

CD-D42



Appeal: Land NE J10 M42, Tamworth

PINS Reference: APP/R3705/W/24/3336295

LPA Reference: PAP/2021/0663

**Michael A Hatfield BSc MSc
Rebuttal Proof of Evidence**

June 2024

1. This document has been prepared in response to the Proofs of Evidence submitted by Mr Andrew Collinson (Planning) and Ms Dorothy Barratt (Employment) of North Warwickshire Borough Council. It does not address all the issues raised, as they are by and large dealt with in my main Proof of Evidence document. However, a number of the data sources and views presented by Mr Collinson and Ms Barratt are, in my opinion factually incorrect, and therefore warrant a formal rebuttal.
2. Noting that Mr Collinson's and Ms Barratt's Proof documents cover a number of areas, however, I have restricted my rebuttal comments to the areas I address, namely:
 - HGV parking – need and location;
 - Connectivity with the Birch Coppice intermodal rail terminal.

Proof of Mr Andrew Collinson

3. At *Paragraph 7.4* of Mr Collinson's Proof, he states lorry parking and warehousing "*can be disaggregated*", noting that "*there is no requirement for the lorry park to be considered with the employment use land*". Similar arguments are made at *Paragraph 8.2* of Mr Collinson's Proof, where he states that "*the uses are complementary but the two do not need to be provided together, as one is not fundamentally reliant on the other*".
4. Firstly, as I have demonstrated in my Proof of Evidence and in the HGV Parking Facility Need Assessment (CD-A15), this position contradicts that set out in the NPPF. Paragraph 113 of the NPPF states that "*Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.*"
5. As I have also demonstrated in my Proof of Evidence (Section 3) and in Section 3 of the HGV Parking Facility Need Assessment (CD-A15), there are significant operational benefits for HGV drivers/logistics operators when HGV parking facilities are co-located alongside or nearby to major freight generators, particularly distribution centres (e.g. it helps meet strict delivery time windows). In land-use terms it results in a more efficient use of land, as noted in the Cirencester HGV park decision notice (Paragraph 3.22 of my Proof) which concluded that it "*...it would be an efficient use of land and support productivity, to ensure that larger truck stops are located close to distribution centres...*".
6. Whilst the extent of the lorry park is in excess of that which would be needed for the other proposed uses of the appeal site – it needs to be viewed in context. The site is close to a number of other similar uses close by (Birch Coppice for example), and there is clear evidence of a deficit in provision, even with the parking at the MSA on the other side of the M42. Viewed in context this is provision which is very obviously appropriately located.

7. Further, the position now adopted by Mr Collinson in his Proof would appear to conflict with advice which the Council's planning officers provided to its Planning and Development Board in 2019 concerning an employment park development at Peddimore (while located outside NWBC, the authority was asked to provide representations on the scheme). Item 6 from the *Planning and Development Board* of 8 April 2019 (appended to this rebuttal proof) records the following at Paragraph 5.7:

"The second issue was to seek comfort on the provision of appropriate HGV parking on site with the relevant welfare infrastructure. Members were told that the service yards on the site would be substantially larger than those experienced at Birch Coppice for this reason and that on-site welfare facilities would be provided...Members were satisfied that their concerns had been recognised and addresses as far as they could be through the application process."

8. There are two clear implications from this position. Firstly, NWBC has in the past been concerned that similar developments incorporate sufficient HGV parking with welfare facilities. It accepts that strategic scale employment development should incorporate appropriate HGV parking and driver welfare facilities. Secondly, that such provision at Birch Coppice (adjacent to the appeal site) does not meet necessary requirements, therefore off-site provision is required nearby.
9. Paragraphs 8.4 and 8.5 of Mr Collinson's Proof are incorrect. However, those paragraphs make reference to sections within Ms Barratt's Proof, and these are addressed below.
10. *Paragraph 8.7* of Mr Collinson's Proof states that the need for lorry parking in this area "is not at a critical level". The extensive quantitative and qualitative analysis I present in my Proof of Evidence (Section 3) and the appended HGV Parking Facility Need Assessment Technical Addendum strongly indicates otherwise. In particular, the DfT's National Survey of Lorry Parking 2017/2022 (CD-I9 and CD-I10) and the parking beat survey data (CD-A15 and CD-D33/B Appendix 5) show significant levels of parking at off-site locations such as lay-bys and industrial estate roads. Were the Inspector to wish to do so – he would no doubt be able to verify the findings of this study by the simple expedient of visiting the locations surveyed towards the end of the evening.

Proof of Ms Dorothy Barratt

11. At *Paragraph 4.24* of Ms Barratt's Proof, she states that rail is referred to twice in the NPPF. However, there are a number of other references to sustainable transport (which rail freight is recognised as being) and modal choice (which rail freight provides when cost competitive) in

the NPPF which do not appear to have been referenced, albeit they are material to the appeal. These include:

- Paragraph 109: "...development should be focused on locations which are or can be made sustainable....and offering a genuine choice of transport modes".
 - Paragraph 110 (b): "...investments for supporting sustainable transport and development patterns are aligned".
 - Paragraph 110 (c): "identify and protect sites and routes which could be critical in developing infrastructure to widen transport choice".
 - Paragraph 114 (a): "appropriate opportunities to promote sustainable transport modes can be – or have been – taken up".
 - Paragraph 116 (d): "allow for the efficient delivery of goods".
12. Paragraph 5.33 of Ms Barratt's Proof references the *2021 Leicester and Leicestershire Warehousing and Logistics Study* (CD-I29) undertaken by GL Hearn and MDS Transmodal. It quotes a set of criteria for the selection of new sites for strategic warehousing; Ms Barratt then subsequently dismisses the appeal site on the basis that it does not meet the criteria, albeit without providing or offering any reasoning (at Paragraph 5.34).
13. I co-authored the afore-mentioned study. Paragraphs 11.17 and 11.18 of the study final report document include the criteria which are quoted by Ms Barratt in her Proof. Reading these paragraphs in their entirety, it is apparent that the criteria are intended to be used when identifying and selecting new large rail-served sites that are expected to perform as SRFIs (such as Birch Coppice or Hams Hall). As both the Appellant and myself have made clear in my Proof (Section 4), the proposed warehouse scheme is not considered to be an SRFI in its own right. Their quotation is out of context and used in this manner gives rise to a wholly misleading impression. I would invite the Inspector to read the report in full, which strongly supports the appeal proposals.
14. Paragraph 11.19 of the study final report document makes clear that new land for B8 logistics facilities should be brought forward in a sequential order, the first of which is the extension of existing strategic distribution sites (both rail-served and road only), followed by the development of satellite sites close by to existing strategic distribution sites (both rail-served and road only). As I have demonstrated in my Proof (Section 4, and the appended Rail Terminal Connectivity Statement (CD-A14) and two Technical Addendum (CD-B27 and Appendix 6 to my Proof)), the appeal site is effectively an extension to the existing Birch Coppice SRFI due to the manner in which it will be able to access Birch Coppice's intermodal rail facilities on the same basis as those currently located within the business park, thereby generating direct financial benefits to shippers and occupiers (lower transport costs).

-
15. Paragraph 5.39 of Ms Barratt's Proof states, sourcing the *DfT's National Survey of Lorry Parking, Part 2 (CD-I11)* report, that "there is only a 62% on-site night utilisation within the Midlands", this being the lowest of all of the regions considered. She concludes that "this indicates that there is capacity within this region and does not mean there is an immediate need for further provision". As I shall explain below, this figure does not apply to the appeal site and its hinterland or to the M42/A5 corridors.

 16. As explained in the introduction to the *DfT's National Survey of Lorry Parking, Part 2 (CD-I11)* report, the purpose of the study was to examine both daytime and seasonal fluctuations in demand over the year, based on an audit of lorry parking usage at both on-site truck parks and off-site locations. However, unlike the *2022 National Survey of Lorry Parking, Part 1* study (CD-I10), the focus of the research was across four 'routes' rather than at the regional level overall. The four routes were Midlands (route), North West (route), South East (route) and East of England (route). The Midlands route, as shown on the maps below taken from Part 2 report, was formed by the A50 running between the M1 in Leicestershire and the M6 in Staffordshire. In other words, the route examined and from which data was collected does not include the appeal site or the surrounding area.

 17. Consequently, while a figure of 62% is quoted in the Part 2 report, it has clearly been misunderstood or misinterpreted by Ms Barratt as it refers to the Midlands route (as described and illustrated on the maps) and not to the Midlands region as a whole (West, East or combined). It therefore does not apply to the appeal site and its hinterland or to the M42/A5 corridors. The on-site utilisation figure quoted in Ms Barratt's report should not therefore form part of any need assessment for the appeal site.

Map: The 'Midlands Route' from National Survey of Lorry Parking, Part 2

Figure 2-1: Map of all routes

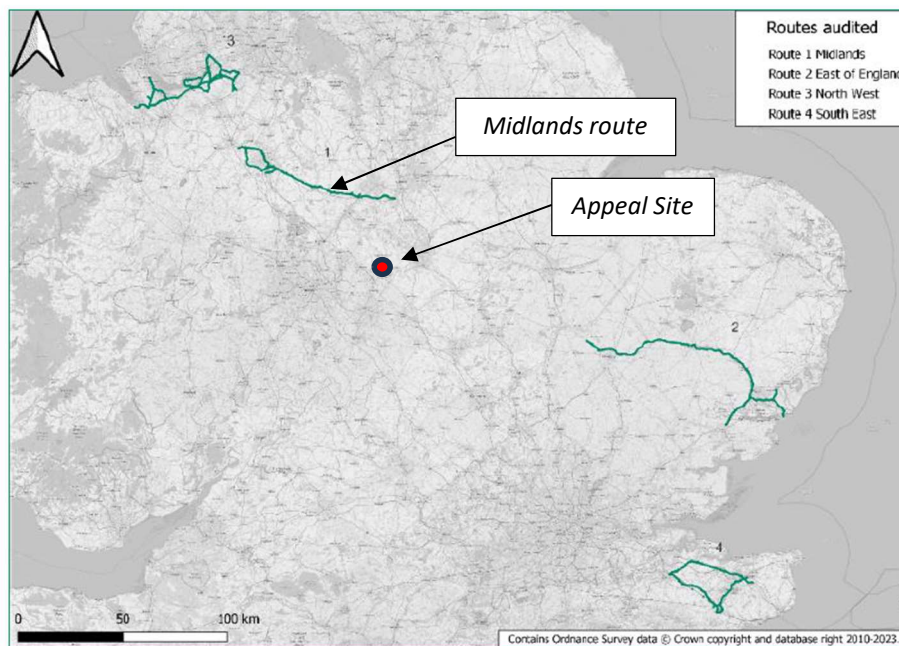
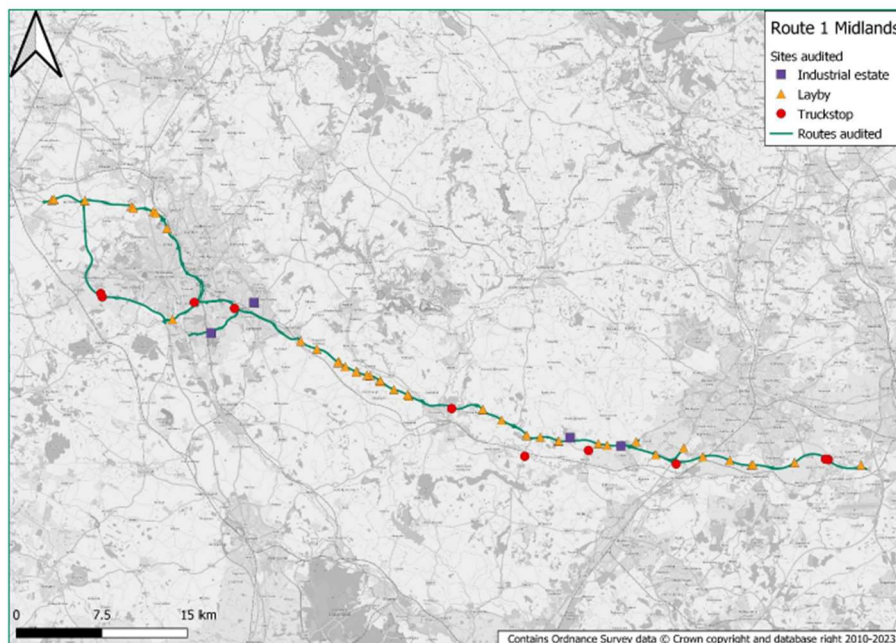


Figure 2-2: Map of Route 1 Midlands



18. The regional demand-supply and site utilisation data for the West Midlands is presented in the *2022 National Survey of Lorry Parking, Part 1* study (CD-I10). I have reviewed this in detail in my Proof of Evidence (Section 3), concluding that a shortage of 'on-site' parking capacity continues to be identified 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.

19. With respect to Tamworth MSA, Paragraph 5.39 of Ms Barratt's Proof states that "*Planning permission has been granted and implemented for an additional 38 HGV spaces which are currently being completed ensuring that they are future proofed for electric charging too*". For clarification, my current understanding with respect to the implementation of the consent is as follows:
- Works have only commenced on only 12 of the 38 spaces approved and they have not been completed;
 - The works have not progressed any further than illustrated in the images accompanying the correspondence of 14th November 2023 between Andrew Collinson and Mark Blissett of Moto (CD-I98)
 - As such, it remains the case that after planning permission having been granted in November 2020 and implemented in November 2023, not a single additional lorry parking space has been delivered at Tamworth MSA;
 - It also remains the case that since the Hams Hall to Dordon parking 'hotspot' was identified in the DfT's National Lorry Parking Survey 2017 (CD-I10), not a single additional publicly accessible HGV parking space has been delivered within the hotspot area;
 - Although it is stated within the proofs of both Mr Collinson (Paragraphs 8.4, 9.8 and 11.8) and Ms Barratt (as per above) that proposed additional HGV parking spaces "*are future proofed for electric charging too*", again with reference to CD-I98 there is currently no evidence to substantiate the claim; and
 - Even if the 38 spaces were to be constructed then that still would not alter my view as the need substantially outstrips those 38 spaces and the spaces on the appeal site combined.
20. Furthermore, in her Proof at Paragraph 5.42 Ms Barratt references *National Highways' Lorry Parking Demand Assessment 2023 (CD-I3)* as evidence that there is no need immediately for any further facilities in North Warwickshire. However, reference to Figure 4-1 in that document (which I have reproduced in the *HGV Parking Need Assessment Technical Addendum* (Appendix 5 of my Proof of Evidence) clearly shows Tamworth MSA has having a 'critical' level of parking (i.e. parking utilisation being above 85%). It is worth re-iterating that a 'critical' utilisation rate is the point where it is "very difficult for additional drivers to find parking spaces". The logical implication is that there is an immediate need for further facilities close by.
21. It would also appear that the *Lorry Parking Demand Assessment 2023 (CD-I3)* mistakenly places Tamworth MSA in Tamworth district rather than North Warwickshire. As a result, NWBC is noted at Figure 6-6 of the document has having zero 'critical' lorry parks but with Tamworth having one such facility. However, this is clearly contrary to Figure 4-1 of the same document (as described). Also, the document derives its data from the *National Survey of Lorry Parking 2022 (CD-I10)*, whereas the parking beat survey (Section 3 of my Proof of Evidence) was

undertaken as recently as December 2023 and also clearly shows the situation at Tamworth MSA as being critical.

22. As I note in my Proof (Section 4) and the Zero Emission Goods Vehicle Statement (CD-B44), there is currently a significant degree of uncertainty with respect to which technology will become the long-term solution for HGVs. The May 2024 letter of support from Maritime Transport (Proof, Appendix 7) notes that they are participating in the Government trial testing future solutions (in their case testing battery-electric HGVs). Sites which are installing HGV charging infrastructure now, but not making provision for other solutions such as hydrogen, could therefore be placing faith in solution which ultimately might not succeed. As I conclude in my Proof, suitable sites will be those where some loading docks/parking spaces are equipped with rapid-chargers from the outset (e.g. for vans and smaller HGVs), with other remaining loading docks/spaces being capable of retro-fitment at a later date, alongside provision to store and refuel hydrogen.
23. I have also examined Ms Barratt's list of existing and potential parking sites as presented in Appendix L of her Proof. The first point to note is that other than Tamworth MSA, none of the sites listed is in the immediate hinterland of the appeal site or the identified parking hotspot from Hams Hall to Dordon. The nearest sites listed are Lincoln Farm Truck Stop (Hampton in Arden, 26km from M42 J10) and Corley MSA (M6, 28km from M42 J10). As I have demonstrated in my Proof (Section 3), Tamworth MSA is operating at capacity and therefore cannot realistically fulfil the role as an alternative HGV parking facility in the immediate hinterland of the appeal site, an area where substantial numbers of inappropriately parked lorries have been recorded through two parking beat surveys (CD-A15 and CD-D33/B Appendix 5).
24. Secondly, other than the afore-mentioned Lincoln Farm and Corley MSA, the distances and drive times to and between the sites listed far exceeds the recommended spacing between facilities as set out in *DfT Circular 01/2022 (CD-H3)* and detailed in Section 3 of my Proof. In fact, as I have demonstrated in my Proof and the appended HGV Parking Need Assessment Technical Addendum (Appendix 5), a HGV parking facility at/close to J10 M42 creates a 'chain' of HGV parking facilities which broadly conforms with the requirements set out in Circular 01/2022. Without a facility at that location, driving times and distances between HGV parking facilities would be significantly in excess of the distances set out in the Circular. On that basis alone, the list of existing and potential parking sites as presented in Appendix L cannot be regarded as feasible alternatives to the appeal site proposals. Regardless, Paragraph 82 of *DfT Circular 01/2022 (CD-H3)* is clear that where general spacing requirements are met but a need for HGV parking still arises, the case to address unmet demand should be supported through the provision of additional facilities subject to an assessment of the safety of the proposed access or egress arrangements.

-
25. Paragraphs 5.46 and 5.47 of Ms Barratt's Proof notes that a number of logistics developments market themselves as 'rail-served', including Magna Park. With respect – her point appears to be that such sites are within a reasonably short drive to a rail head. That emphatically does not mean that such sites should be considered to be 'rail served'. To the contrary, and as I have explained in my Proof (Section 4, and in the appended Rail Terminal Connectivity Statement (CD-A14) and two Technical Addendum (CD-B27 and Appendix 6 to my Proof)), the key factor is the means of transferring container units between an intermodal terminal and warehousing and whether this can take place using some form of 'works truck' type equipment rather than a fully road-legal HGV (and as a result accrue significant cost benefits which promotes modal shift).
26. I have demonstrated that yard tractors operating internally within the Birch Coppice Business Park (to/from BIFT) are permitted to access the appeal site on the same terms (under the works truck conditions). However, given the distances involved this would not be the case at other sites along the A5 (i.e. all of those quoted by Ms Barratt), where road-legal HGVs would be required. This places the appeal site in a unique position when compared with those other sites. While commercial developers are free to promote a site's proximity to intermodal rail terminals close by, they are not therefore 'rail-served' in the same way as the appeal site, and it is palpably wrong to refer to them as 'rail-served'.

Appendix:

Agenda Item 6

Planning and Development Board 8 April 2019

Agenda Item No 6

Planning and Development Board

8 April 2019

**Report of the Head of
Development Control**

Consultations

1 Summary

- 1.1 The report brings the Board up to date following its resolutions in respect of applications received by neighbouring Authorities

Recommendations to the Board

- a That in the Coventry case, the action taken be confirmed; and**
- b That in the Birmingham case, the holding objection be removed subject to both Warwickshire County Council and Highways England confirming that they have no objections.**

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 Members will be aware that the Board recently considered two planning applications submitted to neighbouring Local Planning Authorities. The Borough Council had been requested to submit representations. In both instances the Board requested meetings with relevant officers so that its concerns could be fully understood by those respective Authorities. Those meetings have now taken place and this report outlines the outcome of those discussions.

4 Fivefield Road, Coventry

a) The Meeting

- 4.1 Members will recall that this concerned the erection of 550 dwellings to the south-east of the Borough as one of the phases in the substantial planning allocation for new housing in this area as contained in the adopted Coventry City Plan. The Board did not object in principle but raised a number of concerns – highway impacts and the need to consider whether there could be benefits to existing services and facilities in the Borough as a consequence – bus service extensions and contributions to schools.
- 4.2 Councillors Sweet and Phillips subsequently met the Coventry Planning officer dealing with the application in order to expand on these concerns with more local detail. It was confirmed that these matters will now be added to the considerations involved in this application. It was also confirmed that the Warwickshire County Council as highway authority would be consulted along with their Public Health officers for Primary Care advice and the Education service for its view on the potential impacts on local schools – primary and secondary.
- 4.3 At the same meeting, officers drew Member's attention to a further outline application submitted to the Coventry City Council for up to 100 dwellings as a further phase of this overall large housing allocation. The site of this second application adjoins the Borough's boundary with Coventry at Bennetts Road North and at the Keresley Rugby Club in Corley Parish. Rather than wait for this case to be reported to the Board, the two Members agreed to relay the same issues as the Board had resolved for the Fivefield Road case. However there was an additional concern expressed and this was that there should be a substantial green buffer set aside alongside the common administrative boundary such that there was no urban "fence" bounding North Warwickshire. The Coventry officer fully understood this request and was wholly supportive. A letter setting this out has already been sent to the City Council.

b) Observations

- 4.4 The Board is asked to confirm this position

5 Peddimore, Birmingham

a) The Meeting

- 5.1 This was the application for a substantial employment park at Peddimore north of Minworth and to the west of Curdworth. The Board objected to the proposal reciting a number of concerns around the potential impact of the proposal on North Warwickshire. At the same time, the Board requested a meeting with the applicant and appropriate Birmingham officers in order to explain these concerns.

- 5.2 Councillors Humphreys, Reilly, Simpson and Sweet together with officers subsequently met representatives of the applicant, IM Properties, their planning agents and the relevant Birmingham Officer. The meeting ran through the issues that the Board had raised.
- 5.3 The Board's first concern was the likely traffic impacts, particularly of HGV movements on the A4097 Kingsbury Road through Curdworth and the capacity of Junction 9 of the M42 and M6 Toll Road. The applicant's explained a number of mitigation measures that were to be undertaken as a consequence of the findings of a Traffic Assessment and discussions with the appropriate highway authorities. It was emphasised that the Assessment had properly taken account of existing, committed and future allocated land developments. These measures included junction improvements to Junction 9 itself in order to increase capacity and improvements to the Kingsbury Road/Water Orton Lane junction in Minworth. Members understood that the appropriate highway authorities would advise on this matter, but they clearly wished two concerns to be explicitly recognised – restricting additional traffic travelling between Minworth and Water Orton and secondly, whether the Junction 9 improvements, whilst facilitating north travelling movements should also facilitate south travelling movements, particularly as the alternative was use of the A446 past Coleshill to the M6.
- 5.4 It was agreed that the issue of traffic speeds on the Kingsbury Road was outside the scope of this proposal, but that County Members should follow this matter through at the County Council.
- 5.5 During the discussion, there was reference to the possibility of a "Preferred User" scheme for use of the M6 Toll. Essentially occupiers of the Peddimore estate would negotiate a scheme with the M6 Toll company whereby its HGV's could have a favourable toll which could mean that HGV traffic would use the M6 Toll and its junction with the A38 in order to access the site, rather than the Kingsbury Road. Members saw benefits in this if it could be made to work.
- 5.6 In respect of enhancing bus services into North Warwickshire and increasing cycle and pedestrian connectivity, the applicants explained that apart from physical measures in respect of the latter, there would be contributions to the Green Travel District already set up by the City Council which seeks to coordinate modes of transport – e.g. extending and enhancing the bus services to Coleshill. That District already includes Curdworth and Water Orton. The two stations at Water Orton and Coleshill Parkway would feature in this scheme. Members acknowledged that contributions to this overall scheme would meet their concerns.

- 5.7 The second issue was to seek comfort on the provision of appropriate HGV parking on site with relevant welfare infrastructure. Members were told that the service yards on the site would be substantially larger than those experienced at Birch Coppice for this reason and that on-site welfare facilities would be provided. Additionally, the estate would remain as a private estate and thus the occupiers would have greater obligations though their tenancy agreements than otherwise may have been the case. Members were satisfied that their concerns had been recognised and addressed as far as they could be through the application process.
- 5.8 The third issue was the need to ensure that the employment opportunities to be provided here could be accessible to North Warwickshire residents. Birmingham City Council already has a Charter for Sustainability with local employment skills fora and a full range of linkages with local schools, colleges and the DWP. As a consequence the applicant would contribute and engage in these existing arrangements without the need for separate Section 106 measures. Members asked that local North Warwickshire Schools should be engaged. The applicant also drew attention to its Peddimore Community Fund which was wide enough to support training opportunities; raise aspirations for the younger generation and support community projects. This Fund would be open to bids from Curdworth. Again it was considered that all of these arrangements satisfied their concerns.
- 5.9 The final issue was to see if the detail of the layout could accommodate any potential if the site was to be extended to the east thus precluding the possibility of a new access onto the Kingsbury Road. Whilst the internal layout was to be engineered with this potential, the issue of an extension was a wholly speculative matter and could not be pre-empted or safeguarded. Members agreed that this was as far as this matter could be taken.
- 5.10 Overall Members acknowledged that their concerns had been fully understood and that the meeting had been constructive and helpful in reaching a better understanding of the proposal.

b) Observations

- 5.11 As indicated above, the meeting had been very worthwhile as a lot more of the details underlying the proposal had been made explicit. It is considered that the consequence of this is that the overall objection be withdrawn with the exception of Members seeking greater satisfaction on the two highway matters identified in para 5.3 . This would be a matter of waiting to see the consultation responses of the Warwickshire County Council, and Highways England. Additionally Members wish to be kept up to date on the matter raised in para 5.5.

6 Report Implications

6.1 Environment, Sustainability and Health Implications

- 6.1.1 The meetings greatly helped answer a number of concerns to the extent that the environmental and sustainability implications of the proposal on North Warwickshire had been properly addressed.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

