



Hodgetts Estates

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

Statement of Case on behalf of the Appellant

LPA Ref: PAP/2021/0663

Core Document Ref: CD-D5



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

Statement of Case on behalf of the Appellant

**PUBLIC**

**PROJECT NO. 70075293**

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# 1 INTRODUCTION

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## 1.1 CONTEXT

1.1.1. This Statement of Case ('SoC') is submitted on behalf of Hodgetts Estates ('the Appellant' or 'HE') and relates to an appeal against North Warwickshire Borough Council ('the Council' or 'NWBC') and its non-determination of an outline planning application in relation 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'*

1.1.2. As shown on the Red and Blue Line Plan (**CD-A3**), the site comprises a red line boundary area extending to approximately 32.36ha (the development site) and a blue line boundary area extending to approximately 41.66ha (other land under the control of the Appellant, parts of which are proposed for off-site mitigation and connectivity enhancements). 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 beyond which is the town of Tamworth.

1.1.3. A full description of the appeal site and surroundings and the appeal proposal is set out in the draft Statement of Common Ground ('SoCG') (**CD-D6**) for agreement with NWBC.

1.1.4. This SoC will form the basis of the Appellant's full case and the documents that the Appellant intends to refer to once it is known what NWBC's decision would have been had it determined the application. Given that at this time the Appellant has not been informed what NWBC's decision would have been, the Appellant therefore reserves the right to adduce additional material necessary to address issues raised in any such putative reasons for refusal.

1.1.5. This SoC is also supported by a draft Core Documents schedule which currently comprises the original planning application documents, any supplementary documents that were submitted during the determination period, and any relevant LPA correspondence. The Appellant will seek to agree a final Core Documents schedule with NWBC in due course.

1.1.6. The Appellant has also prepared a draft Statement of Common Ground ('SoCG') upon planning matters and is essentially an overarching SoCG. It is anticipated that separate, topic-specific SoCG's in relation to, at least, highways and landscape/visual impact matters will also be prepared in advance of any inquiry.

1.1.7. The Appellant is firmly of the view that a public inquiry is the most appropriate procedure in which to test the matters in dispute between the main parties. A justification for this request is provided in accordance with the Planning Inspectorate's '*Procedural Guide: Planning Appeals - England*' (Updated 5 October 2023) at section 1.3 below.

1.1.8. At this stage, the Appellant is not minded to make a costs application, however this is in anticipation of NWBC and other key parties continuing to work positively throughout the course of the appeal. As such, the Appellant reserves the right to make a costs application at a later stage of the appeal process, if it is deemed warranted.

## 1.2 APPLICATION BACKGROUND

- 1.2.1. The Statement of Community Engagement (**CD-A11**) and Chapter 4 of the Planning Statement (**CD-B5**) describe the extensive consultation activities undertaken prior to submission of the application. This included formal pre-application discussions with NWBC, presentations to NWBC Planning & Development Board members and Dordon Parish Council and a public consultation exercise.
- 1.2.2. A request for an EIA Scoping Opinion was submitted to NWBC on 20 November 2020. NWBC provided their Scoping Opinion by way of an initial letter dated 23 December 2020 and a further letter dated 12 February 2021 following a request for clarification from the Appellant. Copies of the scoping request, scoping opinions and responses received are contained at **CD-A9.1**.
- 1.2.3. The application and accompanying EIA was submitted and validated on 2 December 2021 and given application reference: PAP/2021/0663 (**CD-C1**). This resulted in a statutory determination deadline of the application of 24 March 2022.
- 1.2.4. At the time of the appeal being lodged there is no formal request for additional environmental information outstanding. Nonetheless the Appellant intends to request a formal assessment from the Planning Inspectorate that it is satisfied that no further environmental information is required to enable the appeal to be determined.
- 1.2.5. Several extensions of time were agreed with the LPA between the submission date and up to the last agreed extended deadline of 31 August 2023 (**CD-C5**). The extensions of time were agreed over a significant period of time to enable discussions between NWBC, statutory consultees and National Highways to progress in respect of outstanding technical planning considerations.
- 1.2.6. During the course of the determination period, the Appellant submitted additional information to supplement and update some of the documents submitted at the outset – details of which are provided in Chapter 3 of the draft SoCG.
- 1.2.7. Furthermore, details of the consultee responses received during the application, and the Appellant's provision of supplementary information in response, is also provided in Chapter 3 of the draft SoCG.
- 1.2.8. NWBC has most recently requested agreement to a further extension of time until 31<sup>st</sup> January 2024 (**CD-C6**), however, for the reasons given below, this has not been agreed to.
- 1.2.9. The Appellant and their appointed consultants have engaged proactively and positively with NWBC and statutory consultees during the course of the prolonged determination period, however there is no clear indication as to when the outstanding matters will be resolved to the satisfaction of NWBC and consequently no confidence that the application will be determined in the short term. Furthermore, despite the passage of time, NWBC has not provided a clear position (or in some cases in any position) on a number of key planning considerations, such as the principle of development, a definitive view on policy compliance with the Local Plan, acceptability on technical grounds including access/transport/highways and landscape/visual impact.
- 1.2.10. As such, given the passage of time since the application was validated and the outstanding matters still to be resolved which have contributed to significant delays to the determination of the application for a period of over 24 months, the Appellant feels that there is no choice but to appeal the non-determination of the application in order to reach a resolution without incurring further delays. Not to do so would result in this application continuing to drift with no early prospect of its being determined, despite it being for a proposed development for which there is a substantial need.

- 1.2.11. As this appeal is against the non-determination of the application, the position that NWBC will adopt in respect of the acceptability of the proposed development is unknown at this stage; and therefore, the Appellant reserves the right to adduce additional material necessary to address issues raised in any such reasons for refusal.

### 1.3 JUSTIFICATION FOR AN INQUIRY

- 1.3.1. The Appellant considers that a public inquiry would be the most appropriate forum in which to consider the appeal proposal.

- 1.3.2. The justification for this request is set out below in accordance with the Planning Inspectorate's '*Procedural Guide: Planning Appeals - England*' (Updated 5 October 2023):

- **The need for the evidence to be tested through formal questioning by an advocate**
  - The case concerns a number of complex areas of expert evidence relating to highways impact, site access and connectivity, landscape impact and visual impact, economics as well as policy interpretation and the overall planning balance where evidence will need to be tested through formal cross examination.
  - NWBC has instructed an expert landscape professional to undertake a third-party review of the proposed development. That expert has raised extensive technical issues relating to the Appellant's Landscape and Visual Impact Assessment that will need to be examined in evidence. This is not a case of merely competing judgments.
  - The site is located at the border of two local planning authorities (North Warwickshire Borough Council and Tamworth Borough Council) and two highway authorities (Warwickshire County Council (WCC) and Staffordshire County Council (SCC)). The site also adjoins the Strategic Road Network for which National Highways acts as highways authority. Matters relating to highways impact, site access and connectivity are likely to involve highly technical evidence being given from three highways authorities.
  - The above matters are interconnected and will involve large amounts of highly technical data that are likely to be provided in evidence from various consultees and experts advising the Appellant, North Warwickshire Borough Council (NWBC) and consultees.
  - Furthermore, to date, and despite the application being with the LPA for 24 months, NWBC has not provided a policy response or any indication of its position in respect of the principle of development and therefore any subsequent policy response will clearly need examining in evidence.
  - The level of detail and technical evidence in respect of all the issues identified above further justifies the testing of evidence by way of cross-examination by an advocate to allow submissions to be made in respect of the same.
- **Substantial local interest**
  - This is a major application that has attracted considerable local interest;
  - It is highly likely that a number of parties may seek Rule 6 status;
  - Both the pre-application consultation exercise undertaken by the Appellant in August 2021 and the statutory consultation period for the application generated a significant amount of written representations. Over 350 written representations were made to NWBC during the statutory consultation period for the application.



- The site lies in a Neighbourhood Plan area and it is anticipated that the nearby Parish Councils will register as Rule 6 Parties;
- An outline application and an associated appeal for very similar proposals on land immediately south of the appeal site attracted significant public attention and was dealt with by way of inquiry (Land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY - PINS Ref: APP/R3705/W/15/3136495);
- Accordingly, it appears likely that there will be substantial local interest in the appeal which would further suggest that a public inquiry would be the most appropriate forum for interested parties to observe proceedings and address the inquiry, if desired.

1.3.3. Having considered all the material considerations and technical matters that will need to be addressed we anticipate that a total of up to 6 sitting days will be required to properly test the evidence. This significantly exceeds the single day usually reserved for a hearing. The Procedural Guide therefore suggests that a public inquiry would be necessary.

1.3.4. For the above reasons, the Appellant considers a public inquiry to be fully justified as the most appropriate procedure for considering this appeal.

## 2 BACKGROUND

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### 2.1 THE APPEAL SITE AND SURROUNDINGS

- 2.1.1. 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.
- 2.1.2. A full description of the appeal site and surroundings is set out in the draft SoCG for agreement with NWBC.

### 2.2 THE APPEAL PROPOSAL

- 2.2.1. The appeal proposal seeks outline planning permission for the development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Means of access into the site is also sought and includes in particular vehicular access into the site from the A5 (Watling Street). All other aspects of access (within the meaning of the Town and Country Planning (General Development Management Procedure) (England) Order 2015).
- 2.2.2. Full details of the appeal proposal, including the development parameters sought in outline and specific elements of access which are sought in detail, are set out in the Draft SoCG for agreement with NWBC. These details can also be found in the Planning Statement (**CD-B5**), Environmental Statement Volume 1 (Non-Technical Summary) (**CD-A7**), Environmental Statement Volume 2 (Main Report) (**CD-B1**) and the Design & Access Statement (**CD-B34**).
- 2.2.3. The documents which the Appellant seeks approval for are as follows:
- Red and Blue Line Plan (Drawing Ref: 4263-CA-00-00-DR-A-00066 Rev P4) (**CD-A3**);
  - Parameters Plan (Drawing Ref: 4263-CA-00-00-DR-A-00075 Rev P18) (**CD-B37**);
  - Proposed Site Access Drawings (within the submitted Transport Assessment Addendum) (**Appendix C of CD-B39**).
- 2.2.4. The Design Guide (Ref: 4263-CA-00-XX-RP-A-06004 Rev PL6) (**CD-B35**) provides an overarching design framework and sets out 'Design Parameters' that development subject to future reserved matters applications must adhere to ensure that any future development of the site would be 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, and will enable the substantial scheme benefits associated with high-quality design to be realised. It is anticipated that a planning condition will form part of any outline planning permission forthcoming to require future reserved matters applications to demonstrate compliance with the Design Guide.
- 2.2.5. Illustrative plans, submitted during the course of the determination period, to assist with the consideration of the appeal proposals (but are not sought for approval at this stage given they're illustrative only) are as follows:
- Indicative Masterplan INST+ Specification (Drawing Ref: 4263-CA-00-00-DR-A-00090 Rev SK5) (**CD-B28**);
  - Indicative Elevations based on Indicative Masterplan INST+ Specification (**CD-B29**):
    - Proposed South Unit Proposed Elevations – Plan ref: 4263-CA-00-00-DR-A-05008 Rev SK3;

- Proposed Middle Unit Proposed Elevations – Plan ref: 4263-CA-00-00-DR-A-05009 Rev SK3;
  - Proposed North Unit Proposed Elevations – Plan ref: 4263-CA-00-00-DR-A-05010 Rev SK3;
  - Proposed Smaller Unit Proposed Elevations – Plan ref: 4263-CA-00-00-DR-A-05011 Rev SK2.
- Sections A, B, C and D based on Indicative Masterplan INST+ Specification – Plan refs: 403.11077.00001.LAJ-54 Rev D and 403.11077.00001.LAJ-55 Rev D (**CD-B30**);
  - Type 3 Photomontages (based on Indicative Proposed Masterplan INST+ Specification) – ref: 403.11077.00001.LAJ-56-LAJ-70 Rev E (**CD-B31**);
  - Proposed Indicative Masterplan (Drawing Ref: 4263-CA-00-00-DR-A-00095 Rev P1) (**CD-B41**)
  - Proposed Hub Office (Drawing Ref: 4263-CA-00-00-DR-A-00080 Rev P4) (**CD-B42**).
- 2.2.6. Prepared in accordance with the overarching Design Parameters contained within the Design Guide, the Indicative Masterplan INST+ Specification and associated indicative elevations, sections and Type 3 photomontages have been prepared to illustrate the form in which a multi-unit scheme is likely to come forward at the site based on present market evidence.
- 2.2.7. The Design and Access Statement (**CD-B34**) and the Design Guide (**CD-B35**) incorporates examples of alternative building designs. Detailed design of the buildings, their ‘appearance’, is a reserved matter but these illustrative and indicative plans provide an example of how the scheme could be brought forward.
- 2.2.8. Evidence will demonstrate how the incorporation of the overarching Design Parameters in any future detailed design of the appeal proposal will provide further landscape and visual impact mitigation, in addition to the already substantial on and off-site landscaping proposals.

## 3 PLANNING POLICY CONTEXT

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- 3.1.1. The Appellant will refer, in evidence, to national and local planning policy and guidance and any other relevant documentation.
- 3.1.2. In particular, the Appellant will review and assess the proposal in the context of the Development Plan and other material considerations, as summarised below.

### 3.2 THE DEVELOPMENT PLAN

- 3.2.1. 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. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.
- 3.2.2. The relevant statutory Development Plan for the appeal comprises:
- North Warwickshire Local Plan (adopted September 2021); and
  - Dordon Neighbourhood Plan (adopted December 2023).

#### NWBC LOCAL PLAN

- 3.2.3. The NWBC Local Plan was adopted in September 2021 and incorporates both site allocation and development management policies. The plan period runs until 2033.
- 3.2.4. The policies of the Local Plan most relevant in the determination of this appeal are listed below:
- Policy LP1 – Sustainable Development
  - Policy LP2 – Settlement Hierarchy
  - Policy LP4 – Strategic Gap
  - Policy LP5 – Amount of Development
  - Policy LP6 – Additional Employment Land
  - Policy LP11 – Economic Regeneration
  - Policy LP12 – Employment Areas
  - Policy LP14 – Landscape
  - Policy LP15 – Historic Environment
  - Policy LP16 – Natural Environment
  - Policy LP17 – Green Infrastructure
  - Policy LP21 – Services and Facilities
  - Policy LP22 – Open Spaces and Recreational Provision
  - Policy LP23 – Transport Assessments
  - Policy LP26 – Strategic Road Improvements A5
  - Policy LP27 – Walking and Cycling
  - Policy LP29 – Development Considerations
  - Policy LP30 – Built Form
  - Policy LP33 – Water and Flood Risk Management
  - Policy LP34 – Parking
  - Policy LP35 – Renewable Energy and Energy Efficiency
  - Policy LP36 – Information and Communication Technologies
  - Policy LP39 – Employment Allocations

3.2.5. The Appellant will demonstrate that the appeal proposal accords with these policies and therefore accords with the Local Plan as a whole.

### **DORDON NEIGHBOURHOOD PLAN**

3.2.6. The Dordon Neighbourhood Plan ('DNP') was made in December 2023 and its plan period is aligned with the NWBC Local Plan, running until 2033.

3.2.7. The policies of the DNP most relevant in the determination of this appeal are listed below:

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

3.2.8. The Appellant will demonstrate that the appeal proposal accords with these policies and therefore accords with the DNP as a whole.

## **3.3 OTHER MATERIAL CONSIDERATIONS**

### **NATIONAL PLANNING POLICY FRAMEWORK**

3.3.1. The revised National Planning Policy Framework (NPPF) was published in December 2023 and is a key material consideration in the determination of planning applications.

3.3.2. The Appellant will demonstrate, having regard to the proper application of the NPPF, the extent to which the appeal proposal addresses the requirements of NPPF, such that the presumption in favour of sustainable development (paragraph 11) is engaged.

### **NATIONAL PLANNING PRACTICE GUIDANCE (PPG)**

3.3.3. The Appellant will also refer to relevant elements of the PPG as required within evidence.

### **EMERGING EMPLOYMENT DPD**

3.3.4. NWBC is in the early stages of preparing an Employment DPD. A 'Scope, Issues and Options' document<sup>1</sup> formed part of the reports pack taken to NWBC's Local Development Framework Sub-Committee in September 2023 with a recommendation (that was passed) to undertake a consultation on this initial document. At the time of writing, this consultation has not yet

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<sup>1</sup> NWBC Local Development Framework Sub-Committee 11 September 2023 Reports Pack – Link: [Agendas, reports and minutes | North Warwickshire \(northwarks.gov.uk\)](#)

commenced. As stated within the 'Scope, Issues and Options' document, the original intention for the DPD when first put into the Local Development Scheme was to focus upon the issue of addressing Strategic Employment Land (Policy LP6 in the adopted Local Plan). However, the document now questions whether the DPD should look at all employment related policies in the adopted Local Plan.

- 3.3.5. At the time of writing, NWBC is yet to commence that consultation exercise, which, in any case, is not on a draft Employment DPD but rather a 'Scope, Issues and Options' document which is the starting point for seeking public input to a future plan-making process. As such, whilst there is a clear intention that NWBC will seek to adopt the Employment DPD in due course, there is currently no such plan in the public domain nor has the 'Scope, Issues and Options' document been formally consulted on at this stage. As such, there is no plan to which any weight can be attributed in the decision making process of this appeal. Nonetheless this process indicates that a review of the Local Plan's policy approach in respect of employment is warranted.

### **OTHER POLICY AND EVIDENCE BASE DOCUMENTS**

- 3.3.6. As part of its evidence, and in addition to the evidence base documents prepared on behalf of the Appellant and submitted with the application, the Appellant will refer to other key policy documents, evidence base documents and important studies/publications to demonstrate that there is a significant quantitative and qualitative need at the national, regional and local levels for:

- a) the identification and delivery of employment land in the area; and
- b) the provision of overnight lorry parking in the area.

- 3.3.7. The most pertinent of these other policy and evidence base documents are summarised below, some of which relate specifically to the employment need and lorry parking need elements of the appeal proposal, however there is a considerable amount of cross-over in the need case. A comprehensive list of all documents to be referred to in evidence will form part of the Core Documents list to be agreed in advance of inquiry.

■ **National / Government publications:**

- *Build Back Better: Our Plan for Growth*, UK Government – March 2021
- *Future of Freight: A Long Term Plan*, Department for Transport – November 2021
- *Decarbonising Transport: A Better, Greener Britain*, Department for Transport – July 2021
- *National Survey of Lorry Parking*, Department for Transport – January 2018
- *The National Survey of Lorry Parking 2022 Part One*, Department for Transport – September 2022
- *'Planning Reforms for Lorry Parking'*, Written Ministerial Statement from The Rt Hon Grant Shapps – November 2021
- *Future of Freight: A Long Term Plan*, Department for Transport – June 2022
- *Great British Railways: The Williams-Shapps Plan for Rail*, Department for Transport – May 2021
- *Decarbonising Transport: A Better, Greener Britain, Department for Transport* – July 2021
- *Road Freight Supply Chain: Government Response to the Committee's First Report*, UK Government - September 2022
- *Strategic Road Network and the Delivery of Sustainable Development*, Department for Transport – December 2022

■ **Regional publications:**

- *West Midlands Strategic Employment Sites Study (Phase 1)* – September 2015
- *West Midlands Strategic Employment Sites Study (Phase 2)* – June 2021
- *Coventry and Warwickshire Housing & Economic Development Needs Assessment (HEDNA)* – November 2022
- *West Midlands Plan for Growth*, West Midlands Combined Authority – December 2022
- *Spatial Investment & Delivery Plan Revised Draft*, West Midlands Combined Authority – February 2019
- *West Midlands Rail Investment Strategy 2018-2047*, West Midlands Rail Executive – December 2018
- *West Midlands Draft Consultation Rail Investment Strategy 2022-2050* – October 2022
- *Strategic Transport Plan: Greener, Fairer, Stronger*, Midlands Connect – March 2022
- *Freight Route Map*, Midlands Connect – August 2022
- *Local Transport Plan 4*, Warwickshire County Council – July 2023
- *Draft Local Cycling and Walking Infrastructure Plan*, Warwickshire County Council – June 2022
- *Bus Services Improvement Plan*, Warwickshire County Council – October 2021
- *Warwickshire Rail Strategy 2019-2034*, Warwickshire County Council – July 2019
- *Coventry & Warwickshire Sub-Regional Employment Market Signals Study*, BBP Regeneration (on behalf of Coventry & Warwickshire LEP) – July 2019

**OTHER PERTINENT DOCUMENTS AND INFORMATION**

- 3.3.8. The Appellant may also refer to other adopted and emerging documents which form part of the Development Plan and its evidence base. These will be included within the Core Documents list with NWBC's agreement.
- 3.3.9. The Appellant may refer to other planning applications, appeal decisions and case law where relevant to the appeal proposal. These will be agreed with NWBC, and copies will be provided as Core Documents.



## 4 THE APPELLANT'S CASE

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### 4.1 OVERVIEW

- 4.1.1. This chapter sets out the Appellant's position in relation to the key policy and material considerations relevant to the site. It demonstrates that the proposal accords with the plan as a whole, that there are no material considerations which indicate that permission should not be granted, and that there are significant benefits which weigh heavily in favour of the proposal.
- 4.1.2. Evidence will be given that draws upon the Planning Statement, Environmental Statement, Planning Statement Addenda, supporting need case studies, technical and environmental reports and other supplementary submissions made with the application (all of which are contained in **CD-A** and **CD-B**) to demonstrate how the appeal proposals comply with the relevant requirements of the Development Plan and material considerations that weight in favour of the proposals.
- 4.1.3. Where appropriate, Core Documents will be supplemented by updated reports as part of the evidence issued in advance of inquiry.
- 4.1.4. Whilst the Appellant is not aware of what NWBC's decision would have been to the proposals, from engaging with NWBC over a period of 24 months and a review of the consultee responses received to date, we envisage the grounds of appeal will relate primarily to the principle of the development (in particular the need case and Strategic Gap policy), site accessibility and highways impact, and landscape/visual impact.
- 4.1.5. It is anticipated that areas of common ground will be established between the Appellant and NWBC and agreed through planning and technical SoCGs.
- 4.1.6. It is also anticipated that a proposed S106 Agreement, prepared in conjunction with NWBC and WCC, will be submitted to the Inspector within the required timescale and prior to commencement of the inquiry.

### 4.2 GROUNDS FOR APPEAL

- 4.2.1. As a starting point, the Appellant in evidence will assess the proposals against the relevant provisions of the Development Plan in detail, including its consistency with current national policy and weight in planning decision-making.
- 4.2.2. Evidence will show how the appeal proposal:
  - 1. Responds to an urgent and compelling need for the type of development proposed and, crucially, in the location proposed;
  - 2. Accords with the Development Plan, taken as a whole and national policy both in terms of the principle of development and in technical planning terms;
  - 3. The principle of development, both in terms of need and locational suitability, is further supported by material considerations;
  - 4. Would generate significant economic, social and environmental benefits, many of which would be secured and delivered locally;
  - 5. There are no material considerations that outweigh these significant benefits; and



6. Constitutes sustainable development in the context of NPPF, for which there is a presumption in favour of.

4.2.3. In doing so, evidence will demonstrate that the planning balance weighs heavily in favour of the appeal proposal.

### 4.3 PRINCIPLE OF DEVELOPMENT – EMPLOYMENT NEED

4.3.1. As indicated in Chapter 3, the Appellant will refer, in evidence, to a range of national and regional strategies and policy documents as well as evidence base documents, research and studies that evidence the employment need in terms of supply and demand and location, and support for meeting the same. These documents are significant material considerations as they provide up to date Government direction and both national and regional objectives for economic development.

4.3.2. At a high level, there has been a change in the thrust of Government policy, in particular, adding increased importance on the need to plan positively for the delivery of new logistics and distribution floorspace. Indeed, NPPF is clear in its support for building a strong and competitive economy and that **significant weight** should be placed on the need to support economic growth and productivity (paragraph 85).

4.3.3. These priorities are also reflected in the increasing and thorough body of evidence that identifies the real and pressing need for more strategic employment floorspace, and the existing high demand, specifically within Area 2 (i.e., the M42 Corridor). This is particularly set out in the West Midlands Strategic Employment Sites Study (WMSESS) (2021) (as well as its predecessor study, WMSESS (2015)) which is a key material consideration in the determination of this appeal and is further justified by the Employment Land Statement (**CD-A12**) submitted with the application. Furthermore, the A5 Corridor is identified as a key growth corridor.

4.3.4. Local Plan Policy LP6 clearly states that **significant weight** should be afforded to proposals for employment development at sites within Area A of the WMSESS 2015 (or successor study) where such development would meet an identified need and where three additional criteria are met:

*‘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.’*

4.3.5. 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’.

4.3.6. Paragraph 7.55 of the Local Plan (which was introduced by virtue of Main Modification 40 during examination) reads as follows:

*‘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.’ (emphasis added)

- 4.3.7. A key material consideration in the Appellant’s case is that the Local Plan does not adequately plan for strategic employment need (via allocations) – this issue was forthrightly contested at the Local Plan examination in December 2020 with a case being put that it was essential for the local plan to address this need. However, in order for the plan to be found sound, the Inspector required a Main Modification (ref: MM40) for the inclusion of Policy LP6 so as to provide a policy mechanism to allow strategic employment sites to be delivered, should the need, locational requirements and other considerations be met (i.e., the policy criteria). Whilst it is regretted that the plan did not look to address needs by specific allocations – nonetheless this approach has meant that a clear plan led mechanism exists to enable development of the kind proposed to come forward in a policy compliant manner.
- 4.3.8. Within this context, evidence will demonstrate the unequivocal need for strategic employment development within Area 2 of WMSESS 2021 and that the appeal site is the most appropriate location in the district for such development.
- 4.3.9. The appeal site is recognised as the joint top-performing site in WMSESS 2021 and the only motorway junction site in Area 2 of the WMSESS that lies outside of the Green Belt.
- 4.3.10. Evidence will show that none of the Local Plan employment allocations are suitable and available for large/strategic-scale development for B8 use and, in any case, most lie outwith Area 2.
- 4.3.11. Evidence will also demonstrate that the proposal would contribute to supporting economic growth and productivity in the Borough – a key element of Policy LP6. Evidence will demonstrate that the site is located close to areas of the Borough with higher levels of deprivation, as well as areas with high levels of deprivation in eastern Tamworth, and that the site is easily accessible to them by walking, cycling and public transport – accessibility that will be improved and enhanced by virtue of a significant package of on-site and off-site active travel proposals.
- 4.3.12. It will be demonstrated that the appeal site and proposals accord with 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). Evidence will be given to demonstrate how the appeal proposal is acceptable in terms of access and highways impact, thereby demonstrating accordance with criterion (i).
- 4.3.13. Extensive support from key industry bodies has been received to the application which are material considerations that further evidence the assessment of need and the sustainability of the site to accommodate the identified employment need. This includes letters of support from:
- Coventry and Warwickshire Chamber of Commerce (**CD-B46**);
  - JLL (**CD-B47**);
  - Logistics UK (**CD-B48**);
  - Maritime Transport (**CD-B49**);
  - Rail Freight Group (**CD-B51**);
  - Tamworth Borough Council (**CD-B53**).

- 4.3.14. Overall, evidence will clearly justify that Policy LP6 is therefore engaged and, as required by Policy LP6, the Appellant's position is that **significant weight** must be given in decision-taking to supporting economic growth and productivity. This is an implied weighting in favour of delivering additional employment development and, as required by paragraph 7.55 (the reasoned justification for LP6), 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, as is summarised in the planning balance.

#### 4.4 PRINCIPLE OF DEVELOPMENT – LORRY PARKING NEED

- 4.4.1. This element of the proposals is also demonstrably needed, and is complimentary to the overall employment use.
- 4.4.2. As identified in Chapter 3, the Appellant will refer to a number of important publications that form material considerations in respect of the lorry parking need case, which will be drawn upon in evidence. The recurring theme throughout national and regional publications is that there is a critical need for new HGV parking facilities and the requirement for Government intervention through the planning process to alleviate the shortfall.
- 4.4.3. Evidence will show that an unequivocal quantitative need for overnight lorry parking exists in 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.
- 4.4.4. Evidence will also show that a qualitative need exists, including the well publicised HGV driver shortage, the requirement for HGV parking facilities to ensure drivers can undertake statutory driving break periods (required by law) and the regrettable consequences of parking at inappropriate locations and associated crime and anti-social behaviour which are issues in the Junction 10 area.
- 4.4.5. It will be demonstrated that there are no alternative sites within the vicinity of Junction 10 that could accommodate this need, particularly associated with existing 'offsite' parking issues that will be evidenced in Tamworth and along the A5 corridor, and the site is sequentially the best location for this use.
- 4.4.6. Furthermore, evidence will show there is a shortage of high quality lorry parking facilities across the region and the UK more generally. The appeal proposal will not only deliver a substantial quantum of overnight lorry parking in a secured facility – which is a key benefit in its own right - but will also significantly raise the bar in the quality of parking provision, targeting numerous accreditations, including Transport Asset Protection Association (TAPA) Parking Security Requirements<sup>2</sup>, British Parking Association ParkMark Scheme (ParkMark)<sup>3</sup>, EU SSTPA Secure Parking Standards<sup>4</sup>. The

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<sup>2</sup> Transported Asset Protection Association (TAPA) Parking Security Requirements – [Parking Security Requirements \(PSR\) – TAPA EMEA](#)

<sup>3</sup> ParkMark Safer Parking Scheme - <https://parkmark.co.uk/about-the-safer-parking-scheme>

<sup>4</sup> EU SSTPA Secure Parking Standards - <https://eu-parkings.eu/>

lorry parking element of the appeal proposal has been commended in letters of support received to the application, including:

- Logistics UK (**CD-B48**);
- National Vehicle Crime Intelligence Service (**CD-B50**);
- Road Haulage Association (**CD-B52**);
- Tamworth Borough Council (**CD-B53**);
- Warwickshire Police (**CD-B54**);

- 4.4.7. Policy LP34 gives positive weight to proposals that comprise lorry parking provision and facilities, and was introduced by virtue of Main Modification 83 (ref. MM83) during Local Plan examination in response to representations made by the Appellant. The appeal proposal, which comprises on-site parking associated with the employment uses as well as provision of a standalone new 150 space overnight lorry parking facility, 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.
- 4.4.8. Considering the critical quantifiable and quantitative need for overnight lorry parking in the M42 Junction 10 area, the Appellant's position is that the provision of an overnight lorry parking facility is of significant weight in meeting national and local HGV parking needs.
- 4.4.9. In addition to according with local and national planning policy, the appeal proposal 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, as outlined above, are testament to this.
- 4.4.10. Overall, this critical aspect of the proposals is a significant benefit in the overall planning balance and should be afforded significant weight in the determination of the appeal.

## 4.5 STRATEGIC GAP

- 4.5.1. The appeal site is located within the designated Strategic Gap, therefore the other key strategic policy applicable to the appeal proposal is Local Plan Policy LP4.
- 4.5.2. Technical matters relating to Policy LP4 will be addressed and compliance demonstrated in evidence by expert evidence. For the purposes of policy interpretation and alignment of the appeal proposals with policy, evidence will demonstrate that the proposals are in accordance with Policy LP4 and therefore not in conflict.
- 4.5.3. The Appellant's case is that Policy LP4 clearly states that development within the Strategic Gap is acceptable where it does not significantly adversely affect the distinctive, separate characters of the settlements of Tamworth and Polesworth with Dordon, 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.'*
- 4.5.4. 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.’*

- 4.5.5. Viewing the policy and supporting text in its entirety, it is clear that the purpose of the policy is to ‘maintain the separate identity of Tamworth and Polesworth with Dordon’ with the Strategic Gap’s sole policy purpose ‘to prevent coalescence’. The gap is not identified for any other purpose, e.g., landscape quality, environmental quality or amenity. It is a policy tool to achieve a particular planning and land use objective.
- 4.5.6. Furthermore, the policy clearly envisages development can take place in the gap. Policy clearly states that ‘Development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon’. The bar is set high in referring to the impact on the distinctive separate characters needing to be significantly adverse for the policy to be engaged. Plainly, development proposals that do not have a significant adverse impact upon the objective of ‘...affect[ing] the distinctive, separate characters of Tamworth and Polesworth with Dordon’ are not in conflict with policy.
- 4.5.7. In terms of assessing the impact, policy is clear in setting out 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 that they are principal 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 would also be another important consideration.
- 4.5.8. Indeed, the reasoned justification adds further clarity in how to apply the policy. The consideration is 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 any change to the physical and visual separation of settlements but also the experience of the journey between settlements, by whatever means, i.e., the sense of leaving one settlement, travelling through a meaningful gap before entering the next settlement.

#### **ALIGNMENT WITH POLICY LP4**

- 4.5.9. The Appellant’s case is that, in the context of Policy LP4, were the appeal proposal to be allowed and implemented, the separate identities of Tamworth and Polesworth with Dordon would remain, both in relation to physical separation and in terms of their distinctive character. A sense of separation would remain whether travelling along the A5 or along the public rights of way (PRoWs) 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 someone has travelled across the gap to Dordon / Polesworth they will reach a residential settlement (as one does with Birchmoor), clearly a settlement with a different and separate character. The remaining undeveloped gap would be almost 1km as one travels along the A5 (the route along which the majority of people experience the gap), which more than allows the separation and different characters to be appreciated and understood. Furthermore, proposed new and enhanced PRowS between the site and Polesworth and Dordon would afford greater opportunities for the appreciation of the gap and its function.

- 4.5.10. The gap's agricultural use and character would be enhanced through the extensive landscaping proposals on land controlled by the Appellant which would reinforce historic patterns and help to provide physical and perceptual separation between the settlement edge and the commercial area to the south and west.
- 4.5.11. Additionally, any perceived harm and/or potential for further development and encroachment into the Strategic Gap can be mitigated by virtue of the fact that the entirety of land between M42 motorway and Polesworth with Dordon is in the Appellant's ownership. As such, HE is proposing that the extensive landscaping proposals to the east of the site will be secured as open land in perpetuity through an agreement with the Council. Thereby securing the integrity of the gap for future generations in those locations.
- 4.5.12. Taking all the above into account, when assessed against the Local Plan position, the appeal proposal fully accord with Policy LP4. The proposal would allow the settlements of Tamworth (to which it adjoins as well as aligns in land use) and Polesworth / Dordon to maintain their separate characters. It will not see the settlements coalesce, since a substantial gap will remain between them, in the form of open agricultural land, which will be reinforced, as set out above. As such, the development, despite its scale, will not have a significant adverse impact on the separate identities or characters of the settlements. The visual and physical separation, whilst physically reduced to some extent, is still significant and so does not adversely affect the separate identities of the settlements either.

## **COMPLIANCE WITH OTHER STRATEGIC POLICIES CONTAINED IN THE LOCAL PLAN AND DNP**

- 4.5.13. By virtue of evidence demonstrating compliance with Policy LP6 and Policy LP4, which are the two key strategic policies relevant to the appeal proposal, the Appellant's case is that the appeal proposal both in need and locational terms fully accords with other strategic policies in the Local Plan and strategic policies contained in the DNP, including:

### **Local Plan**

- **Policy LP1 (Sustainable Development) –**
  - With the adoption of mitigation measures, where appropriate, and the substantial scheme benefits that would be realised if the development came forward, the proposals clearly amount to sustainable development in the context of Policy LP1 and also NPPF paragraph 11.
- **Policy LP2 (Settlement Hierarchy) –**
  - By virtue of the locational requirements of Policy LP6 carrying significant weight, and based on the exception to the general presumption against development outside a defined settlement

set out in Policy LP2, which states there *'may be some instances where development may be appropriately located'*.

■ **Policy LP5** (Amount of Development) –

- The appeal proposal would provide a substantial contribution towards the requirement for a provision of a minimum 100 hectares of employment land (subject to Policy LP6) between 2011 and 2033.

■ **Policy LP11** (Economic Regeneration) –

- The appeal proposal would lead to the delivery of employment generating uses and opportunities for local people. New development outside of settlement boundaries should seek to retain the rural character, appearance and openness of the countryside (as demonstrated by accordance with Strategic Gap policy LP4).

■ **Policy LP12** (Employment Areas) –

- The appeal proposal would be classed as 'rail-served' by virtue of the site's proximity to the rail freight terminal at Birch Coppice, which policy acknowledges as being of 'strategic significance' whereby development proposals at the estate will be encouraged to use the rail freight terminal.

### **Dordon Neighbourhood Plan**

■ **Policy DNP1** (Sustainable Development)

- As stated above, with the adoption of mitigation measures, where appropriate, and the substantial scheme benefits that would be realised if the development came forward, the appeal proposal would clearly amount to sustainable development in the context of Local Plan Policy LP1 and NPPF paragraph 11 and therefore also Policy DNP1.

■ **Policy DNP12** (Supporting the Local Economy)

- The appeal proposal would provide a substantial contribution towards the requirement for a provision of a minimum 100 hectares of employment land (subject to Local Plan Policy LP6) between 2011 and 2033.
- The appeal proposal 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.

## **4.6 LANDSCAPE AND VISUAL IMPACT**

- 4.6.1. As demonstrated in the draft SoCG, 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. The draft SoCG also sets out areas of agreement and disagreement in terms of the methodology adopted in the assessment of landscape and visual impacts. These matters of agreement and disagreement will be used as a starting point in the bespoke landscape SoCG which is anticipated will be agreed with NWBC/LUC in advance of inquiry.

- 4.6.2. The Appellant's case in respect of Strategic Gap policy (Policy LP4) has already been set out at section 4.5 of this SoC. 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).
- 4.6.3. 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.
- 4.6.4. In terms of the existing landscape character, evidence will refer to 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.
- 4.6.5. Against this baseline and the landscape context within which the site sits, evidence will demonstrate that the potential landscape and visual effects, individually and cumulatively, of the appeal proposal would be localised, and significant negative effects would be limited only to changes to the views available from Public Rights of Way AE45 and AE46, with the majority of effects further from the site being moderate or less as the proposed buildings would be seen in the context of existing commercial buildings to the south and west of the site. Furthermore, evidence will demonstrate that as a result of the significant on and off-site mitigation measures proposed, these effects would reduce over time as planting matures and the mitigation measures would deliver beneficial effects on the landscape character.
- 4.6.6. In demonstrating the above, evidence will also draw upon comparative landscape and visual impact assessments for alternative sites, relevant planning application and appeal decisions, as necessary.

## **4.7 HIGHWAYS IMPACT**

- 4.7.1. National Highways (NH) has issued a holding direction requesting that the application not be approved until 22 March 2024, recommending the submission of additional information to enable NH to provide its assessment of the proposal and consider whether it is in accordance with Circular 01/2022 and NPPF. It is understood that despite a wealth of information being provided by the Appellants, that WCC Highways and SCC Highways maintain that they are still not in a position to provide their assessment of the proposals until additional information is submitted. That is strongly disputed. There is more than sufficient information that has been provided to enable both to arrive at a clear conclusion that the appeal ought to be allowed and that impacts upon the highway network will be acceptable.
- 4.7.2. Extensive dialogue has taken place with the three highways authorities since December 2018 when pre-application discussions with NH, WCC Highways and SCC Highways began and in particular over the past 24 months (since the application was submitted), with new and revised transport surveys, assessment methodology and assessment information submitted at various stages throughout this period.



- 4.7.3. A Consolidated Modelling Strategy note (**Appendix G of CD-B39**) has been agreed by all three highway authorities. In this document the following matters are agreed:
- The extent of the highways network to be assessed.
  - The quantum of development generated traffic, together with its assignment on the agreed highway network.
  - That the impact should be assessed in AM and PM peak hours in the
    - ‘Reference Case’ which includes committed development and background traffic growth, and the
    - ‘Local Plan Case’ which includes Local Plan allocations, Local Plan highway infrastructure, committed development and background traffic growth.
  - The assessment years are to be 2026 and 2033 for the Reference Case, and 2033 for the Local Plan Case.
  - The growth factors to be used.
  - The derivation and assignment of traffic generated by committed development and Local Plan Allocations.
  - The ‘No Development’ and ‘With Development’ traffic flows.
  - That TRANSYT16 would be used to assess the agreed highway network.
  - The traffic survey data to be used, the date of the traffic surveys and the 2023 surveyed AM and PM peak hour traffic surveys.
- 4.7.4. The following documents have been submitted, and the current status is indicated:
- Revised Transport Assessment, submitted February 2023 (**CD-B25**). Requested updating the 2022 survey data to 2023 owing to concerns with potential Covid-19 effect on traffic volumes.
  - Revised Framework Travel Plan submitted February 2023 (**CD-B26**). No comments received.
  - Stage 1 Road Safety Audit Brief February 2023. The proposed road safety auditor is approved by NH. Other NH comments are delayed pending the updated traffic modelling. No comments from SCC and WCC.
  - A5/ Longshoots and A5/ Dodwells roundabout (email) (**Appendix A of CD-B39**), June 2023. Agreed with NH December 2023 that the proposed development does not have an impact at these two junctions.
  - Vision Based Travel Plan (**Appendix P of CD-B39**), September 2023. Agreed by SCC. NH have provided comments of a minor nature. No comments received from WCC. A revised document was issued on 8 December 2023 and a response is awaited.
  - TRANSYT 2023 Validation Report and associated correspondence with NH (**CD-B55**), September 2023. Agreed by NH with the exception of the stage call/ frequency at the A5/ Core 42 junction. Two further submissions on the Core 42 junction have been made, most recently on 30 November. A response is awaited.
  - Road Safety Risk Assessment (GG104) Parameters Note, November 2023 (**CD-B56**). A response is awaited.
  - Transport Assessment Addendum report, December 2023 (**CD-B39**). A response is awaited.
- 4.7.5. The Appellant will continue to engage with the highway authorities on technical matters and will continue to do so during the course of the appeal and in advance of the inquiry. However, until such time that an agreed position is reached, and the proposal is supported by the highway authorities,

the Appellant’s position is that sufficient evidence has been provided to demonstrate that, in the context of NPPF, the development will not have an unacceptable impact on highway safety, that opportunities have been taken to encourage travel by non-car modes and that the residual cumulative impacts on the road network will not be severe.

4.7.6. Additionally, evidence will demonstrate that the highways mitigation and substantial connectivity and active travel proposals (illustrated in the package of plans at **CD-B17-19, CD-B23, CD-B38 and CD-B43**) 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.

## 4.8 ACCORDANCE WITH OTHER TECHNICAL POLICIES IN THE DEVELOPMENT PLAN

4.8.1. As demonstrated in the draft SoCG to be agreed with NWBC, with the exception of matters pertaining to Strategic Gap, landscape/visual impact, design and highways, all other technical and environmental planning matters relevant to the proposals are acceptable.

4.8.2. Evidence to support this position is included within the draft 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.

4.8.3. 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 following technical and environmental matters, the Appellant’s position is that the appeal proposal also accords with relevant technical planning policies contained in the DNP.

4.8.4. This position is summarised in **Table 4-1** for completeness:

**Table 4-1: Summary of statutory consultee responses to app ref: PAP/2021/0663**

Technical / Environmental Matter	Relevant Local Plan and DNP Policies	Statutory Consultee	Consultation Response
Amenity (Noise, Air Quality, Light)	LP29 DNP8	NWBC Environmental Health	No objection, subject to conditions
Amenity (Crime impact and safety)	LP29; LP34 DNP8	Warwickshire Police	No objection – supportive of design measures and overnight lorry parking
Ground Conditions	LP29	NWBC Environmental Health	No objection, subject to conditions
		Coal Authority	No objection, subject to condition/informatives
		Environment Agency	No objection
Biodiversity and Ecology	LP16; LP17; LP29 DNP2	Warwickshire County Council Ecology	No objection, subject to condition

		Natural England	No objection
Flood Risk and Drainage	LP29; LP33 DNP7	Warwickshire County Council (LLFA)	No objection, subject to conditions
		Severn Trent Water	No objection, subject to informatives
Heritage and Archaeology	LP15; LP29 DNP6	Warwickshire County Council Archaeology	No objection, subject to conditions
Public Rights of Way and Active Travel	LP23; LP27; LP29 DNP5	Warwickshire County Council PRoW Team	No objection, subject to informative
		Ramblers Association	No objection, supportive of active travel proposals
		Active Travel England	Confirmed the application was outside of its remit
		Cycling UK	Supportive of active travel proposals
Public Transport Infrastructure	LP23; LP29 DNP14	Stagecoach	Supportive of public transport strategy and proposed bus service extension
		WCC Transport Operations	Supportive of public transport strategy
Critical Infrastructure	N/A	Cadent Gas	No objection
		HS2	No objection

## 4.9 OTHER MATTERS

- 4.9.1. As set out in the draft SoCG, it is understood that there are no other outstanding technical objections from statutory consultees. However, in the event that NWBC provides reasons for refusal that sit outside the scope of matters addressed above, the Appellant reserves the right to submit additional evidence.

## 5 PLANNING CONDITIONS AND SECTION 106 OBLIGATIONS

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### 5.1 PLANNING CONDITIONS

- 5.1.1. The Appellant will seek to reach agreement on planning conditions with NWBC in advance of the inquiry. An update will be provided accordingly.

### 5.2 SECTION 106 OBLIGATIONS

- 5.2.1. A Section 106 (S106) Agreement will be prepared in conjunction with NWBC and other required parties and a final version prepared for execution prior to the close of the inquiry.
- 5.2.2. Further details regarding the proposed heads of terms are contained within the Draft SoCG and for agreement with NWBC.
- 5.2.3. Without prejudice to the Appellant's case, it is anticipated that the S106 Agreement will address the following heads of terms:
- Access and highways;
  - Off-site landscaping/green infrastructure;
  - Off-site connectivity infrastructure improvements;
  - Employment, skills and training.
- 5.2.4. The Appellant reserves the right to add or amend the details as NWBC's approach to the appeal becomes clearer through discussions on the draft SoCG.
- 5.2.5. The executed S106 Agreement will be accompanied by a note setting out the compliance of the proposed obligations with the Community Infrastructure Levy (CIL) Regulations (2019) (as amended), in particular, Regulation 122(2).

## 6 THE PLANNING BALANCE AND CONCLUSIONS

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### 6.1 PLANNING BALANCE

- 6.1.1. In summary, as set out in Chapter 4, the Appellant's case will demonstrate how the appeal proposal:
1. Responds to an urgent and compelling need for the type of development proposed and, crucially, in the location proposed;
  2. Accords with the Development Plan, taken as a whole and national policy both in terms of the principle of development and in technical planning terms;
  3. The principle of development, both in terms of need and locational suitability, is further supported by material considerations;
  4. Would generate significant economic, social and environmental benefits, many of which would be secured and delivered locally;
  5. There are no material considerations that outweigh these significant benefits; and
  6. Constitutes sustainable development in the context of NPPF, for which there is a presumption in favour of.
- 6.1.2. In doing so, evidence will demonstrate that the planning balance weighs heavily in favour of the appeal proposal.

### ACCORDANCE WITH THE DEVELOPMENT PLAN

#### Compliance with strategic polices

- 6.1.3. Evidence will demonstrate that:
- The appeal proposal fully accords with Policy LP6 and gains the **significant weight** in decision making that the policy provides. 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 proposal accords 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 proposal also accords with Policy LP4 as the proposal would allow the settlements of Tamworth (to which it aligns in land use) and Polesworth with 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 adversely affect the separate identities of the settlements. This position will be evidenced with the support of an expert witness.
- 6.1.4. By virtue of evidence demonstrating that the appeal proposal accords with Policy LP4 and LP6, the Appellant will also demonstrate that the appeal proposal also accords with other strategic polices within the Local Plan (namely policies LP1, LP2, LP5, LP11 and LP12).
- 6.1.5. By extension, evidence will confirm that the appeal proposal accords with the strategic policies contained within the DNP.

- 6.1.6. Evidence will also demonstrate how the appeal proposal clearly aligns with the key principles of the NPPF, which reflect Government priorities and policy direction in respect of economic growth, employment and lorry parking need.
- 6.1.7. Furthermore, evidence will be supplemented by letters of support received to the application from a large number of key industry groups, action groups and organisations, such is the severity of the employment and lorry parking needs in the site location and a recognition amongst these groups of the substantial contribution the proposals would make towards addressing these needs.

#### **Compliance with technical policies**

- 6.1.8. As demonstrated in the draft SoCG with NWBC, with the exception of Strategic Gap, landscape/visual impact and highways (which we anticipate may form putative reasons for refusal), all other technical and environmental planning matters pertaining to the proposals are considered acceptable and in accordance with relevant policies contained in the Local Plan, DNP and NPPF. NWBC's agreement will be sought to this effect.
- 6.1.9. In terms of outstanding technical matters, evidence will be given by relevant expert witnesses to demonstrate that the appeal proposal would not give rise to any unacceptable landscape and visual impact and would not lead to an unacceptable impact on highway safety or a severe cumulative impact on the highway network.
- 6.1.10. In summary, evidence will demonstrate that there are no technical planning reasons why the appeal proposal should not be allowed.

#### **SUSTAINABLE DEVELOPMENT**

- 6.1.11. In evidencing compliance in respect of the principle of development, Strategic Gap policy, landscape/visual impact, highways impact and other strategic and technical planning policies within the Development Plan, the Appellant will demonstrate that, having regard to the proper application of the NPPF, the extent to which the appeal proposal also constitutes sustainable development in the context of the NPPF.
- 6.1.12. Such evidence will be supported by the significant economic, social and environmental benefits that would be delivered. Indeed, support has also been received to the application in recognition of the substantial and far-reaching scheme benefits that would be realised, if the development were to come forward, which will be referred to in evidence accordingly.
- 6.1.13. Evidence will show that these 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.

#### **An economic role**

- 6.1.14. Evidence will be presented to demonstrate the beneficial economic impacts of the appeal proposal. In particular, reference will be made to the significant contribution the provision of up to 100,000sqm of mixed employment floorspace will provide to the local, regional and national economies, in terms of inward investment, stimulating sustainable economic growth of industries and businesses and employment generation.
- 6.1.15. Indeed, the creation of 776 to 1,295 FTE jobs locally and 471 to 786 FTE jobs throughout the region is a significant long-term benefit. The co-location and timing of these jobs in proximity to residential development would align with the delivery of major allocated new housing sites at Polesworth with

Dordon (site allocation H4) and Tamworth (site allocation H5), in the adopted North Warwickshire Local Plan.

- 6.1.16. Furthermore, it will be demonstrated how the provision of an overnight lorry parking facility will provide a significant benefit to the economy by supporting the sustainable growth of the UK freight industry.

#### **A social role**

- 6.1.17. Evidence will be presented to demonstrate that in addition to substantial employment generation, which in itself is a significant benefit to society, the appeal proposal will also open up access to and deliver significant new areas of green infrastructure by virtue of extensive connectivity enhancements on-site and off-site. These linkages will be accessible to the public and will help support the health, social and cultural wellbeing of those living in Dordon and the wider area.
- 6.1.18. Additionally, it will be demonstrated that the development of this site will be accessible and sustainable, underpinned by its location in proximity to nearby settlements, services and facilities through the aforementioned measures to promote linkages between the site and the surrounding area.
- 6.1.19. Furthermore, evidence will demonstrate the important social benefits the appeal proposal will deliver by virtue of the proposed Hub Office (through provision of new training facilities and publicly accessible changing facilities), the proposed community orchard and links into the proposed new community sports, meeting room and allotments at site allocation OS1.

#### **An environmental role**

- 6.1.20. The Appellant's aspirations to create '*The Greenest Business Park in the West Midlands*', underpinned by the overarching HQDPs, Design Parameters and sustainability measures set out in the Design Guide (which could be secured by planning condition) will ensure that future development at the site would become an exemplar in sustainable and resilient development and combating climate change to deliver a range of environmental benefits.
- 6.1.21. It will be demonstrated that, after mitigation, the appeal proposal has no unacceptable adverse effects on the environment. On the contrary, evidence will be presented to demonstrate how the proposal will lead to enhancements in the local environment, including in respect of biodiversity, green and blue infrastructure.

#### **The presumption in favour of sustainable development**

- 6.1.22. In evidencing the above, it will be demonstrated that the substantial and far-reaching scheme benefits should be afforded **significant weight** in the overall planning balance.
- 6.1.23. Furthermore, the appeal proposal comprises sustainable development that benefits from the presumption in favour of sustainable development, pursuant to paragraph 11 of the NPPF. Any perceived residual impacts of the development after mitigation would not be adverse or significantly and demonstrably outweigh the benefits of the proposal.

## **6.2 CONCLUSION**

- 6.2.1. In giving the evidence outlined in this SoC, the Appellant will demonstrate that a clearly established need and locational justification exists in support of the proposals and the acceptability of the proposals in terms of environmental impacts has been robustly evidenced, which would overcome





any putative reasons for refusal conceived by NWBC and demonstrate compliance with the Development Plan as a whole.

- 6.2.2. On this basis, it will be demonstrated that the proposals therefore constitute sustainable development in the context of NPPF paragraph 11, which is a key material consideration.
- 6.2.3. Furthermore, it will be demonstrated that there are other material considerations supporting the proposals including extensive support from key industry bodies and significant benefits which weigh heavily in favour of the proposals.
- 6.2.4. In accordance with NPPF paragraph 11, sustainable development should be approved without delay and therefore the appeal should be allowed.





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