



## Appeal Decision

Inquiry Held on 10, 11 and 12 January 2023

Site visit made on 18 January 2023

**by J P Longmuir BA(Hons) DipUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12/04/2023**

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**Appeal Ref: APP/E3715/W/22/3306652**

**Land at Cross-in-Hand Farm, Lutterworth Road/Watling Street, Rugby**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Magna Property Solutions Ltd against the decision of Rugby Borough Council.
  - The application Ref R20/0259, dated 29 May 2020, was refused by notice dated 9 March 2022.
  - The development proposed is for the redevelopment of the site to a HGV facility, including the demolition of agricultural outbuilding and formation of HGV parking spaces, fuel station, vehicle inspection station, vehicle maintenance unit, petrol filling station, electric charging points, convenience store, coffee shop, creche, overnight accommodation, ancillary car parking and associated works (Outline – Principle and Access Only).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The above description of development is taken from the appeal form, since it changed from the original application submission. The change was accepted by both parties at the application stage. The above address is taken from an amalgamation of the forms to reflect the site's location.
3. An Environmental Impact Assessment (EIA) has been undertaken and reported in an Environmental Statement (ES) in accordance with the Requirements of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This provides an overview of the environmental impact of the proposal with a summary of mitigation measures proposed and contains a methodology for assessing the significance of the environmental effects and accumulative impact. A series of technical papers considered the range of environmental factors.
4. The application was submitted in outline with only the proposed access detailed so that appearance, landscaping, layout and scale would be reserved matters. An illustrative 'master plan and site section' was submitted and as this is indicative only, I have considered it accordingly. Similarly, a 'proving layout example' was submitted at the Inquiry to show the potential for the site to accommodate the entirety of development, this is also only considered as an indicative scheme.

5. Parameter plans have been submitted which indicate the access, the extent of development, the various land uses, the proposed heights and green infrastructure. These are intended for consideration at this stage and a compliance condition is suggested.
6. The Council's committee report indicates the number of lorries using the site would be 378, however it is confirmed in the Statement of Common Ground (SOCG) that 293 lorry parking spaces would be provided. A condition has been suggested to this effect. I have considered the proposal accordingly. The red line showing the extent of the application site was also amended after submission so that no land within Harborough District is included.
7. A Section 106 agreement, signed on 26 January 2023 has been submitted which makes provision for a contribution towards improvements to bus services to meet the needs of the employees. I consider this latterly.
8. Whilst biodiversity was not referred to in the reason for refusal, the Council indicated at the Case Management Conference that achieving a biodiversity net gain was uncertain. Subsequently the SOCG confirms that the issue has been assessed and potentially a gain could be achieved. I concur with that assessment.
9. Initially the application was submitted with a Landscape and Visual Appraisal. However, the proposal was subsequently amended, and the nearby Magna Park Distribution Centre has expanded which was included in a later and more detailed Landscape and Visual Impact Assessment<sup>1</sup> (LVIA). I give this more consideration accordingly.
10. A costs application against the Council was submitted by the Appellant on 5 January 2023 but was withdrawn at the end of the Inquiry.

### **Main Issues**

11. The main issues are:

- The effect of the proposal on the character and appearance of the area, particularly with regard to its extent of development, height, loss of hedgerows and mitigating landscaping; and
- The need for the proposed facilities both for HGVs and as a whole as well as the planning benefits.

### **Reasons**

#### ***The effect of the proposal on the character and appearance of the area***

12. The reason for refusal refers to Policies NE3 and SDC1 of the Rugby Borough Council Local Plan, adopted in June 2019. These promote conservation of the landscape, consideration of the landscape context and seek to promote appropriate landscaping in new development.
13. Both parties confirm that the site is not within a designated landscape or a valued landscape as in paragraph 174 of the National Planning Policy Framework (the Framework) or green belt. There is one tree covered by a Tree

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<sup>1</sup> Pegasus Group dated September 2022

- Preservation Order but both parties agree this could be retained and protected in situ. I similarly concur.
14. The site is on the junction of local authority boundaries and landscape character types which has led to various landscape assessments. The site itself is within the southern part of National Character Area 94: Leicestershire Vales. This is typified by a mix of arable and pastoral farmland with some surviving ridge and furrow. This is commensurate with the appeal site which is a series of open grass fields<sup>2</sup> adjacent to the Cross-in-Hand Farm buildings.
  15. The Warwickshire Landscape Guidelines class the appeal site area as High Cross Plateau/Open Plateau<sup>3</sup> which features rolling agricultural fields with hedges on high plateaux amongst woodland typically in shelterbelts and spinneys. The Appellant's LVIA ascribes this as 'medium value'<sup>4</sup> in the study area for the appeal site.
  16. I find that the site and its surroundings are characterised by irregular shaped and sized open fields, divided by mature hedges, with a randomly varied rolling form, which make a harmonious combination. The Appellant's LVIA<sup>5</sup> notes The High Plateau/ Open Plateau as 'Prominent Belts of Woodland' being a key characteristic. These are very evident in the vicinity of the appeal site and provide landmarks in this open and expansive landscape. Another notable characteristic is the topography: the LVIA states that the site 'gently slopes from the north-west to the south-east'. It states that the levels change by 8m.
  17. The land east of the appeal site and that side of the A5 is characterised as 'Lutterworth Lowlands' by Harborough District Council. The Appellant's LVIA ascribes this as 'low value'. I noted on my site visit that the character is discernibly different to the appeal site. The land descends away from the A5 and leads into a vale, so that the landscape is less open with foreshortened views.
  18. Magna Park, a major distribution centre lies to the other (eastern) side of the A5. There is a new offshoot known as Magna Park South which is developing away from the appeal site towards Lutterworth. There are several buildings visible on the A5 frontage, but it is otherwise obscured by the topography and tree cover.
  19. There are several solar farms in the area just off the A5, but due to their orientation and siting, the panels are not visually prominent rather the overall impression is of a verdant landscape.
  20. The Council conclude that the overall landscape effect would be major and moderate adverse<sup>6</sup>. Whereas the Appellant<sup>7</sup> considers the effect would be limited to the western side of the A5 and that beyond the boundaries of the site to the west there would initially (prior to the establishment of mitigation planting) be no greater than a moderate adverse effect on character reducing incrementally with distance from the site.

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<sup>2</sup> There is one existing building within the red line, located on the Demolition Plan

<sup>3</sup> Appendix 3 Council Proof of Evidence

<sup>4</sup> Paragraph 6.12 Pegasus LVIA September 2022

<sup>5</sup> Paragraph 4.18 Pegasus LVIA September 2022

<sup>6</sup> Paragraph 8.42 Proof of Evidence

<sup>7</sup> John Ingham Summary paragraph 1.1.7

21. Figure 5 of the LVIA has a 'Screened zone of theoretical visibility', which extends well beyond the appeal site boundaries. I focus below on 3 areas, which are closest and therefore most pertinent: the A5 on the eastern approach, the A5 opposite the site, and Lutterworth Road.

*The A5 environs on the eastern approach*

22. The site appears as open fields randomly shaped and divided by hedges, which gently rises towards the skyline; it blends into the surrounding fields to the south and east. An existing steel clad agricultural building, of approximately 6.9m height<sup>8</sup>, is just within the appeal site. It is visible from the A5 and provides a yardstick to the potential visibility of the proposed buildings.
23. The Parameter Plan 2: shows that the development would be along the north-eastern edge of the site, parallel to the A5. The Parameter Plan 4 shows the buildings would be up to 13m high on the lowest part of the site, but those of 10m and 8m heights would nonetheless be on a rising slope. The latter would be close to the existing building. The submitted photomontages clearly show that the new buildings would be seen along the A5, and I concur.
24. The buildings would appear prominent and fundamentally change the character of the site from pastoral fields to one of built development. It would also spoil the way the site merges with the neighbouring fields: the continuity of the countryside west of the A5 would be lost. The height of the proposed buildings would be disproportionate to the adjacent Cross-in-Hand Farm buildings.
25. The Appellant suggests Magna Park provides a context for the proposed development and the A5 carriageway is a harsh feature. However, the site is segregated from both by a sequence of parallel fields and the proposal would appear as an entity in itself, rather than an extension to Magna Park.
26. At the eastern boundary the Parameter Plan: Green Infrastructure refers to a '37m buffer accommodating drainage pond and landscaping strip'. However, it is clear from the notation that a substantial amount of this space would be largely taken by holding ponds. I find the remaining planting strip would be of insufficient depth to significantly soften the A5 approach, particularly as the slope would make screening less effective for the height of the buildings proposed.

*A5 opposite the site*

27. From here the appeal site is experienced at close range, the vicinity of a layby is shown in the LVIA as one viewpoint but there are others as the site is again experienced as a sequence of views. This is also at a similar height, confirmed by the contours on the master plan, but deeper into the site, the land rises towards Lutterworth Road. There are wide views of open fields, in several directions, which provide an appropriate setting to the Cross-in-Hand Farm. Streetfield Spinney is seen beyond the appeal site on the skyline and shows the breadth of the landscape.
28. The Parameter Plans<sup>9</sup> show development potentially along the length of this stretch of road except for a small corner at the end of the site. The Parameter Plan 4 shows the buildings up to 13m high would be closest to this viewpoint.

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<sup>8</sup> Ridge height as measured and agreed by both parties at the site visit. Located on the Demolition Plan

<sup>9</sup> Parameter plan 2 is titled: Extent of Development

The buildings would be dominating and spoil the sense of openness at such close range. They would also curtail the way the appeal site fields blend and merge with the surroundings as a continuum.

29. Parameter Plan 5 shows that the landscaping would be along the length of the site as a linear strip. Such a prolonged linearity of planting would look artificial and contrived amongst the irregularity of the surrounding small fields.
30. As in the above area, the site is segregated from Magna Park and the A5 by a sequence of parallel fields and the site is seen in conjunction with the surrounding countryside.

#### *Lutterworth Road*

31. The road follows a discernible hilltop and there are extensive views in all directions including distant woodland. The appeal site lies adjacent to the road.
32. Whilst the precise layout is not fixed, it is evident from the Parameter Plans that the 293 lorry parking spaces would be towards this southern part of the site. Due to the limitations of the site area, the parking would be likely to be in regimented rows of considerable length and indeed is shown as such in the indicative layouts. The lorry parking would be readily seen and experienced along the Lutterworth Road, at short range, particularly as the ground slopes less steeply<sup>10</sup> in the immediate vicinity of Lutterworth Road. This would change a countryside character to one dominated by intensive lorry parking: the texture, colour and presence of the lorries would be fundamentally different to the current agricultural fields.
33. The buildings broadly indicated by the Parameter Plans would also be likely to be perceptible due to their height as shown on the photomontages<sup>11</sup>. I find that these would also appear out of context with the rurality of Lutterworth Road.
34. Whilst there are views of the Magna Park buildings across the site, these are distant. As the photomontages show they would be less prominent than the buildings in the appeal proposal which would be closer to the viewer and therefore more apparent.
35. The Parameter Plans show only a very narrow strip of potential landscaping beside the access and visibility splay, which would provide minimal space for new planting to soften the adjacent 8m high near buildings and the more distant 13m high buildings. Indeed, visually the new access road would draw the eye into the site and the parameter plans show development facing this viewpoint.
36. The planting along Lutterworth Road would when mature create enclosure along one side, spoiling the sense of openness, curtailing outward views and narrowing the width of the existing views: the landscaping would curtail the perception and experience of being on the top of an open plateau.

#### *General*

37. The Parameter Plan 5 which shows the extent of landscaping, states the intention is to 'filter views': filtering means that buildings and lorries would not be wholly obscured. Indeed, it was confirmed at the Inquiry that in order to

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<sup>10</sup> Contours as shown on parameter plans

<sup>11</sup> LVIA viewpoint 1

- achieve a biodiversity net gain the landscaping would have to be deciduous, which would mean buildings and parking would be more prominent in winter when the trees are not in leaf.
38. Whilst the proposal would remove existing hedgerows, they would be replaced by boundary planting. Consequently, in terms of the quantum of loss of vegetation, I find that the proposal would not be harmful. However, the proposal would undermine the field pattern in the area and its associated hedgerows. In this particular regard the proposal would be harmful.
39. Whilst details of lighting have not been submitted, the lorry and car parks, access roads and environs of the buildings, across much of the appeal site would nonetheless require lighting. Even if the lights were hooded to avoid spillage, there would reasonably be expected to be illumination around each lighting column as that is their function. This illumination would be likely to be perceptible as it is envisaged lights would be on vertical columns and the site is readily seen from the adjacent roads. Light would also be expected from the buildings which would be up to 13m high. The maturing landscaping would only partially obscure light being a predominately deciduous mix. The proposal would harm the current dark landscape.
40. The appearance of the buildings has been left for the reserved matters. Nonetheless the Appellant does refer to the potential for the use of a green roof to one of the buildings, however the walls would still be visible and would be likely to be a larger component of the view (particularly if the roof pitch was shallow) as the photomontages show.

#### *Conclusion on effects*

41. The Appellant does acknowledge<sup>12</sup> 'that in the long term there would remain a large scale of change within the site itself'. I similarly concur. The proposal would lead to the loss of a large swath of pastoral fields, and due to the extent and height of the development, the change would be substantial to both the character and appearance of the landscape. The proposed buildings and parking would not be assimilated into the landscape due to the undulating and open nature of the site and surroundings. The effects of the proposal would be experienced along the A5 and Lutterworth Road site approaches and frontages, where it would be seen by a lot of people. The effects would not be limited to specific viewpoints but rather experienced as a series and sequence of views.
42. I find that due to the height of the buildings their presence would be evident in the landscape after 15 years as the photomontages show. Additionally, the extent of development and parking would be difficult to screen, and the annotated plans foresee landscaping would only filter views. The landscaping in itself would look out of place creating enclosure, curtail views, and change the field pattern.
43. I therefore conclude the proposal would substantially change and harm the landscape. Whilst the scheme is in outline, the Parameter Plans, confirmed for consideration, show the heights of buildings, the extent of development, and the landscaping concept. In these respects, the proposal would be contrary to Policies SDC1 and NE3 in so far as the scale would be harmful to the character of the area with height being a key consideration, in addition, the proposal fails

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<sup>12</sup> Mr Ingham Paragraph 11.1.6 Proof of Evidence



to respond to the landscape context, its distinctiveness and does not enhance landscape features.

***The need for the proposed facility and the planning benefits***

44. Paragraph 109 of the Framework states decisions should recognise the importance of provision of adequate overnight lorry parking facilities. There is no specific local plan policy for the provision of lorry parking. However, Policy GP2 does allow for facilities in the countryside where there is need in national policy.
45. The Warwickshire Local Transport Plan states that the Council will work to identify overnight HGV parking. The West Midlands Local Transport Plan also promotes HGV parking, which is a priority for action in one of its long-term themes. The West Midlands Freight Strategy acknowledges the need for safe and secure overnight HGV parking. The Department for Transport: Future of Freight- a long term plan also stresses the importance of haulage to the economy.
46. Whilst the above highlight the need for provision, there is no mandatory requirement or indeed quantified government target for provision of lorry parking facilities.
47. Both parties agree that the need should be considered as quantitative, qualitative and locational in terms of any gaps or shortfall in the network.

*The locational need*

48. The site is within the so-called 'golden triangle' for logistics formed by the M6, M1 and M69. The triangle is also bisected by the A5, from which the site would have virtually direct access. From here the A5 provides north-west/south-east routes and the motorways link nationwide and beyond via eastern ports connected by the A14. This shows the importance of the area for its communications and logistics.
49. The opportunity to rest would have safety benefits as highlighted by the update of Circular 02/2013<sup>13</sup> and help the well-being of drivers. The Circular states service areas on trunk roads should not be more than 30 minutes apart.
50. There are roadside service areas along the M1 and M6 within a 30 minute drive<sup>14</sup>, the nearest facilities<sup>15</sup> being at the Moto Rugby Services at M6 junction 1 and at the M6 by Corley. However, these are orientated for drivers using the motorway system. Those travelling along and staying on the A5 would be likely to need facilities.
51. The nearest facilities on the A5 would be the Eddie Stobart Truckstop, broadly due east of Rugby. Whilst this is not far from the appeal site it is to the south-east so would be more likely to be used by drivers who either know of its existence or are travelling from that direction. The appeal evidence shows capacity issues when it was assessed.

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<sup>13</sup> Circular 02/2013: The Strategic Road Network and the Delivery of Sustainable Development [adopted and draft update July 2022]

<sup>14</sup> Transport Assessment page 7

<sup>15</sup> Figure 1 PJA appendix 7 statement of Case

52. I find there is some gap within the network for dedicated HGV roadside facilities and there is a need in the general area for some facilities.

*The quantitative need*

53. The Appellant's own study (PJA study), looked at the situation within the immediate vicinity (6 miles) of the appeal site. It found parking occurring at laybys. In addition, table 1 indicated a shortfall of parking at Moto and Eddie Stobart Truckstop.
54. The report itself acknowledges this is only a snapshot between 19:00 and 21:00 on two days. Consequently, it cannot be relied upon to authoritatively quantify the situation but nonetheless provides an indication of need for some additional capacity.
55. In addition, the national and regional need has been researched in the National Survey of Lorry Parking (NSLP) studies. These have been carried out on behalf of The Department of Transport and are an audit of lorry parking within 5km of the strategic road network. They place the site on the junction of the West Midlands and East Midlands areas.
56. The 2017<sup>16</sup> NSLP found a need for lorry parking in the Rugby area. Figure 1 nationally maps the 'Areas of Parking Shortage', which includes the appeal site, but it is on the edge of a wide notation. A similar 'heat map' comparing off site and on-site parking nationally shows high off-site<sup>17</sup> parking in the vicinity of the appeal site, indicating a need in the area.
57. The 2022 NSLP<sup>18</sup> found that utilisation of facilities across the country is reaching 85% occupancy, with the East Midlands being at 92%. The Council accepts that the 85% level is critical, beyond that there is a risk that drivers could have to readjust their journey to find other available parking facilities, leading to potential anxiety and problems with both desirable and allotted time permitted for driving.
58. The NSLP does not quantify the need but nonetheless both parties acknowledge that comparison between the 2017 and 2022 studies shows a growing need. Whilst the need is significant and increasing, there is no reason to assume that sites other than the appeal site would not come forward. Indeed, Figure E2 compares the 2017 and 2022 studies and shows that provision of facilities in both regions has increased, particularly in the East Midlands. The written letter from the Department of Transport<sup>19</sup> also states that the Government has taken 'decisive action' with a range of measures including funding.
59. Paragraph 109 of the Framework states proposals for new and expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use. At Magna Park<sup>20</sup> there is an extant outline permission for a service area including provision for HGVs. This is the subject of a revised (currently undetermined) outline application, with the two differing master plans indicating provision for 57 and 94 HGVs parking overnight. I am also advised of a permission<sup>21</sup> for a facility including 82 HGV parking spaces and

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<sup>16</sup> Department for Transport National Survey of Lorry Parking. Undertaken in 2017 but published in 2018.

<sup>17</sup> Off-site refers to parking away from a purpose built lorry park

<sup>18</sup> Department for Transport National Survey of Lorry Parking. September 2022.

<sup>19</sup> 29 November 2021 Baroness Vere of Norbiton for Department for Transport

<sup>20</sup> Mr Weekes Proof of Evidence Paragraph 5.9

<sup>21</sup> Mr Weekes Proof of Evidence Paragraph 5.18



- overnight facility at junction 1 of the A14, 20km away, within the East Midlands Region.
60. Moreover, Figure E1 of the 2017 NSLP shows parking demand against capacity. It graphically highlights the significant use of laybys and industrial estates in the East Midlands by HGV drivers. More recently the 2022 NSLP study<sup>22</sup> found 35% of drivers use industrial estates and laybys.
61. There are several laybys on the A5 between the appeal site and M6 access. I noted on the three occasions I visited the site that the laybys were used by lorries, which do not offer the facilities or security provided by lorry parks. However as there is no prevention of using laybys for overnight parking, it could continue irrespective of the appeal facilities, particularly as there a notable number of laybys in the vicinity<sup>23</sup>. Indeed, if the laybys are being used to save parking fees, then this would be likely to continue. It is beyond the Appellant's control to know whether the appeal proposal would provide such value for money to encourage its use. Notably the 2022 NSLP study showed although provision has increased there is still substantial parking in laybys.
62. There is concern that lorry parking occurs within residential areas in Rugby causing nuisance. However subject to parking limitations this is not illegal and may continue irrespective of the appeal facilities.
63. The Appellant points to the growing importance of Magna Park and DIRFT in terms of their growth and economic contribution to the area. It is suggested that the proposal would support their continuation and prosperity. However, Mr Stack, for the Appellant, confirmed that drivers can drive for 9 hours, albeit fragmented by a 45 minute break, before needing to stop to sleep. This would mean that drivers serving Magna Park and DIRFT would not need to stop overnight here if they are starting and finishing within that 9 hour drive time. Indeed, Mr Holmes<sup>24</sup> for the Appellant, suggests that within a four and a half hour drive much of England and Wales can be reached.
64. The House of Commons Transport Select Committee report<sup>25</sup> stresses the fragility of the road freight operation and its importance to the economy. The Written Ministerial Statement<sup>26</sup> also highlights the importance that hauliers make to the economy as well as the acute driver shortage. However only a small number of drivers stop overnight<sup>27</sup>, and whilst their needs should not be discounted, the shortfall in this area would be unlikely to significantly disrupt the overall freight system.
65. There was no evidence submitted to the Inquiry that there would be a critical number of vehicles needed to economically provide facilities. Indeed, this would be one of the largest facilities in the area as only the Eddie Stobart site is marginally bigger at 296 lorry capacity.
66. Based upon the evidence before the Inquiry, I therefore find that there is some need in the general area for daytime and overnight facilities but not necessarily on the appeal site, or of the size proposed.

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<sup>22</sup> Figures E1 and E8 of 2022 NSLP

<sup>23</sup> Figure 7.3 Statement of Case

<sup>24</sup> Mr Holmes paragraph 4.42 Proof of Evidence

<sup>25</sup> The House of Commons Transport Select Committee Report: Road freight supply chain – First report of session 2022-23 (1 June 2022)

<sup>26</sup> Mr Grant Shapps Secretary of State for Transport 8 November 2021

<sup>27</sup> Footnote to the Select Committee Report

### *The qualitative need*

67. The proposal is intended to be the highest standard, 'level 5', of facilities. This includes toilets, showers, hot food, security and hotel provision. Such facilities would support the well-being of male and female drivers, help their safety thereby benefiting all road users as well as driver retention and recruitment.
68. The 2022 NSLP show that the existing facilities in the West and East Midlands are typically equivalent with the quality of the national average. Table 3 indicates 35% of facilities are 'level 3' and only 7% are 'level 5'. Such an average quality of facilities does not indicate an overwhelmingly poor standard. Moreover, it was not clearly demonstrated how many drivers in the area would pay for level 5 facilities and the need for value for money is raised by drivers in the NSLP survey.
69. It was confirmed at the Inquiry that other established lorry parks could add security measures such as CCTV and fencing as well as showers to boost their level rating. Indeed, at the Moto Rugby Services M6 junction 1, 6km away, the newly built services, has a 'level 4' facility with 98 secure HGV spaces, but also has permission for an as yet unimplemented 100 bed hotel.
70. Consequently, I do not find that the quality of the proposed facilities would significantly support the proposal.

### *The need for the range of uses proposed*

71. The Parameter Plan 3, SOCG and suggested condition confirm uses. A 35 space creche is proposed which is aimed at the employees at Magna Park as well as those of the appeal site. However, such a use would be unlikely to meet the needs of transient HGV drivers and as such there would be no necessity for this on site. In terms of the workforce on Magna Park there is no apparent reason why such provision could not be made there.
72. A supermarket is also proposed which is confirmed would have a net retail floor area of 320 square metres, which would surpass that of a typical small 'local'<sup>28</sup> supermarket. Such an extensive floor area would go beyond the basic needs of lorry drivers as the floor areas of filling stations are typically considerably less. In addition, 287 square metres gross floorspace is also proposed within the filling station.
73. A cafe is proposed, whilst this would be available to HGV drivers it would not be dedicated as such and would also be available to car users. Accordingly, at least some of its floor space would not be necessary as part of a lorry park.
74. A 438sqm<sup>29</sup> hotel is part of the appeal proposal. However, it was made clear at the Inquiry that this would be available to anyone. Whilst it was suggested it could be designed for HGV drivers no such detail has been provided or any restriction to its occupancy. Therefore, the availability and extent of likely use by lorry drivers was not clearly demonstrated. Indeed, Mr Stack stated that a lorry has a sleeping area aside from the driving area with curtains around the cab and may well have rudimentary food preparation facilities.
75. The Gibbet Lane garage is a couple of miles away on the A5 which provides petrol station services and shop for car users. The appeal proposal would

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<sup>28</sup> This was quantified at the Inquiry by comparison with the street fronting shops operated by national chains

<sup>29</sup> Paragraph 4.3 Statement of Case

provide electric charging points for all types of vehicles. I note that the nearest are in Lutterworth<sup>30</sup> which are close by so this benefit would be marginal.

76. The above uses would have some social and economic benefits but the need from lorry drivers would be very limited, and the scale of facilities would exceed what is needed for a truckstop.
77. In addition, no evidence was provided to the Inquiry that the extent of the commercial facilities is necessary to support the viability of the lorry parking.

#### *Conclusion on need*

78. I find that there is some need for overnight lorry parking in the general area and similarly some need for non-overnight lorry parking for a mid-journey break, which would help the overall network coverage. However, based on the evidence before the Inquiry these needs have not been clearly demonstrated to match the extent of development in this proposal or necessarily this particular site. The foreseen highest quality of the proposed facilities whilst laudable does not demonstrate a significant need.

#### **Other matters**

79. Several of the local residents anticipate potential increase in HGV movements through the neighbouring villages which would harm the safety of the existing roads, air quality and damage buildings. The narrowness of the roads, parked vehicles and traffic calming features are suggested as hazards. The effect on Mortillo Lane near Pailton was specifically mentioned.
80. The A5 directly connects with the M69 and M6 avoiding most villages and the A4303 links to the M1 as a dual carriageway around the edge of Lutterworth. The surrounding villages are on minor roads away from the junctions so would not be likely to be used to access this facility. The traffic generation was modelled in the Transport Assessment, agreed by relevant Council specialists and does not show a significant increase.
81. Accordingly, the proposal would not be expected to increase the HGV traffic through the villages, and no substantive evidence has been provided to show otherwise.

#### **Planning Obligation**

82. This provides £100,000 to subsidise expansion of the bus service from surrounding towns. This would promote the use of public transport by employees, as the location is not readily accessible for non-car travel.
83. Policy D4 states where it is not possible to address the unacceptable impacts of development through planning conditions a legal agreement or planning obligation may be required. It makes reference to The 2010 Community Infrastructure Levy Regulations (CIL).
84. CIL and Paragraph 57 of the Framework, require that planning obligations should only be sought where they are: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

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<sup>30</sup> Figure 4.1 Statement of Case

85. I find that the obligation would be necessary to mitigate the effects of the proposal, as the site is not readily accessible for non-car travel and there is a need to promote more sustainable measures for the workforce.
86. The obligation seeks to mitigate the effect of the proposal and in such a location would not benefit many others as Magna Park employees would have to walk along unfavourable roads, so in the planning balance it is only a very limited benefit.

### **Planning balance**

87. The proposal would be a large scale of change to the site due to its height and extent of development. It would harm the character and appearance of the area changing verdant undulating fields to built development and vehicle parking, which in turn would spoil the continuity with the adjacent countryside. The landscaping would be insufficient to mitigate the effect and indeed would create enclosure and thus failing to embrace the open characteristics of the site and surroundings. I give this considerable weight due to the scale of change.
88. Paragraph 109 of the Framework refers to the recognition of the importance of providing adequate overnight facilities. I have found that there is need in the general area for some dedicated overnight lorry parking. Similarly, there is some need for some non-overnight lorry parking/facilities for a mid-journey break. However, these needs have not been clearly demonstrated to equate to the extent of development in this proposal and necessarily on the appeal site.
89. The proposal would have economic benefits by supporting the haulage industry which would also contribute to the wider economy. It would also help the health and wellbeing of male and female drivers, which would also encourage their recruitment and retention. However, the proposed facilities would be a very small contribution to the national haulage operation, so I give this only very limited weight.
90. The other facilities would have social benefits for employees at Magna Park. However, crossing the A5 is unwelcome and unsafe. Car drivers would also benefit from the facilities but there are others in the area. The electric charging points would also support low carbon travel, but other facilities are close by. Similarly, the contribution to the bus service would be a benefit but in such a location would benefit very few. The proposal would also provide employment in construction and operation<sup>31</sup>, but not overly significant.
91. I do not consider that even with the emphasis in paragraph 109, the need for some lorry parking in the general area and the benefits of the proposal would outweigh the harm to the character and appearance of the area.
92. The proposal would conflict with both NE3 and SDC1. Policy GP2 directs development in preference of a settlement hierarchy. In the countryside new development is resisted unless national policy allows otherwise; the principle of the use if needed could be accepted but not given the landscape impact. Accordingly, I find that the proposal would be contrary to the Development Plan when considered as a whole.
93. Section 38(6) of The Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the plan unless material

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<sup>31</sup> 117 jobs. Paragraph 4.4 of the Planning Statement

considerations indicate otherwise. This is echoed in paragraph 11(c) of the Framework.

94. The planning benefits whilst significant do not warrant a decision other than that in accordance with the Development Plan.
95. The Appellant argued that the Development Plan does not have a specific policy on overnight lorry accommodation and so is out of date: the Framework at paragraph 109 states policies should recognise the importance of providing adequate overnight facilities, taking into account local shortages. Accordingly, it is argued that Paragraph 11(d) of the Framework would apply where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date.
96. However, GP2 allows for national policy to be considered, and this would include paragraph 109 of the Framework. Moreover, Policies NE3 and SDC1 are also relevant since they require development to respond to the landscape context, its features and distinctiveness. They reflect paragraph 174(b) which requires decisions to recognise the intrinsic character and beauty of the countryside, paragraph 130(b) requires developments are visually attractive as a result of layout and appropriate landscaping and paragraph 185 promotes dark landscapes and avoidance of light pollution.
97. I find that there are relevant planning policies, and the most relevant policies are not out of date. Whilst the Plan lacks a specific policy on roadside facilities, it nonetheless needs to be considered as a whole and the Wavendon<sup>32</sup> case emphasises that the 'basket of policies' must be taken together. The Paul Newman Homes<sup>33</sup> case focuses on whether policies have a real role in determination but there is no requirement that they should be enough in themselves to reach a decision: relevant does not mean a policy or policies are determinative. Consequently, I do not find that Paragraph 11(d) is engaged and so does not lead me to a different decision.

## **Conclusion**

98. I therefore conclude that the appeal should be dismissed.

*John Longmuir*

INSPECTOR

## **List of appearances**

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<sup>32</sup> *Wavendon Properties Limited v Secretary of State of Housing Communities and Local Government, Milton Keynes Council* [2019] EWHC 1524 (Admin)

<sup>33</sup> *Paul Newman New Homes Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 15

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Director Landscape Planning Stephenson Halliday

Third parties

Dr. Thomas Goodfellow	local resident
Mr Bill Woolliscroft	local resident and Monks Kirby Parish Councillor
Mrs Judge	local resident
Mrs Scrimshore	local resident
Mr Tony Gillias	local resident and Rugby Borough Councillor

Mr Ian Wickett, of RSK Environment Ltd, spoke about the Appellant's Transport Assessment at the outset, but did not take part in the main body of the Inquiry.

**Documents submitted during the inquiry**

ID1 List of appearances: Council  
ID2 List of appearances: Appellant  
ID3 Opening statement: Appellant  
ID4 Opening Statement: Council  
ID5 Proving layout example  
ID6 CIL Compliance Statement  
ID7 Council closing  
ID8 Appellant closing