficient driver facilities and supporting the modal shift from road to rail.

- Supports the proposals outright, both in terms of the “new, high-quality, logistics floorspace in the location adjacent to Junction 10 of the M42” [underlining my emphasis] and is “*extremely supportive*” of the provision of a secure overnight lorry parking facility.

Maritime Transport (CD-E53 and additional letter at Appendix 3 of my proof) –

- One of the largest privately-owned intermodal transport operators in the UK and owner and/or operator of Birmingham Intermodal Freight Terminal (BIFT) and Hams Hall.
- Notes significant headline capacity for increased freight handling at BIFT and that focusing new employment development in close proximity to the rail freight interchange is key to maximising the utilisation of this capacity.
- Confirms that 50% of all rail bound containers transported through BIFT are delivered/collected within 10 miles of the terminal (raising to 80% within a 20 mile radius).
- Refers to its Government backed trial commencing in 2026 to use battery run tractor units, which if successful will be rolled out to further reduce carbon.
- Highlights the key local occupiers at J10 in Birch Coppice and Core 42 that use BIFT, namely Beko, Volkswagen, Maersk, Euro Car Parts, Mobis and Bond International, all attracted to the location by rail access. Confirming this is a key locational advantage of the site.
- Supports the proposals outright.

Rail Freight Group (CD-E52) –

- The representative body for rail freight in the UK with over 100 member companies.
- Notes that Land NE M42 J10 is “exceptionally well located in the West Midlands to facilitate the aims of national policy in relation to encouraging rail freight use and decarbonising transport.” [underlining my emphasis].
- Furthermore, with reference to paragraph 83 of the NPPF (paragraph 87 in NPPF 2023), notes that “...‘suitably accessible locations’ means as physically close to rail freight infrastructure as possible, in order to maximise future uptake and deliver the consequential benefits to society...” [underlining my emphasis].
- Supports the proposals outright.

Tamworth Borough Council (CD-E13) –

- Supportive of both the proposed employment land/floorspace and lorry park.
- Given its close proximity to the eastern extent of Tamworth, the proposals essentially constitute a border application and it is clear that the positive effects of the scheme, in terms of delivering much needed employment floorspace and overnight lorry parking, would be felt equally in Tamworth as they would in North Warwickshire, as well as the West Midlands more broadly.

- As such, the views of Tamworth Borough Council should carry significant weight in determining the planning application.

8.10 WHY THE DEVELOPMENT PLAN PROCESS WILL NOT MEET THE URGENT NEED

- 8.10.1. I have previously set out how the development plan process in North Warwickshire has failed to address strategic employment and logistics need for a significant period of time. At the examination of the current plan (adopted 2021) the Inspector only found the plan sound with the inclusion of Policy LP6 as a decision making tool to add significant weight to delivery of additional employment land where there was an immediate need and criteria are met.
- 8.10.2. As set out in the proof of Mr Turner, the gravity of this failing is increased by the revocation of regional planning guidance. The previous RSS provided the guidance, mechanism and support for the identification of strategic employment and logistics sites. Its revocation has left a void by which there is national guidance to support such use, however local plans have failed to address anything other than local needs.
- 8.10.3. As set out in Section 2 of the Employment Land Study (**Appendix 1 to the proofs of Mr Binks and Mr Turner**), a review of the neighbouring Local Planning Authorities to North Warwickshire Borough within Area A/Area 2/M42 Corridor, which is considered the relevant study area in the context of Local Plan Policy LP6 (as identified in the Employment Land Study May 2024 at **Appendix 1 of the proofs of Mr Binks and Mr Turner**), shows that these LPAs have taken a similar stance post regional guidance abolition and sought to meet their local needs only in their adopted local plans. Furthermore, the aforementioned Cushman and Wakefield Study sets out that of the five neighbouring LPAs within Area A/Area 2/M42 Corridor, the emerging local plans for three of the LPAs are at a very early stage (Birmingham City Council, Coventry City Council and Tamworth Borough Council – all at Regulation 18 stage), all of which are either silent on whether the emerging plan will meet strategic employment needs and/or contain no such employment allocations and as such there is no certainty that strategic employment needs will be addressed. The Lichfield District Council emerging plan was withdrawn from examination in October 2023 and did not include any strategic employment land provision. Solihull District Council's emerging Local Plan is the most advanced (at Regulation 22 examination stage), however it has progressed extremely slowly since it was submitted for examination in May 2021 and in any case seeks to address local needs only.
- 8.10.4. Therefore, despite the duty to cooperate, the LPAs within the Area A/Area 2/M42 Corridor at present only provide a series of adopted and emerging plans that fail to address strategic employment need. This is in the face of the overwhelming evidence reports that consistently highlight the locational

advantages of the area (Golden Triangle), its transport infrastructure (two strategic rail freight interchanges, trunk road connectivity to the UK), its connections to key industry of national importance such as the automotive sector, and access to workforce and areas of deprivation.

- 8.10.5. Clearly, absent regional guidance, the duty to cooperate has not yielded the tangible allocation of sufficient sites across the sub-region. The failure to address strategic employment need extends beyond just the Area A/Area 2/M42 Corridor study area and is evident elsewhere in the wider sub-region as evidenced in the letter of Mr Blincoe (**Appendix 2 of my proof**).
- 8.10.6. Consequentially, there is no assurance that plan making over the next few years will address the immediate strategic employment need requirements.
- 8.10.7. In its Statement of Case, NWBC suggest that any wider than local requirements that might be identified in the updated WMSESS (Phase 3, not yet published) should be resolved through the planned process through the emerging Employment DPD (**CD-F7**). I do not believe this is the answer for the following main reasons.
- 8.10.8. Firstly, timing wise, the DPD is at a very early issues and options stage. It can be afforded no weight. The 2023 Local Development Scheme indicates that it will be adopted by 2025, however it is running 6 months behind schedule, with its issues and options only being consulted in spring 2024. Therefore, its adoption will at best be 2026, some 5 years after the local plan. This will see, even if it were to identify strategic employment sites, there being no planning policy guidance or allocations for another 1.5 to 2 years. That would then need to be followed by a planning application – noting that it has taken almost 3 years to resolve the technical concerns of NH in respect of this application – that process would only then start in 2026. That would mean that the “immediate need” would only be met towards the end of this decade. This will obviously not meet the immediate need with any urgency.
- 8.10.9. Secondly, the DPD is at a very early stage and has not yet reached a draft DPD, as such there is no certainty that it will identify the need for any additional employment land, let alone identify any allocations to meet the need. NWBC suggests in its SoC at paragraph 5.28 that any wider than local needs identified in the updated WMSESS should be resolved through the DPD. Based on previous plan making history in North Warwickshire, am I very sceptical that this will be the case, as for the last local plan there was a WMSESS study which identified a more than local need, but NWBC promoted a plan that deliberately decided not to seek to meet that need. Indeed, it was only the Inspector’s intervention (on the back of representations seeking the allocation of more land to meet the evidenced need) that led to the plan incorporating Policy LP6. Further, the previous Core Strategy followed the same approach of only meeting local need. This history gives me grave

concern that the authority in its forthcoming draft SPD, may once again defer meeting this wider need or rather ‘pass the buck’ on strategic employment land and not propose allocations.

8.10.10. With regards the DPD consultation process, as the majority of land in Area A/Area 2 lies in the Green Belt that a full Green Belt review might be needed. This might delay progress of the DPD, or even lead to a more fulsome review of the local plan being considered. Both scenarios will cause delay and potential risk that insufficient sites are identified (if any are at all). Against this context, a non Green Belt site in Area A/Area 2, which scores the joint highest in the 2021 WMSESS study must surely be supported as a preferable alternative for delivering the development now to meet the immediate need and need for strategic and logistics provision.

8.10.11. Indeed, if NWBC was to apply the current WMSESS study findings then, accepting that there is a need for additional land, and as the appeal site is the joint top performing site in the study area, and outside the Green Belt, then there should be an inevitability that it is allocated. Therefore, there is no sound planning reason to wait and delay meeting the urgent need, not least when Policy LP6 was devised for this very situation where in the absence of any local plan policy or allocations to meet the strategic need, sites can come forward through planning applications, receiving the significant weight in the planning balance.

8.11 CONCLUSIONS ON EMPLOYMENT NEED

- 8.11.1. Evidence clearly demonstrates an unequivocal need and immediate need for employment land within Area A/Area 2 of the WMSESS, and a need for land for logistics. The appeal site lies in the defined Area A/Area 2 and in the latest Study (WMSESS 2021) is identified as the most appropriate location for such development. It is the only site outside the Green Belt that has the locational requirements to meet the need, and therefore is preferable.
- 8.11.2. The need will not be met via forecast supply, as the C&W Employment Land Study (Appendix 1 of the proofs of Mr Binks and Mr Turner) demonstrates, there is a limited supply of land available.
- 8.11.3. The adopted Local Plan seeks only to address local employment needs. Its allocations will not meet the strategic and logistics need (the sites’ due to their size and location are not suitable for strategic employment). The plan therefore does not contain allocations that can meet the identified need.
- 8.11.4. Furthermore, there is no assurance that plan making in neighbouring LPAs and the wider sub-region over the next few years will address the immediate strategic employment need requirements.
- 8.11.5. The first part of Policy LP6 is thus met and significant weight given where the scheme demonstrates accordance with the three criteria.



- 8.11.6. The appeal site and proposal demonstrably accords with all the three policy criteria in Policy LP6, including providing safe and suitable access to the Strategic Road Network (part i), is reasonably accessible by a range of transport modes (part ii), and is otherwise acceptable in terms of amenity impacts on nearby residents (part iii).
- 8.11.7. As afforded by Policy LP6, **significant weight** must be given in decision-taking to supporting the proposal.

9 PRINCIPLE OF DEVELOPMENT - LORRY PARKING NEED (LOCAL PLAN POLICY LP34)

9.1 MAIN CONSIDERATION

- 9.1.1. Main issue (vi) set out at paragraph 14 of the Inspector's CMC Summary Note that a main consideration will be: *"Whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities"*.
- 9.1.2. This main issue stemmed in part from putative reason for refusal 1 in which NWBC allege that *"the proposal does not accord with Policy LP4 of the NWLP 2021 together with Policies DNP1 and DNP4 of the DNP 2023 [and] 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 LP34 are not fully demonstrated"*. (my emphasis)
- 9.1.3. The proof of Mr Hatfield of MDS Transmodal and its appendices demonstrate, in detail, the significant lorry parking need and the locational suitability of the site. As such, **it is strongly advised that the proof of Mr Hatfield is reviewed prior to reviewing this chapter.**
- 9.1.4. With the need case and locational suitability of the site addressed by Mr Hatfield, my proof considers the planning merits of the proposal in the context of Policy LP34 which are further supported by key material considerations.

9.2 PLANNING POLICY

- 9.2.1. Policy LP34 (Parking) sets out NWBC's position with respect lorry parking, stating 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-taking.' (my emphasis)
- 9.2.2. The weight afforded by LP34 is important as no site allocations for HGV parking are made in the adopted plan.
- 9.2.3. NPPF paragraph 113 gives clear support, stating that:
"Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded

distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.”

- 9.2.4. In addition, a number of other important publications form material considerations in respect of the lorry parking need case. Full details of the following documents are set out in the Lorry Parking Need Assessment and Rail Terminal Connectivity Assessment prepared by MDS Transmodal and appendices to the proof of Mr Hatfield.
- 9.2.5. The recurring theme throughout these documents is the critical need for new HGV parking facilities and the requirement for Government intervention through the planning process to alleviate the shortfall.

9.3 EVIDENCE OF NEED IN THE SITE LOCATION

- 9.3.1. The proof of Mr Hatfield demonstrates that there is a significant deficit of HGV parking capacity in the West Midlands region and in particular there is an urgent need for additional overnight lorry parking provision in the M42 J10 area. This need is both quantitative and qualitative.
- 9.3.2. The proof of Mr Hatfield also demonstrates a clear shortfall in appropriate HGV parking capacity in the Tamworth area, particularly along the A5 corridor. It refers to the DfT's National Survey of Lorry Parking (2022) which identifies a shortage of 'on-site' parking capacity across the West Midlands region, with the average total number of HGVs parking each night being well in excess of the installed on-site capacity (458 in 2022). Parking Beat Surveys undertaken by the Appellant in 2021 and, more recently, in December 2023 indicates that around 117 HGVs were parking at inappropriate non-truck stop locations each night.
- 9.3.3. Derived from the logistics sector's specific operational needs for HGV parking facilities, the criteria which enables suitable locations for accommodating new HGV parking facilities to be identified were defined in Mr Hatfield's proof. It was consequently demonstrated that the proposed development meets all the criteria to a high level, being co-located on the strategic road network and adjacent to distribution centres, and that the planned 'secure' parking facilities are those required by road haulage operators and drivers. A parking facility at the appeal site would also conform with the Government's latest official advice with respect to driving time spacing between HGV parking facilities (DfT Circular 02/2022).
- 9.3.4. The Professional Opinion Note (PON) of Chrys Rampley, formerly in the employ of The Road Haulage Association (contained at **Appendix 8 of the proof of Mr Hatfield**) confirms the quantitative and qualitative need position evidenced by Mr Hatfield.

9.4 LAND AT MARSH LANE (NEAR JUNCTION 9 M42), CURDWORTH

- 9.4.1. A key material consideration in respect of quantitative need is the recent planning decision for land at Marsh Lane, Curdworth, North Warwickshire (application ref: PAP/2020/0295). The Marsh Lane site is located near to Junction 9 of the M42 and is within the Green Belt.
- 9.4.2. The application was refused on 6 February 2023 by NWBC.
- 9.4.3. The recommendation for refusal contained within the NWBC Planning & Development Board report **(CD-I63)** is set out below:

“That planning permission be REFUSED for the following reason.

1. The site is in the Green Belt and it is considered that the proposal amounts to inappropriate development. It is not considered that the cumulative Green Belt and other harms caused are clearly outweighed by the planning considerations advanced by the applicant. The proposal therefore does not accord with Policies LP1, LP3, LP14, LP29(9) and LP30 of the North Warwickshire Local Plan 2021 as supported by Sections 12 and 13 of the National Planning Policy Framework 2021.

The proposed change of use and the provision of transport infrastructure would not preserve the openness of the Green Belt and conflict with the purposes of including land within it. Substantial weight is given to this Green Belt harm. In particular there would be significant spatial and visual harm together with harm caused by twenty-four hour activity and the permanence of the development. The proposal would conflict the purposes of the Green Belt including safeguarding the countryside from encroachment, restricting sprawl and preventing the merger of towns. Additionally, there would moderate landscape and visual harm, moderate harm to residential amenity from lighting impacts and limited harm from noise impacts.

It is acknowledged that the proposal carries substantial weight in meeting national and local HGV needs and that it thus accords with Local Plan Policy LP34 and paragraph 109 of the NPPF.

As such, the Council considers that there is a fine balance here. However, the applicant’s planning considerations do not clearly outweigh the cumulative harms caused. The overriding reason is the resultant fragmentation of the Green Belt within a remaining open corridor which fulfils a number of the purposes of including land within it.”

- 9.4.4. Of relevance to the appeal proposal is that NWBC acknowledged that the provision of lorry parking carried “substantial weight in meeting national and local HGV needs” and in doing so “accords with Local Plan Policy LP34 and paragraph 109 of NPPF”.

- 9.4.5. Given the proximity of the appeal site to the Marsh Lane site and the clearly evidenced quantitative need justifying the location, substantial weight must similarly be applied to this appeal proposal in meeting national and local HGV parking needs.
- 9.4.6. The Marsh Lane application was appealed (APP/R3705/W/23/3327296) and the Inspector, whilst dismissing the appeal, stated clearly at paragraph 55 of her decision (**CD-K3**) that “*The other considerations in this case include the compelling evidence of need for additional HGV parking and driver facilities, the provision of which would help to address a national shortage of HGV parking, improve driver welfare, would support the distribution sector generally and would have wider public benefits in reducing the levels of roadside parking in the vicinity of Hams Hall Distribution Park. I give significant weight in favour of the appeal to these benefits, and moderate weight to the biodiversity proposals for the southern field*”. The Inspector concluded that on balance the significant weight to addressing parking need was not outweighed by the harm to the Green Belt.
- 9.4.7. Therefore, with regards the J10 site, the established demonstrable need, which has significant weight, and accordance with Policy LP34, needs to be assessed against not Green Belt, which has a very high bar, but Strategic Gap (Policy LP4), which as I have set out in this proof, cannot be considered as stringent as Green Belt. The accepted compelling need for lorry parking allied to the exceptional locational benefits of the site, and the express policy support of Policy LP34 and NPPF, combine to outweigh any harm to the Strategic Gap.
- 9.4.8. It is noteworthy that much of the land in the lorry parking hotspot, which is locationally suitable for lorry parking (i.e. on the trunk road network close to rail freight facilities) lies in the Green Belt. The appeal site is thus sequentially preferable to meet this national and local need.

9.5 LOCATIONAL BENEFITS OF THE SITE TO MEET THE IDENTIFIED NEED

- 9.5.1. As evidenced in detail by Mr Hatfield in his proof and the PON of Ms Rampley contained therein (**Appendix 8**), the proposed lorry parking facility is well located to satisfy the need as:
- It lies in the hotspot area identified by the National Survey of Lorry Parking 2022;
 - It is conveniently located close to Birch Coppice rail freight interchange;
 - It is located adjacent to M42 J10 and its intersection with the A5, so on key arterial freight routes;
 - It is located close to a number of existing logistics and industrial sites which attract and generate HGV movements (including Birch Coppice, Core 42, and Centurion Park);
 - It is located away from residential properties.

9.6 INDUSTRY SUPPORT

9.6.1. The proposals have received extensive support from key bodies with an interest in overnight lorry parking provision and the extent of this support is a key material consideration in favour of the proposals. This is set summarised below:

Road Haulage Association (RHA) (CD-E54) –

- Represents more than 7,200 members who operate more than half of the UK HGV fleet.
- Highlights the importance of the need for appropriate lorry parking facilities on the A5, one of the Midlands' most important east-west road corridors at the heart of the so-called 'Logistics Golden Triangle'.
- States that "*The importance of appropriate lorry parking facilities on this road corridor cannot be understated.*" [underlining my emphasis].
- Fully supports the proposals for an overnight lorry parking facility.
- A letter of support from RHA was material to the successful appeal for additional HGV parking at Welcome Break MSA at Corley (ref. APP/R3705/W/17/3192501).

NaVCIS (CD-E40) –

- The National Vehicle Crime Intelligence Service (NaVCIS) is a national policing unit that bridges the gap between policing and the cargo and freight industry.
- Notes the 'unique' location of the Site at M42 J10 motorway (north to south), with direct access onto the A5 dual carriageway (east to west) and within 'Golden Triangle' for logistics.
- Notes the distinction between 'safe' and 'secured' lorry parking facilities (the proposals at M42 J10 would be 'secured'), and notes that it is extremely rare for cargo crime incidents to occur at the latter due to increased security measures.
- Furthermore, notes that there are only two TAPA accredited lorry parking facilities in the entire UK. The proposals would become the only Level 1 TAPA and Level 1 TAPA and EU SSTPA Platinum accredited facility throughout the whole of the UK, making them nationally significant.
- Finally, it is noted there is a need for 'exemplar sites', such as the one proposed, to provide the impetus for operators of existing lorry parking facilities to improve and invest in security infrastructure and welfare. As such, the proposals would not only improve the quantum of lorry parking locally but also, indirectly, the quality of existing facilities both locally and regionally.
- 'Strongly supports' the proposals for a 150 space secured overnight lorry parking facility.

Warwickshire Police (CD-E22) –

- Notes that the Police & Crime Commissioner for Warwickshire would support the proposals.

Tamworth Borough Council (CD-E13) –

- Supportive of both the proposed employment land/floorspace and lorry park.
- Given its close proximity to the eastern extent of Tamworth, the proposals essentially constitute a border application and it is clear that the positive effects of the scheme, in terms of delivering much needed employment floorspace and overnight lorry parking, would be felt equally in Tamworth as they would in North Warwickshire, as well as the West Midlands more broadly.
- As such, the support from Tamworth Borough Council is a further key material consideration weighing in favour of the proposals.

Logistics UK (CD-E51) –

- Supports the proposals outright, both in terms of the “*new, high-quality, logistics floorspace in the location adjacent to Junction 10 of the M42*” [underlining my emphasis] and is “*extremely supportive*” of the provision of a secure overnight lorry parking facility.

9.6.2. In addition to the industry support summarised above, as stated already, the lorry parking need case is further supported by a Professional Opinion Note (PON) provided by Christine Rampley (former Manager of Infrastructure, Security and Business Affairs of the Road Haulage Association). A copy of the PON is contained at **Appendix 8 of the proof of Mr Hatfield**. The PON concludes, in the author’s professional opinion, that:

- The appeal site represents the most appropriate location for addressing the identified acute need for lorry parking at the hotspot of Hams Hall to Dordon (Birch Coppice) and specifically at M42 J10;
- The importance of delivering the proposed overnight lorry parking in this location is elevated by the recent decision to refuse planning permission for the truck stop scheme at Junction 9 M42 (CD-K3);
- It should therefore carry greater than ‘substantial weight’ that the proposals would deliver a highly secure facility, which, given the physical measures proposed would meet TAPA Level 1, SSTPA Platinum and Park Mark Safer Parking certification/accreditation requirements, making the proposals ‘nationally significant’; and
- The proposal would deliver a range of other important quantitative and qualitative benefits.

9.6.3. The PON is considered to be a further key material consideration in support of the need case and suitability of the site to addressing the identified need.

9.7 CONCLUSIONS ON LORRY PARKING NEED

- 9.7.1. Quantitative and qualitative assessments evidence the need for overnight lorry parking at the site vicinity, demonstrably justifying the proposed overnight HGV parking facility being located at the site and also the capacity for up to 150 spaces and associated welfare facilities.
- 9.7.2. There are no alternative sites within the vicinity of Junction 10 that could accommodate this need, particularly associated with existing 'offsite' parking issues in Tamworth and along the A5 corridor.
- 9.7.3. Policy LP34 gives express weight to proposals that comprise lorry parking provision and facilities. The proposed development clearly accords with Policy LP34. Furthermore, NPPF clearly supports the development of additional HGV parking capacity as integral components of new warehousing and distribution schemes.
- 9.7.4. The provision of an overnight lorry parking facility is of **significant weight** in meeting national and local HGV parking needs as confirmed in the Marsh Lane lorry parking appeal (ref: APP/R3705/W/23/3327296).
- 9.7.5. In addition to according with local and national planning policy, the proposed development also accords with the national drive for increasing overnight lorry parking provision in order to attract and retain new HGV drivers, including female drivers to the industry, and help to improve the negative perception of this critical industry to the national economy. The letters of support received and the Professional Opinion Note of an experienced industry professional and former manager at the Road Haulage Association are testament to this.
- 9.7.6. Overall, this critical aspect of the proposal is a **significant benefit** and, as such, it should be afforded **significant weight** in the overall planning balance.

10 STRATEGIC GAP (LOCAL PLAN POLICY LP4)

10.1 MAIN CONSIDERATION

10.1.1. Having demonstrated there is a compelling need for additional employment land, a need for overnight lorry parking, and that the site benefits from significant locational advantages for addressing both of these identified needs, I now deal with the Strategic Gap designation and Policy LP4.

10.1.2. In doing so, this Chapter addresses main issue (i) set out at paragraph 14 of the Inspector's CMC Summary Note: "the effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon", which stemmed from putative reason for refusal 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."

10.1.3. Technical matters pertaining to Policy LP4 (DNP1 and DNP4) are addressed in the proof of Mr Smith. I deal with the planning aspects of Strategic Gap policy, notably policy interpretation and alignment of the appeal proposals with policy. In doing so, I demonstrate the proposal's accordance with Policy LP4 (and DNP1 and DNP4).

10.2 LOCAL PLAN POLICY LP4

10.2.1. The genesis of the Strategic Gap policy is a relevant consideration. **Appendix 4 of this proof** provides a policy history for the Tamworth/Polesworth-Dordon Strategic Gap (and its many variants) in contrast to the West Midlands Green Belt, to emphasise the permanence of the Green Belt since 1975 compared with the Strategic Gap/Meaningful Gap/Area of Restraint policies which have come and gone at various points during the period since 1989 and with varying levels of policy protection. These "Gap" policies have come under heavy scrutiny and criticism from three different Inspectors during this time, leading to either the rejection of Gap policy from the plan entirely (in the case of the 2006 Local Plan) or requiring amendments as Main Modifications in order for the plan to be found sound (in the cases of the 2014 Core Strategy and 2021 Local Plan).

- 10.2.2. As shown at **Appendix 4**, Policy LP4 has evolved from the previous ‘meaningful gap’ as set out in Core Strategy Policy NW19. That policy related to Polesworth and Dordon and had two facets. It firstly identified a broad location for growth to the south and east of Dordon (subject to there being no unacceptable environmental impacts from surface mining and that viable and practicable coal reserves are safeguarded). The second part of the policy stated that *“Any development to the west of Polesworth & Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them”*.
- 10.2.3. The policy did not demarcate an area on the plan, rather any development to the west of Polesworth/Dordon was to respect the separate identities and maintain a ‘meaningful gap’. Meaningful was not defined, but when associated with gap, can be taken to mean a gap sufficient to ensure the separate identities of the settlements to be maintained.
- 10.2.4. The policy was thus permissive of development, so long as it respects their separate identities and maintains a meaningful gap between them. The emphasis was on ‘a’ meaningful gap, i.e. a gap between the settlements. It was thus far from an embargo on development to the west of Polesworth/Dordon, rather a policy to ensure that development to the west was managed in such a manner to meet the policy objectives.
- 10.2.5. The reasoned justification noted that Polesworth has a close geographical relationship with Tamworth, for a range of services and facilities. At paragraph 7.86 it continued that *“However this physical closeness means that there is a strong desire locally to protect the area to the west of the town from further development, in order to maintain its individual identity and prevent the coalescence of Polesworth with Tamworth”*. The clear policy emphasis for protecting the area to the west of the settlement was to maintain Polesworth’s individual identity and prevent coalescence between it and Tamworth.
- 10.2.6. At paragraph 7.87 the plan however confirmed that *“Polesworth and Dordon are important areas for growth. Any growth would need to respect their individual characters”*. It then goes on to set out constraints to growth, with *“To the west, the gap between the built up boundary of Tamworth and the rural areas up to Polesworth and Dordon in North Warwickshire, are extremely important locally and to the Borough as a whole”*.
- 10.2.7. The previous Core Strategy policy was tested through two main appeals dealt with by Inquiry; by Taylor Wimpey and St Modwen (for what is now Tamworth Logistics Park).
- 10.2.8. The first was the Taylor Wimpey appeal, APP/R3705/W/18/3196890 Land to the south of Tamworth Road and to the west of the M42, Tamworth B78 1HU (**CD-K1**). Here the Inspector concluded at paragraph 16 that *“There is no dispute that the settlements have very distinct identities. Polesworth*

has the character of a traditional small market town, defined by its historic core, while Dordon's growth has arisen from housing to serve former mining activity. Tamworth is a much larger place, whose planned employment and residential expansion has given it almost a 'new town' character".

- 10.2.9. At paragraph 17 the Inspector noted that *"Further development at the edge of Tamworth could be planned as an integral expansion of the town, without seriously affecting its established identity"*. Whilst that related to the proposed housing development adjoining Stoneydelph, the same can be said of the proposed J10 employment development adjoining the Tamworth boundary at J10 where it adjoins employment uses around the motorway junction.
- 10.2.10. At paragraph 18 the Inspector stated that *"The market town character of Polesworth, in particular, relies on a rural hinterland as a key element of its identity. The policy objective of maintaining a largely undeveloped gap to the west of the town is well founded."*
- 10.2.11. In the case of the appeal site, it lies apart from Dordon, with Polesworth set further away, separated by fields. The proposal will maintain the separation from Polesworth and Dordon with the retention and preservation in perpetuity of an extensive area of species-rich grassland (i.e. pasture) between the appeal site and Polesworth with Dordon (as proposed in the S106) to ensure that the market town character is maintained.
- 10.2.12. The provision of employment on land adjoining the M42 and opposite Tamworth Logistics Park will mean that in character terms the development will have a closer affiliation to Tamworth, which is a larger town where the Taylor Wimpey Inspector acknowledged that commercial development defined its character. In particular, it would be read as being part of the commercial development which has grown on the edge of Tamworth around the motorway junction, and in no way will it seem to be an extension of Polesworth/Dordon.
- 10.2.13. In ultimately dismissing the Taylor Wimpey appeal, the Inspector was concerned that along the B5000 the existing gap was some 800-850m and the proposal would effectively halve the gap, with the proposal residential use of the same nature as the adjacent residential areas. In the case of the Appeal proposal, the resulting gap would be 750m at its narrowest, in line with the current narrowest part of the gap, and the development commercial, so distinctly different to residential areas.
- 10.2.14. At paragraph 20 the Inspector stated that *"I agree that a 'scale rule' approach to evaluating separation between settlements should be avoided, and that an assessment of the impact of any proposed development must look at the character of the places affected and not merely the physical dimensions"*. The Inspector was clear that an important factor was the experience of people moving between the settlements and across the gap, and their appreciation of having left one place and arrived at another.

- 10.2.15. As Mr Smith sets out in his evidence, the appeal proposals maintain a clear physical and functional gap which allows one to experience leaving one settlement and arriving at another.
- 10.2.16. In the St Modwen appeal, Ref: APP/R3705/W/15/3136495 Land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY (CD-K2), in allowing the appeal, the Inspector noted at paragraph 16 that “*Dordon is a small town characterised by a mix of predominantly terraced and semi-detached housing focused to the north of the A5. In contrast, Birch Coppice is situated south of the dual-carriageway and comprises a large business park with substantial commercial buildings accessed from a series of roundabouts. The settlement of ‘Dordon’, the separate identity of which Policy NW19 seeks to protect, is therefore materially different to Birch Coppice, and is not currently read in the same context as the industrial development to the south*”.
- 10.2.17. This logic stands good for this appeal proposal which is for a large employment scheme which will be of a distinctly different character from Dordon/Polesworth, and its terraced and semi detached houses. The proposal in character terms will relate Tamworth Logistics Park, Birch Coppice and the commercial developments in Tamworth.
- 10.2.18. The Inspector at paragraph 18 concluded that “*In summary therefore, I consider that by reason of the large area of farmland that would remain to the north of the A5, the location of Dordon on higher ground to the east, and its materially different character and appearance to Birch Coppice, subject to an appropriate final design the proposal would respect the separate identity of Dordon. As a result, there is no conflict with the first requirement of Core Strategy Policy NW19*”.
- 10.2.19. What is clear is that the Inspector considered that it was on the basis of the three main factors noted in the quote above, that ensured that the development would not adversely affect the gap. The J10 appeal scheme accords with the same three factors, as it is large commercial scheme, is on lower ground than Dordon and a large tract of agricultural land will remain between it and Polesworth/Dordon (which will be protected in perpetuity).
- 10.2.20. With regards concerns about merging with Tamworth, the Inspector at para 21 states that “*Given the size of the M42, which runs through a tree-lined cutting in this location, I agree that it provides a definitive boundary and clear separation to Tamworth beyond. On this basis the tree-lined motorway would limit the perception of any harmful coalescence from Wilnecote to Birch Coppice*”.
- 10.2.21. Paragraph 29 states with respect to concern about narrowing the gap and losing distinctive character “*However, after a very short distance, and just beyond the ‘Welcome to Warwickshire’ sign referred to by the parties the fields north of the A5 come into view. Because the farmland drops down below the road before rising up, combined with its open character and proximity to the east-bound carriageway this area of countryside dominates the foreground. Dordon becomes visible at a*

higher level and there is an unequivocal gap in between. The undulating, open character of the farmland to the north of the A5 would therefore ensure that drivers entering the Borough and heading east would still be faced with a predominantly rural setting to Dordon. Based on the evidence provided the scheme would not conflict with the spatial vision of the Core Strategy”.

10.2.22. As Mr Smith’s evidence confirms, the same situation will exist with development at the appeal site in place.

10.2.23. As set out in the proof of Mr Smith, as part of the current Local Plan preparation, a technical study was prepared to determine where the boundary for the gap should be drawn (**CD-G3**). This was subject to consultation. The reasoned justification for Policy LP4 confirms that after the study, the area to the south of the A5 was removed from the Strategic Gap so the area to the north of the A5 is free standing (i.e. not linked to the Green Belt to the south).

10.2.24. When the Inspector found the Local Plan sound, his report (**CD-F15**) at paragraph 228 stated that *“Tamworth is of a different order of scale to Polesworth with Dordon, and, as reasoned by the Inspector who determined the 2019 appeal, its eastwards expansion would not necessarily significantly affect its established identity. That is in contrast to Polesworth with Dordon, a settlement set within a predominantly rural context”.*

10.2.25. This supports the case I make that development on the appeal site would not significantly affect the identity or character of Tamworth.

10.2.26. The Local plan Inspector in assessing the then Policy LP5 (now LP4) considered that it was unsound as drafted as it sought to ‘reintroduce’ an element of policy that the previous Core Strategy Inspector had indicated should be modified, i.e. the presumption against anything other than minor development in the Strategic Gap. (Paragraph 231).

10.2.27. Having reviewed NWBC’s 2015 and 2018 studies (**CD-G2** and **CD-G3**), the LP Inspector considered them a ‘reasonable and proportionate approach at plan making stage (paragraph 238), however he stated *“It is inevitable that parcels of land assessed via those studies will include smaller apportionments where development may be advanced, however that is a matter that legitimately falls to decision-taking”.* This is because the study considered larger areas.

10.2.28. Further, at paragraph 239 the Inspector clarified:

“I would emphasise the importance of that last point. Whilst the broad extent of the Strategic Gap is justified, it may well be the case that alternatively defined parcels of land have differing degrees of sensitivity. Similarly, Warwickshire County Council Landscape Guidelines point to a somewhat mixed landscape character between Tamworth and Polesworth with Dordon, including certain

‘urbanising features’. In that context it is conceivable that certain schemes could be designed so as to be suitably accommodated within the Strategic Gap without undermining its purpose”.

10.2.29. The Inspector further clarified the stringency of the Strategic Gap policy. He refers at paragraph 240 to NWBC’s 2018 Study which explains that Green Belt policies are typically more stringent than other policies of development restraint. He cross referred to paragraph 82 of NPPF 2012 which explains that in demonstrating the necessity to designate land as Green Belt, the LPA must ‘demonstrate why normal planning and development management policies would not be adequate’. NPPF 2023 contains the same guidance at paragraph 144. The Inspector then concluded at paragraph 240 that *“The logical corollary of that position is that policies that apply to the Strategic Gap must be proportionate to its aims and justification”.*

10.2.30. Therefore, Strategic Gap cannot be treated as Green Belt and cannot apply a presumption against development. That is why the Inspector, as he explains at paragraph 241, sought removal of the clause from Policy LP5 (now LP4) that all new development in the gap should be small in scale and not intrude visually into the gap or physically reduce the size of the gap. That was more stringent than Green Belt policy. The policy was thus amended to what is now Policy LP4.

10.2.31. The Inspector’s reasoning on what would make the policy sound clearly is that as a development management tool, the policy must be applied proportionately to its aims and justification. The aim of Policy LP4 is to maintain the separate identities of Tamworth and Polesworth with Dordon, and to prevent their coalescence. It is permissive of development, only seeking to restrict development proposals that would significantly adversely affect the distinctive and separate characters of Tamworth and Polesworth with Dordon.

10.2.32. It would be wholly wrong to merely equate this policy to a conventional gap policy. The Inspector was seeking to strike an appropriate balance of not wishing to preclude the use of the area of Policy LP4 for large scale development if it was needed and if it maintained a functional gap between settlements. Its application by NWBC as a form of quasi green-belt is deeply misguided.

10.2.33. The second component of the Local Plan Spatial Vision is *“that the rural character of North Warwickshire will be retained and reinforced to ensure that when entering the Borough it is distinctive from the surrounding urban areas”.* This is covered by Mr Smith in his proof.

10.2.34. As part of the proposed development, the applicant set out measures that will ensure the enhancement of the rural open farmland between the appeal site and the edge of Polesworth/Dordon, which is blue edged on the Red and Blue Line Plan (**CD-A3**). The submitted draft Planning Obligation, draft planning conditions and landscape proposals set out how the land will be subject to landscape and habitat improvements through the provision of reinforced and new

planting which will improve the landscape and visual appearance of the land. The proposals will then improve the foot and cycle path network across the site to improve the ability for its use and enjoyment by the local community. This, with its continued agricultural use will improve appreciation and access to the rural landscape.

10.2.35. Furthermore, the draft Planning Obligation sets out a clear obligation the land, which lies wholly in the applicant's control, will be protected from development in perpetuity and remain in agricultural use as pasture. This will ensure that the improved land will continue in perpetuity to contribute to the rural character of the borough and reinforce that character when entering the borough. It thereby accords with the Local Plan's Spatial Vision.

10.3 POLICY INTERPRETATION

10.3.1. Policy LP4 is a strategic policy.

10.3.2. It clearly allows development within the Strategic Gap to be acceptable where it does not significantly adversely affect the distinctive, separate characters of the settlements of Tamworth and Polesworth with Dordon, stating as follows:

"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."

10.3.3. The supporting text which accompanies the policy states that:

"The purpose of policy LP4 is to retain and respect the separate identities and characters of the settlements of Tamworth and Polesworth with Dordon to avoid their coalescence. The Strategic Gap seeks to retain and maintain the sense of space, place and separation between these settlements so that when travelling through the strategic gap (by all modes of transport), a traveller should have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering the second settlement"

10.3.4. Viewing the policy and supporting text in its entirety, it is clear that the policy is a spatial planning policy, with the purpose to "*maintain the separate identity of Tamworth and Polesworth with Dordon*". The strategic gap is identified for the sole policy purpose "*to prevent their coalescence*". The gap is not identified for any other purpose, e.g. landscape quality, environmental quality or amenity.

- 10.3.5. Further, the policy clearly envisages development taking place in the gap. It clearly states that *“Development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon”*. (my emphasis) The bar is set high in referring to the impact on the distinctive separate characters needing to be significantly adverse for development to breach the policy. Plainly, development proposals that do not have a significant adverse impact are not in conflict with policy and therefore appropriate.
- 10.3.6. In terms of assessing the impact, policy is clear that *“consideration will be given to any effects in terms of the physical and visual separation between those settlements”*. By expressing that consideration will be given to any effects in terms of visual and physical separation, the policy is not stipulating that they are the only factors, rather they are considerations that should be taken account of when assessing impact. There may be other considerations also, and as set out earlier, Policy LP6 and significant weight in decision making of meeting strategic employment need is also another important consideration.
- 10.3.7. Indeed, the reasoned justification adds further clarity in how to apply the policy. The consideration is the gap *“seeks to retain the sense of space, place and separation between these settlements so that when travelling through the strategic gap (by all modes of transport), a traveller should have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering the second settlement”*. This clarifies that the policy focus is on maintaining the separate identities and distinctive characters of the settlements, with the gap to allow the experience of leaving one settlement before arriving at another. It is not only the physical and visual separation of settlements but also the experience of the journey between settlements, the sense of leaving one settlement, travelling through a gap before entering the next settlement. An approach which aligns with “the Eastleigh Criteria” (CD-G5).

OTHER RELEVANT APPEAL DECISIONS

- 10.3.8. In addition to the two aforementioned appeal decisions relating to proposals within North Warwickshire Borough’s Strategic Gap, there are relevant appeal decisions for schemes outside of the Borough that relate to major development proposals at sites in areas designated as Strategic Gap or Green Gap, whereby Inspectors supported development within such gaps, as summarised below:
- Land to the West of Clyst Road, Topsham – Appeal Ref: APP/Y1110/W/22/3296946 (CD-K15) – Appeal allowed;
 - Land north of Moorfields, Willaston, Cheshire – Appeal Ref: APP/R0660/A/14/2211721 (CD-K16) – Appeal allowed; and

- Land off Shaw Drive and Glebe Road, Grimsby – Appeal Ref: APP/B2002/W/14/3001106 (**CD-K17**) – Appeal allowed.

10.3.9. Consistent themes amongst these appeals are, in summary, that the Inspectors permitted major development proposals that reduced the size and extent of the designated gaps but were still considered to not adversely affect the function of the gaps or cause coalescence despite the gap being reduced and/or the benefits of the development proposals were deemed to outweigh any adverse impacts on the gap.

10.4 ACCORDANCE WITH POLICY LP4

- 10.4.1. In assessing the proposal against Policy LP4, from a planning perspective, we must first establish what are the separate identities and characters of Tamworth and Polesworth with Dordon.
- 10.4.2. The Plan Policy LP4 confirms that Polesworth with Dordon is a Market Town. At Chapter 7 Spatial Strategy confirms it is a Category 1 Market Town, the largest settlements in the hierarchy.
- 10.4.3. In the Taylor Wimpey appeal, Ref: APP/R3705/W/18/3196890 (**CD-K1**) the Inspector confirmed that *“Polesworth has the character of a traditional small market town, defined by its historic core, while Dordon’s growth has arisen from housing to serve former mining activity”*.
- 10.4.4. In the St Modwen appeal, Ref: APP/R3705/W/15/3136495 (**CD-K2**), in allowing the appeal, the Inspector noted at paragraph 16 that *“Dordon is a small town characterised by a mix of predominantly terraced and semi-detached housing focused to the north of the A5”*.
- 10.4.5. Plainly, a larger commercial development at J10 will be seen as having a distinctly different identity to the character of Polesworth with Dordon. This distinct character will be accentuated by the intervening open farmland that will remain between the proposed development and Polesworth with Dordon.
- 10.4.6. Tamworth is a much larger urban area. In the Taylor Wimpey appeal, Ref: APP/R3705/W/18/3196890 (**CD-K1**), the Inspector confirmed that *“Tamworth is a much larger place, whose planned employment and residential expansion has given it almost a ‘new town’ character”*. The Inspector also stated at paragraph 17 that: *“Further development at the edge of Tamworth could be planned as an integral expansion of the town, without seriously affecting its established identity”*. The appeal site adjoins the Tamworth boundary and whilst it is separated by the M42, the commercial and industrial uses at the edge of Tamworth are very much in character terms in keeping with the commercial development proposed.
- 10.4.7. The settlements of Tamworth and Polesworth with Dordon are thus distinctive settlements with different characters, and will remain as such. A strategic employment scheme, as proposed at J10,



will reflect the character of Tamworth and the built commercial development around J10 rather than the character of Polesworth with Dordon. It would be perceived as being separated from the latter.

- 10.4.8. Any future encroachment into the Strategic Gap will be mitigated by virtue of the fact that the land between the appeal site and Polesworth with Dordon is in the Appellant's ownership, and they propose it be secured as species rich grassland (i.e. a wildflower meadow) in perpetuity through a S106 agreement. This and the extensive landscape and habitat improvements referred to above, will reinforce the function of gap and its contribution of maintaining a sense of separation between settlements.
- 10.4.9. By securing in perpetuity the open agricultural land between the site and Polesworth/Dordon (via S106) not only will it ensure there is a meaningful gap between the settlements, it will also prevent their coalescence. A S106 obligation will provide a greater degree of protection than policy could ever provide.
- 10.4.10. A sense of separation would therefore remain whether travelling along the A5 or along PRow within the gap; travellers would have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement. Indeed, the proposed commercial development in land use terms reflects the character of the Tamworth (to which the site adjoins), whereas once you have travelled across the gap to Dordon/Polesworth you reach a residential settlement (as you do with Birchmoor), clearly a settlement with a different and separate character. The gap at almost 1km as you travel along the A5 more than allows the separation and different characters to be appreciated and understood.
- 10.4.11. The gap's agricultural use and character will be reinforced through extensive landscaping proposals which would reinforce historic field patterns and help to provide physical and perceptual separation between the settlement edge and the commercial area to the south and west. There will be landscaping on the development site itself, but also in the land edged blue, which lies between the development site and Polesworth/Dordon. The new tree and hedgerow planting, native woodland, community orchard, and pastoral farmland, will reinforce the rural character, reinstate historic hedgerows, improve the experience of users of the footpaths, improve screening and provide biodiversity net gain benefits.
- 10.4.12. Taking all the above into account, when assessed against the Local Plan position, the development proposal accords with Policy LP4. The development, despite being large in scale, will not have a significant adverse impact on the separate identities or characters of the settlements. The visual and physical separation, whilst reduced to some extent, is still significant and so does not adversely affect the separate identities of the settlements or cause coalescence. The separate identities will

be reinforced through the large area of protected and improved agricultural land separating the site from Polesworth with Dordon.

10.4.13. In accordance with Policy LP4, the proposal also accords with policies DNP1 and DNP4 of the Neighbourhood Plan. With respect to DNP1, in particular the proposal “*maintains the sense of space, place and separation on land to the West of the Parish taking into account the amenity of Dordon Residents*”. The proposal retains significant areas of open space between the proposal and Dordon, which will be kept open in perpetuity. The retention in agricultural use will maintain the space and rural place characteristics of the land around Dordon, and indeed Polesworth, ensuring separation.

10.4.14. With respect to DNP4, Mr Smith in his proof, demonstrates that the proposal is appropriate to its landscape setting.

10.5 WEIGHT TO BE AFFORDED TO POLICY LP4 WITH RESPECT TO POLICY LP6

10.5.1. Policy LP4 is a strategic policy but it expressly does not provide any added weight to the protection of the Strategic Gap. It sets the purpose of the policy and provides the framework for assessing development proposals in the strategic gap against.

10.5.2. Policy LP6 however does expressly provide added weight. It states that: “Significant weight will be given in decision taking ...” to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations. (our emphasis).

10.5.3. Indeed, the Local Plan Inspector in his report finding the plan sound, states at paragraph 180 when discussing Main Modification MM40 which introduced the now LP6 that “*There was extensive discussion of potential variants to MM40 during the examination hearings. In my view MM40 strikes an appropriate balance between according weight to provision of employment growth whilst not undermining the value accorded to a plan-led system in the NPPF2012. It 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)*”.

10.5.4. As the Inspector has stated that Policy LP6 should not ‘automatically take precedence’ over other policies, such as Strategic Gap, it clearly shows that the policy was designed that accordance with it could take precedence over other policy objectives, just not automatically. If the policy was read as



equal to other strategic policies, then it would not serve its purpose and be at odds with why the plan was found sound in this regard (it being the only policy that deals with strategic employment land or logistics). The policy provides significant weight to supporting employment growth and productivity. It does so particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A of the WMSESS which cannot be met via forecast supply or allocations.

- 10.5.5. In the interplay between Policy LP4 and LP6, in the context of the proposals being compliant with Policy LP4, the significant weight afforded by Policy LP6 tips the balance of plan support firmly in favour of development.

11 ACCORDANCE WITH OTHER STRATEGIC POLICIES IN THE DEVELOPMENT PLAN

11.1 OVERVIEW

11.1.1. My proof has thus far demonstrated that **the appeal proposal accords with Policy LP6** (Chapter 8), **Policy LP34** (Chapter 9) and **Policy LP4** (Chapter 10), which I consider to be the key strategic policies relevant to the appeal proposal.

11.1.2. The Appellant’s case is that **the appeal proposal both in need and locational terms also fully accords with other strategic policies in the Local Plan and strategic policies contained in the DNP**, as summarised below.

11.2 NWBC LOCAL PLAN

POLICY LP1 (SUSTAINABLE DEVELOPMENT)

11.2.1. **Table 11-1** below summarises how the appeal proposal accords with all relevant Policy LP1 ‘Quality of Development / Place’ criteria and therefore constitutes sustainable development in the context of the Local Plan. To avoid repetition with analysis provided elsewhere in this proof and the Core Documents, the table below signposts where more detailed justification is contained in the Core Documents.

Table 11-1: Summary of accordance with Policy LP1 criteria

Policy LP1 Criteria	Accordance of the Appeal Proposal
Be supported by the required infrastructure	<p>The proof of Dr Bunn clearly demonstrates that the required highways infrastructure to support the proposal can be delivered. The proposed active travel infrastructure improvements will further enhance the accessibility of the site.</p> <p>In addition to the highway and active travel infrastructure proposals, the Design Guide (CD-B35) that, by virtue of the SoCG with NWBC, would be secured by planning condition, includes Design Parameters to ensure that the development embeds sufficient infrastructure to provide for future occupiers of the site, including utilities (water, electric, phoneline and broadband) over-provision to all buildings and digital infrastructure.</p> <p>National Grid has confirmed there is sufficient power supply from nearby Switchroom(s) to serve the site with limited upgrades required. Power is both ‘readily available and viable’ therefore.</p>
Be consistent with the approach to place making set out through development management policies	This is demonstrated by the accordance with all other Policy LP1 criteria.

<p>Integrate appropriately with the natural and historic environment, protecting and enhancing rights of way network where appropriate</p>	<p>The acceptability of the proposal its integration with the natural and historic environment is demonstrated in the following documents, as follows:</p> <ul style="list-style-type: none"> • Landscape/visual impact – refer to the proof of Mr Smith; • Nature conservation and biodiversity (ES Main Report Chapter 11 and ES Addendum) (CD-B1) and associated appendices (CD-A9.7), and the ES Addendum (CD-D14); and • Cultural heritage and archaeology (ES Main Report Chapter 14) (CD-B1) and associated appendices (CD-A9.10) and figures (CD-A10.5). <p>Furthermore, the provision of over 8.5km of new and enhanced public footpaths, bridleways and footway/cycleway routes will further assist in the integration of the development with the surrounding area and lead to significant enhancements to the rights of way network.</p>
<p>Demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area</p>	<p>The Design Guide (CD-B35) provides an overarching design framework and Development Parameters that future development must adhere to. This would ensure that any future development is brought forward in a cohesive manner that respects the locational context and ensures that high quality, highly sustainable and appropriately designed development comes forward at the site.</p>
<p>Deter crime</p>	<p>The Design Guide (CD-B35) sets out a range of design parameters that future development would have to adhere to in order to ensure that the proposed development does not lead to an increase in crime impact or be detrimental to safety of future site users and residents nearby.</p> <p>Warwickshire Police (CD-B54) confirmed its support for the proposals and commended the design measures incorporated into the Design Guide (CD-B35) in order to mitigate potential crime and safety issues.</p> <p>Warwickshire Police (CD-B54) and the National Vehicle Crime Intelligence Service (NaVCIS) (CD-B50) also noted in their consultation responses that the proposed secured overnight lorry parking facility would in itself contribute positively to crime and anti-social behaviour in the area, which is considered to be a benefit with significant weight.</p>
<p>Sustain, conserve and enhance the historic environment</p>	<p>This is demonstrated in ES Main Report (CD-B1) Chapter 14 (Cultural Heritage and Archaeology) and associated appendices (CD-A9.10) and figures (CD-A10.5).</p>
<p>Provide, conserve and enhance biodiversity</p>	<p>This is demonstrated in ES Main Report Chapter 11 (Nature Conservation and Biodiversity) (CD-B1), associated appendices (CD-A9.7), the ES Addendum (CD-D14) and the letter of Dr Lee (Appendix 5.3 of this proof).</p>
<p>Create linkages between green spaces, wildlife sites and corridors.</p>	<p>The network of new and improved Public Footpaths, footpaths and cycleways crossing the site and broader area will provide improved access and linkages to/between green spaces and to nature, which in turn will create local community health benefits (both physical and mental health).</p>
<p>Development should protect the existing rights of way network and where possible contribute to its expansion and management</p>	<p>As already stated, the provision of over 8.5km of new and enhanced public footpaths, bridleways and footway/cycleway routes will further assist in the integration of the development with the surrounding area and lead to significant enhancements to the rights of way network.</p>

- 11.2.2. I now address the 'Implementation and Infrastructure' element of Policy LP1, which states that:
“where development is proposed in excess of plan requirements and would assist in the provision of or enabling infrastructure, particularly that related to facilitating development in the long term...that will carry weight in favour of granting permission”.
- 11.2.3. The LPA's Rule 6 Statement (**CD-D9**) at paragraph 5.19 that *“the Council will describe the significance of the A5 in terms of the delivery of strategic housing and employment allocations set out in the Local Plan.”* It is assumed that the LPA has concerns regarding the additional traffic generated by the appeal proposal on the A5 could potentially impede the delivery of major allocations in the Local Plan along the A5 corridor (which, for the avoidance of doubt are Allocations H1 – 620 dwellings; H2 – 1282 dwellings, H4 – minimum 2,000 dwellings; and H5 – 1,270 dwellings) – some 5,172 of the total 9,598 or some 53% of the total dwellings identified in the Local Plan (Policy LP5 Amount of Development).
- 11.2.4. As stated elsewhere in my proof, paragraph 289 of the Inspector's Report on the adopted Local Plan recognises that *“A plan must represent a deliverable strategy. As submitted, delivery of a significant element of the development proposed via the Plan, is reliant on upgrades to the A5 (around which allocations are primarily focussed)”.*
- 11.2.5. The delivery of the majority of the Local Plan allocations is predicated on the A5 improvements identified in the NWBC's response to the Inspector at the Local Plan Examination (**CD-F19**) being implemented by 2028 – the A5 improvements are identified as being “critical” (by 2028) in terms of their importance to the Local Plan Spatial Strategy and the reason given is “to facilitate development”. The delivery of these critically important infrastructure improvements is therefore vital to the soundness of the Local Plan.
- 11.2.6. NWBC has established a stepped trajectory for housing delivery, with it being limited to 265 dwellings per year, and a maximum 800 dwellings until completion of the A5 Dordon – Atherstone scheme. Following its completion which is indicated as being by 2028, the rate of housing delivery can increase to 775 dwellings per year.
- 11.2.7. However, as detailed in the proof of Dr Bunn, due to A5 scheme costs exceeding the HIF Grant and the postponement of RIS3 schemes to RIS4 (2030 to 2035) there is now considerable uncertainty as to the delivery of the scheme to the Local Plan timetable, or if at all – and certainly not by the 2028 Local Plan target. As such, the infrastructure required to deliver a number of Local Plan allocations along or near to the A5 Corridor (which the Inspector acknowledges as the location in which allocations are primarily focused) is highly likely to not be delivered in time and, as a consequence,

significant Local Plan allocations will be unable to be delivered in accordance with the Local Plan housing trajectory. Therefore, the soundness of the Local Plan is brought into serious doubt.

- 11.2.8. On the contrary, the **proof of Dr Bunn** demonstrates that the appeal proposal can be delivered **alongside** the Local Plan and its proposed highway improvement schemes. If these don't come forward then the Local Plan faces significant restraint at M42 J10. **The appeal proposal can provide a notable infrastructure boost** – up to 80% of the Local Plan could be delivered at M42 M42 J10 from a baseline of 15%. At Dordon Roundabout, the Local Plan is currently constrained, and the technical assessment work evidenced by Dr Bunn shows that up to 30% of the Local Plan traffic can be delivered prior to the need for any improvements. It is indicated in the NWBC Planning & Development Board Report (**CD-E59**) that the appeal site is expected to contribute to the delivery of the A5 improvement scheme and, if this scheme remains uncertain then that contribution could be the provision of the traffic signals at Dordon Roundabout.
- 11.2.9. As demonstrated throughout this and other proofs, the appeal proposal constitutes sustainable development. Crucially, as evidenced by Dr Bunn, **the appeal proposal would act as Local Plan enabler rather than having an adverse effect on its delivery**. Policy LP1 is clear that weight in favour will be given to development to development that would assist in the provision of enabling infrastructure, particularly that which would help facilitate development in the long term, which I consider Local Plan allocations to constitute.
- 11.2.10. There is also interplay here with other policies in the Local Plan. Without this necessary enabling infrastructure, and in absence of funding from Central Government until 2030 through RIS4, if at all, the burden of infrastructure provision might otherwise fall on the Allocations themselves. Clearly, this was not envisaged at the time the Local Plan was adopted and the policies have not been drafted to account for this shortfall. For example, Policy LP9 requires at least 30% of housing provision on all major developments to be affordable, increasing to 40% for “*Greenfield (previously agricultural use) sites*”. It is notable in this context that the major development sites along the A5, Allocations H1, H2, H4 and H5 are predominantly greenfield. With the additional burden of infrastructure costs, delivery of necessary affordable housing provision is questionable, as are the numerous sustainability measures introduced by other policies in the plan.
- 11.2.11. The appeal proposal therefore fully accords with Policy LP1 and benefits from the additional weight afforded to enabling development.

POLICY LP2 (SETTLEMENT HIERARCHY)

- 11.2.12. Policy LP2 states that whilst development outside or not adjacent to defined settlement boundaries will not generally be acceptable, it does accept that there “*may be some instances where*

development may be appropriately located” and that “such development will be considered on its merits and with regard to other policies in this plan”.

11.2.13. Regarding the employment element of the appeal proposal, given the clear locational requirements of Policy LP6, development proposals that meet the Policy LP6 criteria such as the appeal proposal (which I have demonstrated in detail in Chapter 8) must surely therefore be one such instance where development may be appropriately located outside the settlement boundary, especially given the significant weight to be afforded to Policy LP6.

11.2.14. Regarding the overnight lorry parking element of the appeal proposal, given the need to locate such facilities as close to the Strategic Road Network as possible and to have a reasonable separation from residential areas to ensure that such a land use would not give rise to any adverse amenity impacts, the appeal site is considered to be an appropriate location for such development and is therefore also appropriate development outside the settlement boundary.

11.2.15. Noting that Policy LP2 requires development that might be appropriately located outside the settlement boundaries to be considered on its merits and with regard to other policies in the Local Plan (which are addressed and compliance is demonstrated elsewhere in this proof), from a purely locational and need perspective, the appeal proposal accords with Policy LP2.

POLICY LP5 (AMOUNT OF DEVELOPMENT)

11.2.16. As evidenced in detail in Chapter 8:

- The appeal proposal comprises the provision of up to 100,000sqm of employment floorspace.
- Policy LP5 provides for a minimum 100 hectares of employment land between 2011 and 2033, implying that other sites can come forward outside of identified site allocations and accord with the policy.
- The appeal proposal also accords with the requirements of Policy LP6.

11.2.17. The appeal proposal therefore plainly accords with Policy LP5.

POLICY LP11 (ECONOMIC REGENERATION)

11.2.18. Policy LP11 supports the delivery of employment generating uses where they reflect the need to broaden the employment base, improve employment choice and opportunities for local people. The proof of Professor Coleman and Mr Nicol assesses these points in detail, however, at a high level:

- The proposed development comprises up to 100,000 sqm (1,076,391sqft) of mixed Class B2, Class B8 and Class E(g)(iii) development, including up to a maximum of 10% Class B2 / Class E(g)(iii) development.

- This significant quantum of flexible employment floorspace could come forward in a range of formats / unit sizes and includes provision of smaller units to accommodate Small and Medium Enterprises (SMEs) in a highly sustainable and strategic location that accords with Policy LP6.
- Provision of these SME units, which would be facilitated by the overarching strategic-scale development, responds directly to the need for smaller ‘starter’ / ‘incubator’ units targeted at local businesses, as identified in the Coventry & Warwickshire Sub-Regional Employment Market Signals Study 2019. No minimum / maximum unit sizes have been proposed for this element of the scheme in order to retain flexibility to meet occupier needs.
- This flexibility of employment floorspace and the potential for a variety of unit sizes to come forward via subsequent reserved matters applications would therefore support a range of employment types and opportunities for local people and broaden the employment base in a highly sustainable location.

11.2.19. Policy LP11 also states that proposals for new development outside of settlement boundaries will be considered against Policy LP1 and Policy LP2 and should seek to retain the rural character, appearance and openness of the countryside (including in respect of Policy LP3, Green Belt). The analysis in Chapter 8 in respect of Strategic Gap policy (Policy LP4) and the proof of Mr Smith (both in terms of Strategic Gap policy and landscape/visual impact) suitably demonstrate that the appeal proposal would retain the rural character, appearance and openness of the countryside.

11.2.20. Furthermore, delivering the identified critical need for employment land at the appeal site, which is not a Green Belt site, would clearly support NWBC in protecting the Green Belt from inappropriate development as required by Policy LP3 as it would enable a significant proportion of the identified critical employment need in the Borough to be delivered in a highly sustainable and non-Green Belt location.

11.2.21. The appeal proposal therefore demonstrably accords with Policy LP11.

POLICY LP12 (EMPLOYMENT AREAS)

11.2.22. Policy LP12 lists out a number of existing industrial estates that, together with the sites allocated in the Local Plan, “*support the functioning of the Borough and in particular the Market Towns and Local Service Centres*”. The policy also recognises that “*the rail freight terminals at Birch Coppice and Hams Hall are of strategic significance” (my emphasis)*

11.2.23. As demonstrated in the proof of Mr Hatfield, the appeal site would be classed as ‘rail-served’ by virtue of its proximity to Birmingham Intermodal Freight Terminal located at Birch Coppice Business Park whereby occupiers will be able to operate on the same basis as those currently located within

the business park, thereby generating direct financial benefits to shippers and occupiers, and wider societal benefits that are generated through modal shift to rail.

11.2.24. As such, the appeal proposal, by virtue of it being rail-served, is aligned to the requirement of Policy LP12 which encourages the use of the rail freight terminal at Birch Coppice (which NWBC consider to be of strategic importance), and therefore the appeal proposal would help to support the functioning of the Borough.

11.3 DORDON NEIGHBOURHOOD PLAN

POLICY DNP1 (SUSTAINABLE DEVELOPMENT)

11.3.1. **Table 11-2** below summarises how the appeal proposal accords with all relevant Policy DNP1 criteria and therefore constitutes sustainable development in the context of Policy DNP1.

11.3.2. As with **Table 11-1** above, to avoid repetition, signposts where more detailed justification is contained in the Core Documents, noting that policy compliance with the DNP is comprehensively set out in the Planning Statement Addendum (DNP) (**CD-B36**).

Table 11-2: Summary of accordance with Policy DNP1 criteria

Policy DNP1 Criteria	Accordance of the Appeal Proposal
a) [Development proposals] are of a density, layout and design that integrates and is compatible with the character, appearance and amenity of that part of the Parish in which it is located (especially where it is adjoining the existing built up area),	Refer to Section 2.10 (appraisal of Policy DNP8) of the Planning Statement Addendum (DNP) (CD-B36)
b) maintains the sense of space, place and separation on land to the West of the Parish taking into account the amenity of Dordon Residents,	Refer to Chapter 10 of this proof and the proof of Mr Smith
c) respects the identified Local Wildlife Sites and areas designated for their nature conservation or priority habitat (as identified on Map 2 and Map 3)	Refer to Section 2.4 (appraisal of Policy DNP2) of the Planning Statement Addendum (DNP) (CD-B36) and Table 2.1 of the ES Addendum (CD-D14)
d) enhances the biodiversity of the site in accordance with biodiversity net gain requirements as set out in national legislation,	Refer to Section 2.4 (appraisal of Policy DNP2) of the Planning Statement Addendum (DNP) (CD-B36) and Table 2.1 of the ES Addendum (CD-D14)
e) incorporates into the scheme any natural or built features on the site that have heritage or nature conservation value where practicable,	Refer to Section 2.8 (appraisal of Policy DNP6) of the Planning Statement Addendum (DNP) (CD-B36)
f) is well located in relation to public transport and local services,	Refer to Section 2.7 (appraisal of Policy DNP5) of the Planning Statement Addendum (DNP) (CD-B36) and the proof of Dr Bunn

g) promotes active travel (cycling and walking)	Refer to Section 2.7 (appraisal of Policy DNP5) of the Planning Statement Addendum (DNP) (CD-B36) and the proof of Dr Bunn
h) ensures the risk of flooding is not increased elsewhere and, where applicable, includes sustainable drainage systems,	Refer to Section 2.9 (appraisal of Policy DNP7) of the Planning Statement Addendum (DNP) (CD-B36)
i) maximises water efficiency,	Refer to Section 2.12 (appraisal of Policy DNP10) of the Planning Statement Addendum (DNP) (CD-B36)
j) uses sustainable construction methods and materials,	Refer to Section 2.12 (appraisal of Policy DNP10) of the Planning Statement Addendum (DNP) (CD-B36)
k) locates development close to bus routes, local services and facilities where possible.'	Refer to Section 2.7 (appraisal of Policy DNP5) of the Planning Statement Addendum (DNP) (CD-B36) and the proof of Dr Bunn

POLICY DNP12 (SUPPORTING THE LOCAL ECONOMY)

11.3.3. Policy DNP12 sets out a range of criteria that, where relevant, development proposals should accord with to support the local economy. Policy DNP12 criteria 1, 2 and 4 are relevant to the appeal proposal. Accordance with these criteria and therefore Policy DNP12 is demonstrated in **Table 11-3** below:

Table 11-3: Appraisal of Policy DNP12

Relevant Policy DNP12 Criteria	Accordance of the Appeal Proposal
<i>'1. Development proposals that enable the sustainable growth of businesses both through the conversion of existing buildings and well-designed new buildings will be supported where they are located in accordance with Borough policies.'</i>	<p>The proposed development comprises up to 100,000 sqm (1,076,391sqft) of mixed Class B2, Class B8 and Class E(g)(iii) development, including up to a maximum of 10% Class B2 / Class E(g)(iii) development.</p> <p>The provision of a significant quantum of flexible employment floorspace, that could come forward in a range of formats / unit sizes and includes provision of smaller units to accommodate Small and Medium Enterprises (SMEs) in a highly sustainable and strategic location that accords with the Borough policies (i.e. Policy LP6), will clearly enable the sustainable growth of businesses.</p> <p>Provision of these SME units, which would be facilitated by the overarching strategic-scale development, responds directly to the need for smaller 'starter' / 'incubator' units targeted at local businesses, as identified in the Coventry & Warwickshire Sub-Regional Employment Market Signals Study 2019. No minimum / maximum unit sizes have been proposed for this element of the scheme in order to retain flexibility to meet occupier needs. The Appellant set out at planning application stage that, if it were deemed necessary, maximum unit sizes could be conditioned (or applied through obligations in a S106 Agreement) to ensure that smaller / start-up floorspace is delivered.</p>

	<p>Furthermore, the Design Guide (CD-B35) submitted with the application (which as per the agreed SoCG with NWBC would be secured by planning condition) provides an overarching design framework and Development Parameters that future development must adhere to. This would ensure that any future development is brought forward in a cohesive manner that respects the locational context and ensures that high quality, highly sustainable and appropriately designed development comes forward at the site.</p>
<p><i>2. Business development will be supported where it is located in accordance with Local Plan Policy LP6 (Additional Employment Land):</i></p> <p><i>a) on brownfield sites, or</i></p> <p><i>b) on allocated employment sites, or</i></p> <p><i>c) where small scale employment uses already exist in a suitable location, or</i></p> <p><i>d) as part of mixed-use schemes, or</i></p> <p><i>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</i></p> <p><i>f) located in accordance with LP6.</i></p>	<p>Compliance with Policy DNP12, part 2 requires proposals to meet one of six criteria (a) to (f).</p> <p>The proposed development is located in accordance with Local Plan Policy LP6 and therefore clearly accords with Policy DNP12, part 2, criteria (f), thereby meeting one of the required criteria.</p> <p>As set out in detail in the Planning Statement, Policy LP6 states that significant weight will be given to commercial development, especially where there is an immediate need for employment land, or a certain type of employment land and the site lies within Area A of the WMSESS 2015 or successor study (Area 2 in WMSESS 2021). The appeal proposal demonstrates a compelling and immediate need case and the site is located within this area and identified in the WMSESS 2021 as the joint best performing site against a range of criteria and other sites across the West Midlands region. Therefore, the proposal fully accords with Policy LP6 and gains the significant weight in decision making that the policy provides.</p> <p>Compliance with Policy LP6 is also reliant on meeting three criteria, which the proposed development accords with:</p> <ul style="list-style-type: none"> • The site is located at the north-east quadrant of the Junction 10 of the M42 motorway and will be accessed off the A5 trunk road, both of which are key components of the Strategic Highways Network. • The site is highly accessible by a choice of modes of transport, many of which are sustainable alternatives to car, and the infrastructure improvements proposed as part of the appeal proposals will further enhance the accessibility of the site. • The development parameters have been carefully devised to ensure the proposed development, as demonstrated comprehensively in the ES, does not result in any adverse impacts on residential amenity for nearby residents and businesses. This position is confirmed by NWBC Environmental Health Officers who have raised no objection to the proposals subject to the application of mitigating conditions. <p>The proposed development therefore clearly accords with Policy DNP12, part 2.</p>
<p><i>4. All new development should be provided with appropriate street ducting to allow connection to any superfast broadband service which may be (or may become) available.</i></p>	<p>The Design Guide (CD-B35) submitted with the application includes the following Design Parameters to ensure that the development embeds sufficient infrastructure to allow connection to superfast broadband (and other telecommunications) services:</p> <ul style="list-style-type: none"> • Utilities (water, electric, phoneline and broadband) over-provision to all buildings. • Futureproofed internal data cable and electricity wiring ducting throughout all buildings.

	<ul style="list-style-type: none"> • Full fibre network connection provided from existing local infrastructure to allow all commercial owners/occupiers access to any fibre network company for telecoms and digital connectivity. • Digital infrastructure will enable future technologies such as 5G, cloud storage and Voice over Internet Protocol (VoIP) telephone services.
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11.3.9. Overall, the proposed development demonstrably accords with the relevant criteria listed in Policy DNP12 as it would clearly support the local economy through provision of opportunities for new and existing local businesses to expand, significant employment generation in the construction and operational phases as well as a range of other economic benefits.

11.3.10. By extension, the proposed development also accords with DNP Community Objective 10 (Local Businesses) which seeks the maximisation of local employment opportunities by supporting the establishment and/or expansion of businesses in the Parish where it is in accordance with Local Plan Policy LP6.

11.4 CONCLUSION ON ACCORDANCE WITH OTHER STRATEGIC POLICIES

11.4.1. I have therefore demonstrated that **the appeal proposals accord with all strategic planning policies in the Development Plan**. I will now move onto evidencing how the appeal proposal accords with technical planning policies in the Development Plan.

12 ACCORDANCE WITH TECHNICAL POLICIES IN THE DEVELOPMENT PLAN

12.1 OVERVIEW

12.1.1. My proof has so far demonstrated that:

- **The appeal proposals accord with Policy LP6** and in doing so the principle of employment development at the site established. Policy LP6 is of **significant weight**. As required by paragraph 7.55 (the reasoned justification of LP6), the proposals must also be assessed against the plan as a whole.
- **The appeal proposals accord with Policy LP34** which similarly establishes the principle of lorry parking provision at the site and, given the unequivocal need identified in the site area, is too considered to be of **significant weight**.
- **The appeal proposals accord with Policy LP4** as the proposals would allow the settlements of Tamworth (to which it aligns in land use) and Polesworth / Dordon to maintain their separate characters, would not see the settlements coalesce and the visual and physical separation, whilst reduced to some extent, is still significant and thus does not severely adversely affect the separate identities of the settlements either.
- Furthermore, **the appeal proposals accord with other strategic policies in the Development Plan**, namely Local Plan policies LP1, LP2, LP5, LP11 and LP12 and DNP policies DNP1 and DNP12.

12.1.2. I now deal with the technical policies within the Development Plan to demonstrate that the appeal proposals accord with the Development Plan as a whole.

12.2 STATUS OF TECHNICAL PLANNING CONSIDERATIONS

12.2.1. As demonstrated in the SoCG with NWBC (**CD-D13**), with the exception of Strategic Gap, landscape/visual impact and highways (which are addressed partly in this proof and in detail in the proofs of Mr Smith and Dr Bunn), all other technical and environmental planning matters are acceptable. Evidence to support this position is included within the SoCG in the form of formal responses from relevant statutory consultees raising no objections and/or confirming the proposal is acceptable subject to the imposition of planning conditions and/or obligations.

12.2.2. The one exception to this statement is the issue of agricultural land. Whilst this not raised as an issue during the application process nor listed as a putative reason for refusal or in NWBC's Statement of Case, the matter was raised by the joint Rule 6 Party and is considered a main issue



by the Inspector, therefore I will also demonstrate the acceptability of the proposed development from an agricultural land perspective in this chapter.

- 12.2.3. By virtue of the appeal proposal being deemed acceptable by statutory consultees and therefore in accordance with relevant Local Plan policies in respect of the technical and environmental matters set out in **Table 12-1**, the Appellant's position is that the appeal proposal also accords with relevant technical planning policies contained in the DNP.
- 12.2.4. NWBC already accepts this position and the robustness of the position in respect of all environmental and technical planning matters listed in **Table 12-1**, of which the robustness and validity of the EIA related environmental and technical planning assessment work undertaken is further endorsed in the letters provided by relevant consultants appended to this proof.



Table 12-1: Summary of statutory consultee responses to app ref: PAP/2021/0663

Technical / Environmental Matter	Relevant Development Plan Policies	Statutory Consultee	Consultation Response	Consultant Letter Re-affirming Validity of EIA conclusions
Amenity (Noise, Air Quality, Light)	LP29 DNP8	NWBC Environmental Health	No objection, subject to conditions (CD-E31)	Letter of Mr S Bennett, WSP (Air Quality) – Appendix 5.1 Letter of Mr R Brown, WSP (Acoustics) – Appendix 5.2
Amenity (Crime impact and safety)	LP29; LP34 DNP8	Warwickshire Police	No objection – supportive of design measures and overnight lorry parking (CD-E22)	N/A
Ground Conditions	LP29	NWBC Environmental Health Coal Authority Environment Agency	No objection, subject to conditions (CD-E31) No objection, subject to informative (CD-E6) No objection (CD-E5)	N/A
Biodiversity and Ecology	LP16; LP17; LP29 DNP2	WCC Ecology Natural England	No objection, subject to condition (CD-E42) No objection (CD-E15)	Letter of Dr C Lee, Aspect Ecology – Appendix 5.3
Flood Risk and Drainage	LP29; LP33 DNP7	WCC (LLFA) Severn Trent Water	No objection, subject to conditions (CD-E33) No objection, subject to informatives (CD-E16)	Letter of Mr J Williams, Burrows Graham – Appendix 5.4
Heritage and Archaeology	LP15; LP29 DNP6	WCC (Archaeology)	No objection, subject to condition (CD- E26)	Letter of Mr J Chandler, WSP (Archaeology) – Appendix 5.5 Letter of Mr N Corbett, WSP (Heritage) – Appendix 5.6



Technical / Environmental Matter	Relevant Development Plan Policies	Statutory Consultee	Consultation Response	Consultant Letter Re-affirming Validity of EIA conclusions
Public Rights of Way and Active Travel	LP23; LP27; LP29 DNP5	WCC (PRoW Team) Ramblers Association Active Travel England Cycling UK	No objection, subject to informative (CD-E37) No objection, supportive of active travel proposals (CD-E10) Application was outside of its remit (CD-E47) Supportive of active travel proposals (CD-E39)	N/A
Public Transport Infrastructure	LP23; LP29 DNP14	Stagecoach WCC Transport Operations	Supportive of public transport strategy and proposed bus service extension requiring subsidised bus services (CD-E55) Supportive of public transport strategy (CD-E56)	N/A
Critical Infrastructure	N/A	Cadent Gas HS2 British Pipeline Agency	No objection, informative (CD-E28) No objection (CD-E23) No objection (CD-E7)	N/A

- 12.2.6. In light of the agreed position set out in the SoCG with NWBC (**CD-D13**) summarised in **Table 12-1** above in respect of all technical planning matters, with the exception of matters pertaining to Strategic Gap, landscape/visual impact and highways impact, the absence of any statutory consultee objections or putative reasons for refusal relating to various other technical planning matters and the re-affirmation of the validity of the assessment work that underpinned the EIA demonstrated in the suite of consultant letters contained at **Appendix 5.1 – 5.6** and the agricultural evidence provided by Mr Kernon at **Appendix 6** of this proof, is considered sufficient and robust justification to address the varying technical concerns and issues raised in paragraphs 3.1 – 4.2 of the Joint Rule 6 Party Statement (**CD-D11**). As such, I do not consider it warranted to provide any further assessment or justification in this regard.
- 12.2.7. I now turn to addressing putative reason for refusal 2 (landscape and visual impact), putative reason for refusal 3 (highways impact) and the matter of agricultural land impact.

12.3 PUTATIVE REASON FOR REFUSAL 2 - LANDSCAPE AND VISUAL IMPACT

- 12.3.1. This section addresses main issue (ii) set out at paragraph 14 of the Inspector's CMC Summary Note: *"the effect of the proposed development on the character and appearance of the surrounding area"*.
- 12.3.2. This main issue stemmed in part from putative reason for refusal 2 in which NWBC allege that:
- 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.*
- 12.3.3. I defer any technical assessment pertaining to putative reason for refusal 2, landscape character and visual impact to the proof of Mr Smith. I address this putative reason for refusal from a planning policy perspective and in light of the conclusions reached in the proof of Mr Smith.
- 12.3.4. A topic specific Landscape Statement of Common Ground (LSoCG) has been agreed with NWBC that sets out areas of agreement and disagreement in terms of the methodology adopted in the assessment of landscape and visual impacts. As demonstrated in the LSoCG (**CD-D15**) NWBC appointed LUC to undertake a review of the application from a Strategic Gap, landscape and visual



impact perspective, providing several formal responses and attending a meeting with NWBC and the Appellant during the course of the determination period.

ANALYSIS OF LANDSCAPE AND VISUAL IMPACTS

- 12.3.5. The Appellant's case in respect of Strategic Gap policy (Policy LP4) has already been set out in Chapter 10 of this proof. This section concerns the Appellant's case in respect of landscape and visual impact in the context of the NPPF, Local Plan policies LP14 (Landscape) and LP17 (Green Infrastructure) and DNP Policy DNP4 (Protecting Landscape Character).
- 12.3.6. At a base level, the Appellant's case is that whilst the appeal proposal, which comprises built development on greenfield land, and will result in some localised landscape and visual harm, nonetheless, with the adoption of mitigation measures this harm will reduce over time as planting matures. Furthermore, there are public benefits arising from the proposal that would enhance the retained land and associated landscape character.
- 12.3.7. In terms of the existing landscape character, I defer to the proof of Mr Smith which assesses the relevant character assessments and a review of the baseline conditions at the site and the surrounding area (supported by photography) to demonstrate that there is a gradient of character across what is a very large site and land holding, with the appeal proposal being focused on an area of the site directly adjacent to the motorway junction that is strongly influenced by large-scale commercial built form with a diverse palette of colours and textures, and noise and lighting associated with the industrial uses and motorway.
- 12.3.8. Against this baseline and the landscape context within which the site sits, the proof of Mr Smith demonstrates that the potential landscape and visual effects, individually and cumulatively, of the appeal proposal would be localised, with significant effects by year 15 focused upon the appeal site itself and rights of way across the agricultural land to the east of the appeal site. By year 15, and thereafter, there would also be no significant visual effects for residential receptors at Birchmoor or Dordon, and no significant effects for vehicle users on the road network around the site.
- 12.3.9. The proof of Mr Smith also draws upon comparative landscape and visual impact assessments for alternative sites, relevant planning application and appeal decisions, as necessary in reaching its conclusions.

ASSESSMENT OF POLICY COMPLIANCE

LP14

- 12.3.10. The proof of Mr Smith concludes that, in the context of Policy LP14, the appeal site is located in an area partially characterised by "*large scale industrial buildings and busy roads ... bordered by the*

settlement edges of Tamworth, Dordon”, and consequently it is clear that the proposals would not introduce anomalous buildings into a highly sensitive landscape, focusing development upon junction 10 of the M42 where commercial development is already located on three of the four quadrants. Mr Smith states that it is for this reason that the long term effects of the proposals upon local landscape character would be minor; essentially the proposals would conserve the overall pattern and character of the landscape, whilst also providing local enhancements to the agricultural landscape between the appeal site and Polesworth with Dordon.

12.3.11. Policy LP14 also requires that development should retain existing trees and hedgerows and woodland. The hedgerows around the existing appeal site and in the Offsite Mitigation area are breached or often missing altogether. There are few hedgerow standards or other trees/woodlands. The appeal proposals would require the removal of a length of species-poor hedgerow at the site entrance, but would also introduce over 10 hectares of new woodland and over 2 kilometres of new native hedgerows with hedgerow standards, which would represent a significant enhancement to the local landscape.

12.3.12. Mr Smith concludes that the appeal proposal accords with Policy LP14.

LP30

12.3.13. The proof of Mr Smith concludes that, in respect of Policy LP30:

- The appeal proposals propose the placement of commercial development, of a similar scale and character to that already found around junction 10 and to the south of the A5, within a landscape character area characterised by industrial development, busy roads, movement and lighting.
- The proposals also make provision for the provision of new native woodland around the 32.36ha of the appeal site, as well as the enhancement of the 41.66ha of agricultural land to the east of the site with new hedgerow and woodland planting, and conversion of arable land to species-rich grassland (i.e. wildflower meadow / pasture).
- The enhancement of this area provides landscape and visual benefits, but also helps to reinforce the sense of separation between Dordon and Tamworth, an important element of the local settlement pattern.

12.3.14. As such, Mr Smith concludes that the appeal proposal accords with Policy LP30.

DNP4

12.3.15. With regard DNP Policy DNP4, as indicated above Policy DNP4 is clear that 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’*.

- 12.3.16. The site is clearly located in the Strategic Gap (Policy LP4 is therefore engaged). The site is also located in 'Area A', the 'M42 belt' identified in the West Midlands Strategic Employment Sites Study 2015 (CD-I1), where "*demand for large-scale industrial space in the West Midlands is most intense*"⁴. 'Area A' is expressly referenced in Policy LP6 and is also engaged.
- 12.3.17. Policy DNP4 is clear that strategic Local Plan Policies LP4 and LP6 take priority over the criteria contained within Policy DNP4.
- 12.3.18. Given the clear compliance with Local Plan Policies LP4 and LP6 (demonstrated elsewhere in this and other proofs), which take priority over Policy DNP4, there is arguably no resultant requirement to demonstrate compliance with Policy DNP4. However, for the avoidance of doubt compliance with the criteria of Policy DNP4 is demonstrated in the proof of Mr Smith.
- 12.3.19. For the reasons given in the proof of Mr Smith and by virtue of according with Policy DNP4, the proposed development is also aligned with Community Objective 7 (Village Identity), which states that '*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 the M42, in accordance with Local Plan policy LP4.*'

CONCLUSIONS ON LANDSCAPE AND VISUAL IMPACT

- 12.3.20. The proof of Mr Smith demonstrates that the appeal proposal accords with the landscape elements of Policy LP4, Policy LP14, LP30 and DNP4 and therefore the landscape elements of putative reasons for refusal 1 and 2 are robustly addressed, which I consider further in the overall planning balance.

12.4 PUTATIVE REASON FOR REFUSAL 3 - HIGHWAYS IMPACT

- 12.4.1. This section addresses main issue (iv) set out at paragraph 14 of the Inspector's CMC Summary Note: "*[the proposed development's] effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways*".
- 12.4.2. This main issue stemmed in part from putative reason for refusal 3 in which NWBC allege that:
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*

⁴ West Midlands Strategic Employment Sites Study, 2015, para. 4.71.

can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would result in a severe impact on the road network contrary to policies LP23, LP27 and LP29(6) of the North Warwickshire Local Plan 2021 and paragraph 115 of the National Planning Policy Framework 2023.

12.4.3. I defer any technical assessment pertaining to putative reason for refusal 3 and highways impact to the proof of Dr Bunn. I address this putative reason for refusal from a planning policy perspective and in light of the conclusions reached in the proof of Dr Bunn.

ASSESSMENT OF POLICY COMPLIANCE

12.4.4. At a base level, the onus is on the Appellant to demonstrate that the proposed development would not result in an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network after mitigation would not be severe (NPPF paragraph 115).

12.4.5. Putative reason for refusal 3 cites a failure to comply with Local Plan Policies LP23, LP27 and LP29(6), all of which are robustly addressed in the proof of Dr Bunn, as summarised below:

- **Policy LP23** requires applications to be supported by Transport Assessments and these should address impacts on both the local and strategic highway networks, should be scoped, should ensure that proposals provide appropriate infrastructure measures to mitigate the adverse impacts of development traffic and other environmental and safety impacts either individually or cumulatively. The assessment of the impacts of the Appeal site have been thoroughly and extensively scoped with NH, WCC and SCC, have been assessed using agreed Transyt, the model has been agreed with NH, and the impacts, including cumulative impacts with the Local Plan, have been agreed with NH and with SCC. Mitigation measures have been proposed which more than offsets the impact of the Appeal proposals and are agreed in principle with NH and with SCC. An independent GG104 Safety Risk Assessment has shown that safety risks associated with the proposed scheme are acceptable but is to be agreed with NH. A Stage 1 RSA is in progress.
- **Policy LP27** requires that all developments should consider what improvements can be made to encourage safe and fully accessible walking and cycling. The appeal site is in a sustainable location, and a range of walking and cycling improvements which have wider community benefits are proposed.
- **Policy LP29(6)** requires that safe and suitable access to the site is provided for all users. The proposed site access design has been agreed in principle with NH and it operates with acceptable levels of queues and delays. An independent GG104 Safety Risk Assessment has

found no unacceptable safety risks but is to be agreed with NH. A Stage 1 Road Safety Audit is in progress.

- 12.4.6. Additionally, the proof of Dr Bunn demonstrates that the highways mitigation and substantial connectivity and active travel proposals that would be delivered by the appeal proposal would provide significant connectivity benefits to not only future users of the development but also the wider public and in doing so encourage the use of non-car based modes of transport to promote and enhance healthy and active lifestyles. I have already addressed the varying weights to be applied to these benefits in Chapter 6 and will consider the varying weights ascribed to them in the overall planning balance.

IMPACT ON LOCAL PLAN INFRASTRUCTURE AND DELIVERY

- 12.4.7. As I have already indicated in Chapter 11, the proof of Dr Bunn demonstrates that the appeal proposal can be delivered alongside the Local Plan and its proposed highway improvement schemes. If these don't come forward then the Local Plan faces significant restraint at M42 J10. The appeal proposal can provide a notable infrastructure boost – up to 80% of the Local Plan could be delivered at M42 J10 against a baseline of 15%. At Dordon Roundabout, the Local Plan is currently constrained, and the technical assessment work evidenced by Dr Bunn shows that up to 30% of the Local Plan traffic can be delivered prior to the need for any improvements. It is indicated in the NWBC Planning & Development Board Report (**CD-E59**) that the appeal site is expected to contribute to the delivery of the A5 improvement scheme and, if this scheme remains uncertain then that contribution could be made to the provision of the traffic signals at Dordon Roundabout.
- 12.4.8. As demonstrated throughout this and other proofs, the appeal proposal constitutes sustainable development. Crucially, as evidenced by Dr Bunn, the appeal proposal would act as a Local Plan enabler rather than having an adverse effect on its delivery. Policy LP1 is clear that weight in favour will be given to development to development that would assist in the provision of enabling infrastructure, particularly that which would help facilitate development in the long term, which I consider Local Plan allocations to constitute.

CONCLUSION ON HIGHWAYS IMPACT

- 12.4.9. The proof of Dr Bunn concludes that the appeal proposal accords with Local Plan Policy LP23, Policy LP27, Policy LP29 and, crucially, would not result in an unacceptable impact on highway safety or would the residual cumulative impacts on the road network be severe and therefore meets the test set out at paragraph 115 of the NPPF. In doing so, the appeal proposal robustly addresses putative reason for refusal 3.

12.4.10. I consider the policy compliance demonstrated above and in the technical evidence of Dr Bunn, the fact that the acceptability of the scheme from a highways perspective also complies with Policy LP6 criteria (iii), and the significant connectivity benefits, further in the overall planning balance.

12.5 ASSESSMENT OF AGRICULTURAL LAND IMPACT

12.5.1. The issue of agricultural land was not raised during the application process nor listed as a putative reason for refusal or in NWBC's Statement of Case. NWBC has not raised the agricultural land quality or related issues as a matter of concern, and it is agreed in the SoCG (**CD-D13**) that NWBC does not consider it a reason to resist the proposed development.

12.5.2. The matter was raised by the joint Rule 6 Party in their Rule 6 Statement (**CD-D11**) and is considered a main issue by the Inspector, as set out at paragraph 14(iii) of the Inspector's Summary Note: *"[the proposed development's] effect on the best and most versatile agricultural land"*.

12.5.3. In response, a statement providing agricultural land evidence has been prepared by Tony Kernon of Kernon Countryside Consulting and forms an appendix to this proof (**Appendix 6**). The statement updates and expands the agricultural land assessment work undertaken as part of the ES at application stage to:

- i) Summarise the factual information regarding the agricultural land classification of the site;
- ii) Provide an updated planning policy context upon which impacts should be assessed;
- iii) Assess the effects of the proposed development and the harm, or otherwise, to agricultural land resources; and
- iv) Consider other potential areas and other decisions taken by the Local Planning Authority.

12.5.4. In doing so, the statement provides a factual basis for an assessment of the effects in the planning balance.

12.5.5. In undertaking the above, the statement concludes the following:

- The agricultural land quality of the site, as set out in the ES, is mostly Grade 2 with small areas of Subgrade 3b and non-agricultural land.
- Land in Grades 1, 2 and 3a falls within the "best and most versatile" agricultural land quality (BMV) and this accounts for approximately 42% of agricultural land in England. As such, it is not rare. Indeed, an estimated 3.7 million hectares of BMV is in active agricultural use.
- NPPF does not place a bar on the use of agricultural land, rather paragraph 180 requires that the economic and other benefits of BMV land are 'recognised' in the planning balance.

- Paragraph 181 is a plan-making policy, not a decision-making policy. Footnote 62 is derived from the paragraph, and therefore applies to plan making. Footnote 62, as expanded in December 2023, states that: *“Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding what sites are most appropriate for development”*. However, both paragraph 181 and footnote 62 are not relevant to the determination of the appeal.
- The Local Plan (September 2021) does not contain a policy specific to agricultural land. Policy LP4 ‘Strategic Gap’, referred to by the Rule 6 Party in their Statement of Case paragraph 3.4, is not a policy for the protection of agricultural land.
- The economic benefits of 29 ha of BMV land, compared to poorer quality land were the development instead to be located on such land, are limited, at under £8,000 per annum.
- The food production benefits of 29 ha of BMV land compared to poorer quality land, were the development instead to be located on such land, are limited, at 40 tonnes of wheat.
- The UK produces about 22 million tonnes of cereals, including 14 million tonnes of wheat, per annum so the other benefits are limited.
- The requirement to consider whether poorer quality land is available in preference relates only to the plan making policy paragraph 181 of the NPPF. Notwithstanding that there is no requirement to consider the availability of poorer quality land as part of this appeal, analysis of land around junctions 9, 10 and 11 has identified that almost all of the land is known to be, or is predicted to be, of BMV quality. There are, therefore, no obvious areas of poorer quality land available.

12.5.6. In addition to the conclusions reached in the evidence of Mr Kernon, I would also make the following additional planning observations:

- The land around Junctions 9, 10 and 11 were assessed in the evidence of Mr Kernon as they were the most comparable areas that lie within the M42 Corridor (which as set out in Chapter 8 is a key area of identified employment need) and could provide direct access to the Strategic Road Network.
- The vast majority of the land around Junction 9 of the M42 is Green Belt. Unlike agricultural land policy, Green Belt policy is a significant bar to development. As such, even if the land in the Junction 9 area were of a lower quality than the appeal site (which in any case it is not predicted to be) it would not be sequentially preferable to the appeal site which is located outside the

Green Belt. Sites in the immediate vicinity of Junction 9 would therefore be discounted from any planning sequential assessment, if one were to be conducted.

- Junction 11 is also predicted to be of BMV quality and is therefore not an area of poorer quality land. Furthermore, the land surrounding Junction 11 does not have the benefit of being located adjacent to the A5 in addition to a motorway junction or would it be 'rail served' as is the case with the appeal site at Junction 10.
- Conversely, the appeal site has immediate connectivity to both the M42 and A5, it would be classed as 'rail served' by virtue of its proximity to the Birmingham Intermodal Freight Terminal, it is best placed to address the identified need for lorry parking in a known hotspot, it is free of significant ecological constraints and comprises a large flat land parcel suitable for accommodating potentially up to 1sqft of commercial development.
- For the reasons set out in detail in Chapter 8 of my proof, the locational and need case for the appeal proposal is compelling and robust and, given the conclusions reached in the evidence of Mr Kernon, I consider the loss of BMV at the site to be justified.

12.5.7. I consider the position reached in respect of agricultural land in the overall planning balance.

12.6 ACCORDANCE WITH TECHNICAL POLICIES IN THE DEVELOPMENT PLAN

12.6.1. I have demonstrated in this chapter that the appeal proposals accord with the vast majority of relevant technical planning policies in the Development Plan and have identified where any limited degree of conflict with policy exists, which I will consider further in the overall planning balance.

13 PLANNING OBLIGATIONS AND CONDITIONS

- 13.1.1. Main issue (viii) set out at paragraph 14 of the Inspector’s CMC Summary Note seeks to establish: *“whether any submitted planning obligations and/or planning conditions would adequately address the impacts of the proposed development”*.
- 13.1.2. A draft S106 Obligation has been submitted to NWBC and WCC for review. The Appellant will continue to work with the councils and other necessary parties to reach agreement on a final draft S106 Obligation in advance of the inquiry, as required by the Inspector.
- 13.1.3. The Appellant’s position is that the heads of terms set out in the draft S106 Obligation would adequately address the impacts and mitigation requirements of the proposed development and the obligations would be necessary to make the development acceptable in planning terms, directly related to the development, fairly and reasonably related in scale and kind to the development as required by paragraph 57 of the NPPF and Regulation 122(2) of the CIL Regulations.
- 13.1.4. Furthermore, the Appellant’s commitment to securing a number of important scheme benefits through the S106 Obligation would ensure that key scheme benefits are delivered locally to the Borough and, in some cases, in perpetuity for the operational lifetime of the development.

14 PLANNING BALANCE

- 14.1.1. My overriding case is that the proposal accords with the Development Plan when taken as a whole.
- 14.1.2. In particular, it accords with the strategic policies of most relevance in the Local Plan, namely Policies LP4, LP6 and LP34.
- 14.1.3. Policy LP4 and LP6 work together – the proposal seeks development within the Strategic Gap, however whilst it has an impact, it is not a significant impact. The separate identities of Tamworth and Polesworth with Dordon are preserved, with a significant gap maintained and preserved in perpetuity between the settlements. The proposal therefore accords with Policy LP4.
- 14.1.4. The proposal fully accords and gains the significant weight of Policy LP6, which overrides any limited harm to the Strategic Gap.
- 14.1.5. The Local Plan does not adequately plan for employment need. It seeks to meet local needs only. Allocations do not meet the need for strategic and logistics land. Forecast supply is plainly not sufficient to meet the need. Policy LP6 is engaged and when considered in conjunction with other policies it has significant weight. That is the purpose of Policy LP6.
- 14.1.6. The proposal also accords with other strategic policies in the Development Plan (namely Local Plan Policies LP1, LP2, LP5, LP11, LP12 and the non-strategic Dordon Neighbourhood Plan Policy DNP12).
- 14.1.7. The proposal therefore accords with the plan and under S38(6) should be approved.
- 14.1.8. I further argue that the proposal constitutes sustainable development and that with the Local Plan silent on specific policy to deliver strategic and logistics land to meet identified need (with no allocations or policy specifically quantifying a requirement for strategic employment land to be met). The emerging Employment DPD which is proposed to address the matter is delayed and at a very early stage so cannot be afforded any weight. Therefore, the Local Plan is absent and silent with respect to providing confidence of delivering strategic employment land. It is thus out of date. NPPF Paragraph 11(d)(ii) is thus engaged. The proposal therefore benefits from the tilted balance in favour.
- 14.1.9. There are no technical planning matters or conflicts with policy that cannot be mitigated. The technical evidence submitted with the appeal/contained in other proofs demonstrably addresses the putative reasons for refusal in respect of landscape/visual impact and highways, and further evidence has addressed the matter of agricultural land.



- 14.1.10. The proposal generates a multitude of benefits, many of which are of significant or very significant weight. The vast majority of these benefits are true 'added benefits' and not those that arise from mitigation. These are key material considerations that weigh heavily in favour of the proposal in the overall planning balance.
- 14.1.11. There is significant industry support for the proposals which is also a material consideration weighing in favour of the proposal.
- 14.1.12. Therefore, the proposal, whether it reaches support via the NPPF Paragraph 11 tilted balance or through the S38(6) balance, the same conclusion is reached, that approval ought to be granted.
- 14.1.13. Even if the contrary view is taken (despite my opinion) that the appeal proposals conflict with the development plan; then my view is that there are substantial material considerations which would justify allowing the appeal in any event.
- 14.1.14. I respectfully request that the appeal is allowed and consent be granted.



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