

**Statement of Common Ground between Hodgetts Estates (“HE”), Moto Hospitality Ltd (“Moto”) and the Road Haulage Association (“RHA”) regarding a main modification proposing a reserved site allocation for a Motorway Service Area in the event that HS2 Phase 2b comes forward during the plan period**

**1.0. Background**

1.0. This Statement of Common Ground has been prepared to set out the areas of agreement between Hodgetts Estates (“HE”), Moto (“Moto Hospitality Ltd”) and the Road Haulage Association (“RHA”), who have interests in North Warwickshire Borough. It sets out a suggested main modification to make the North Warwickshire Local Plan (“CD0/1”) sound. Specifically, it sets out a suggested main modification proposing a reserved site allocation for a Motorway Service Area (“MSA”) in the event that HS2 Phase 2b comes forward during the plan period.

1.1. It follows on from representations SLP133 and SLP429, position statements on Matter 7 (refs. PS.M7.02 and PS.M7.09) and the letter from the RHA to the Inspector dated 21st December 2018.

**2.0. HS2 timing**

2.1. The Published Timeframe for delivery of HS2 Phase 2b is as follows:

- January 2013 – Preliminary Route for Phase 2b published;
- November 2016 – Preferred Route for Phase 2b published;
- July 2017 – Government confirmed the route of HS2 Phase 2b;
- October 2018 – Working Draft Environmental Statement published for consultation;
- Early 2020 – Hybrid Bill to be deposited with Parliament;
- Late 2022 – Main civils design work commences;
- Early 2023 – Royal Assent;
- Mid 2023 – Start of Construction;
- Early 2024 – Main civils construction works are due to commence;
- Mid 2031 – Delivery of first trains for infrastructure testing; and
- Late 2033 – First passengers travel on full HS2 services.

- 2.2. Construction is expected to start at the southern end of the line and work its way northwards to Leeds. Tamworth is located in Community Area 1 (the most southern part of the new line). It is anticipated that Tamworth Services will be acquired by HS2 Ltd on or before 2023.
- 2.3. MSAs have significant lead in times, which, as evidenced by proposals between junction 5 (“J5”) and J6 of the M42 at Solihull (ref. PL/2015/51409/PPOL), can often take four or more years to proceed through the planning application process alone. The whole process from site identification, through planning to construction and delivery can take much longer. It is, therefore, wholly appropriate for consideration to be given to the need for a replacement MSA and any associated policy provision for such set out in CD0/1.

### **3.0. CD0/1 conflict with NPPF**

- 3.1. Para. 31 of NPPF 2012 requires local planning authorities (“LPAs”) to work with transport providers, such as MSA operators, to develop strategies for the provision of viable infrastructure necessary to support sustainable development, including large scale facilities such as roadside facilities for motorists. NWBC are therefore obliged to work with Moto and other transport providers to plan for the provision of roadside facilities.
- 3.2. In PS.M7.02, Collins & Coward on behalf of Moto confirmed that no response has been received to Moto’s representations to the DSLP (SLP133). Planning Officers further confirmed at the examination hearings for Matter 7 on 27<sup>th</sup> February 2019 that no contact had been made with Moto or any other operator to that point. The requirement under para. 31 of NPPF for the LPA to work with transport providers has not therefore been satisfied.
- 3.3. Para. 152 of NPPF 2012 requires LPAs to seek opportunities to achieve each of the economic, social, and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered.
- 3.4. Below, reference is made to HS2 Phase 2b Working Draft Environmental Statement Volume 2: Community Area Report LA01: Lea Marston to Tamworth (“WDES”) and in particular Chapter 12, paras. 12.4.9, 12.4.10, 12.4.11 and 12.4.12 (extracted below for ease of reference):

### *Impact magnitude*

- 12.4.9 The magnitude of impact focuses on the number of jobs that would be affected by the Proposed Scheme, either through displacement or possible job loss. It also considers the implications of this impact in relation to the scale of economic activity and opportunity in the area.

### *Sensitivity*

- 12.4.10 The sensitivity of resources considers the following:
- availability of alternative, suitable premises;
  - size of the local labour market;
  - skill levels and qualifications of local people; and
  - levels of unemployment.

### *Significance of effects*

- 12.4.11 Taking account of the sensitivity of the resource and the magnitude of impact, it is currently expected that the significance of the resultant effects would be as set out in Table 30.

Table 30: Significance of effects on resources

Resource	Impact magnitude	Sensitivity	Significance of effect
Tamworth Services	High	Medium	Major adverse
Redrow House	High	Low	Moderate adverse
Travelodge Tamworth M42	Moderate	Medium	Moderate adverse
DFS Distribution Centre	High	Low	Moderate adverse

- 12.4.12 Tamworth Services would be demolished. Tamworth Services is located in a unique location based on the volume of traffic and its ability to integrate with the road network at Junction 10. It is considered that the Tamworth Services would have difficulty in finding suitable alternative premises i.e. near to an existing junction or through the provision of a new junction to allow direct access from the road network without disrupting traffic flows. The effect on the businesses based at the Tamworth Services, and their employees, is assessed to be major adverse and therefore significant.

3.5. The WDES establishes the effect of HS2 on Tamworth Services as being “*major adverse and therefore significant*” triggering the requirement in NPPF 152 for alternative options which reduce or eliminate such impacts to be pursued and where adverse impacts are unavoidable measures to mitigate the impact should be considered. The DSLP as drafted does not explore alternative options and does not consider measures to mitigate the impact in clear conflict with NPPF 2012 para. 152.

3.6. Para. 155 of NPPF 2012 states it is essential for early engagement and collaboration with neighbourhoods, local organisations and businesses to take place. The HS2 Consultation Route (published January 2013), the Preferred Route

(published November 2016), and the Confirmed Route (July 2017) have all indicated that the route will require the demolition of Tamworth Services. Each route was published prior to submission of the DSLP and has acted as a trigger point for the LPA to begin early engagement and collaboration with Moto. This essential early engagement and collaboration has not taken place in conflict with para. 155 of NPPF 2012.

- 3.7. Para. 156 of NPPF 2012 requires LPAs to set out strategic policies to deliver, inter-alia, the provision of commercial development and infrastructure for transport. With regard to MSAs, this requirement has not been satisfied.
- 3.8. Para. 162 of NPPF 2012 requires LPAs to work with providers to, inter-alia, assess the quality and capacity of infrastructure for transport, and its ability to meet forecast demands. In relation to MSAs, the requirements under para. 162 are also not satisfied therefore.

#### Conclusions

- 3.9. Accordingly, as presently drafted and as demonstrated above, CD0/1 is in conflict with paras. 31, 152, 155, 156 and 162 of NPPF 2012 and is therefore inconsistent with national policy. It is not legally sound as it has not been positively prepared, it does not seek a positive solution to address the identified major adverse significant harmful environmental and socio-economic effect in terms of the loss of Tamworth Services<sup>1</sup>.

#### **4.0. Location specific justification**

##### DfT Circular 02/2013

- 4.1. The need for MSAs is set out in Annex B to the Department for Transport (“DfT”) Circular 02/2013. This requires the spacing between MSAs for safety and welfare of motorists to be no greater than 28 miles (para. B6). In the absence of Tamworth Services, the distance between Donnington Park MSA and Hopwood Services MSA would be 46 miles. At the moment, Tamworth Services sits 25 miles from Hopwood MSA and 21 from Donnington Park MSA so it is strategically placed to serve the M42, particularly north of the M6.
- 4.2. There is only a 10-mile length of the M42 motorway capable of satisfying the need for a replacement MSA for Tamworth Services, in compliance with the 28-mile maximum separation distance set out in Circular 02/2013. This being three miles to

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<sup>1</sup> Set out further at paras. 4.11 and 4.12 of this submission.

the north and seven miles to the south of J10.

#### HS2 safeguarding and Green Belt

- 4.3. Much of the land adjacent to the M42 to the north and south of J10 is blighted by HS2 and the Green Belt for Birmingham, meaning it is either not available to provide for an alternative location for Tamworth Services or unsuitable given the availability of land at J10.
- 4.4. The safeguarding route for HS2 passes to the east of J11 of the M42<sup>2</sup>. The route does not impact upon the existing roadside facilities there (Shell petrol station and McDonald's restaurant) but means they cannot be expanded and upgraded to meet full MSA requirements. Moto confirms that given the presence of these facilities, an alternative location for a MSA at J11 are unviable.

#### Solihull proposals

- 4.5. There are two live planning applications for MSAs on the southern section of the M42. Namely, a scheme promoted by Extra MSA Group (ref. PL/2015/51409/PPOL) between J5 and J6 and an Applegreen PLC scheme (ref. PL/2016/02754/MAJFOT) at J4. The distance from these proposed facilities to Tamworth Services is 14 miles and 18 miles respectively. However, the distance between the proposed facilities and Donnington Park MSA would be 35 miles and 39 miles, well in excess of the 28 miles recommended maximum set out in Circular 02/2013.
- 4.6. Furthermore, the justification for the a new MSA on the southern part of the M42 was identified by the Secretary of State in 2009, when it was established there was "*a significant need for a new MSA in this area for highways safety reasons.*" This need pre-dates the route for HS2 being proposed as going through Tamworth Services in 2013, so it was established in a scheme-off scenario and based on an assumption that Tamworth Services would not be demolished.
- 4.7. The provision of one or both of these proposals will therefore not address the need for a new MSA at J10, when construction of HS2 proceeds in 2023.

#### A5 Trunk Road

- 4.8. The location of Tamworth Services at J10 is key to serving traffic both on the M42 and A5 trunk road. Indeed, DfT Circular 02/2013 requires the maximum distance between signed services on the strategic road network/trunk roads to be the equivalent of 30 minutes driving time.

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<sup>2</sup> Refer to WDES: Volume 2: LA03 Appleby Parva to Ashby-de-la-Zouch map as attached.

- 4.9. The A5 forms part of the Trans-European Transport Network acting as a local distributor and serving a high proportion of commercial traffic (both eastbound and westbound) between Birmingham and Coventry to the M1. The A5 provides resilience for other strategic roads including the M6 and M6 Toll which often experience congestion. It is also designated as a diversionary route in response to accidents occurring on the M42, M69 and M1. Tamworth Services therefore serves an important secondary function for the A5 trunk road (in addition to the M42), especially when a diversion is in place routing motorway traffic along the A5, due to an incident on the any of the M42, M69 or M1.
- 4.10. As noted in the letter from RHA (attached and outlined further below), the A5 is also a major freight artery with several major logistics and business parks along its length, including Daventry Intermodal Freight Terminal, Magna Park Lutterworth and Birch Coppice Business Park (incorporating Birmingham Intermodal Freight Terminal), as well as several others planned for the future (e.g. Hinckley Park, near J1, M69 by IM Properties). Flows on the M42 at J10 will therefore increase and an MSA at this junction will continue to facilitate future growth in the area.

HS2 Phase 2b Working Draft Environmental Statement

- 4.11. The Working Draft Environmental Statement for HS2 Phase 2b identifies that a major adverse significant harmful environmental effect will be caused by HS2 in terms of the loss of jobs in this location. At para. 12.4.12 of the Working Draft Environmental Statement Volume 2: LA01, it is noted that:

*Tamworth Services is located in a unique location based on the volume of traffic and its ability to integrate with the road network at Junction 10. It is considered that the Tamworth Services would have difficulty in finding suitable alternative premises i.e. near to an existing junction or through the provision of a new junction to allow direct access from the road network without disrupting traffic flows. The effect on the businesses based at the Tamworth Services, and their employees, is assessed to be major adverse and therefore significant.*

- 4.12. These harmful effects would be largely mitigated through provision of a new MSA at J10, given that the existing businesses would not have to be displaced and their employees could transfer straight across to the new site, which is located in the same travel to work area.

National Survey of Lorry Parking, Department for Transport, 2017

- 4.13. The National Survey of Lorry Parking (“NSLP”) identifies that utilization rate of existing lorry parking provision in the West Midlands is at 87% (Table 5.1, NSLP). The report confirms that at utilisation rates of 85% or more, the availability of suitable parking becomes critical and it is very difficult for additional drivers to find parking spaces (para. 5.2.3, NSLP). Essentially, this means that facilities are considered to be full at utilisation rates of 85%+. At Table 5.47 of the NSLP, Tamworth Services is identified as having a utilization rate of 92% (critical and full).
- 4.14. There are 65 HGV parking spaces together with 18 spaces for coaches and 257 car parking spaces at Tamworth Services. Loss of these without adequate provision of replacements would exacerbate the already critical lorry parking position, both locally and regionally.<sup>3</sup>
- 4.15. The NSLP also identifies excess demand for lorry parking in the West Midlands of 613 spaces. This national evidence document points to the need for additional lorry parking in the West Midlands. CD0/1 should therefore set out policies for provision of additional lorry parking, preferably on or near to the strategic road network, to address the identified regional undersupply and offset parking which will be lost at Tamworth.

Letter from the DfT and Department of Housing Communities and Local Government (“DHCLG”), 18 May 2018

- 4.16. During Matter 7, HE made reference to the letter addressed to all Chief Planning Officers (including North Warwickshire) from the DfT and DHCLG which brought the severity of the lorry parking issue to the attention of LPAs. It confirmed that the shortage of overnight lorry parking has grown more acute since the previous 2010 study and noted that “*Capacity constraints at formal lorry parking facilities frequently translate into problematic ‘fly-parking’<sup>4</sup>, for example in laybys and industrial estates which lack proper parking facilities.*” It also commented on a related issue of on-road “*daytime lorry parking in the vicinity of some distribution centres.*”

Written statement to Parliament – Road haulage update, 21 May 2018

- 4.17. Following on from the letter from DfT and DHCLG, in a written statement to

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<sup>3</sup> This position is supported the RHA to the Inspector dated 21<sup>st</sup> December 2018.

<sup>4</sup> RHA does not endorse the term ‘fly-parking’, first coined by Helen Whately MP in a debate in the House of Commons, as it signals that the activity is illegal when the majority of the time it is not. “Inappropriate parking” is preferred therefore.

parliament, Minister of State for the DfT, Jesse Norman set out further details in relation to road haulage, including agreement with Highways England to “*assist local authorities in actively identifying areas of lorry parking need and potential solutions, including in the context of specific planning applications where these might help alleviate the situation.*” Furthermore, “*to give increased priority to the provision of lorry parking across the strategic road network.*”

#### **RHA letter**

- 4.18. The attached RHA letter of 21<sup>st</sup> December 2018 makes reference to the recent appeal decision (ref. APP/R3705/W/17/3192501) at the existing MSA at Corley in North Warwickshire for additional HGV parking incorporating associated infrastructure and works in the Green Belt. The RHA letter confirms that “*There the presiding Inspector gave weight to our [RHA’s] submission in support of the proposals*”. Furthermore, that “*many of the site specific justifications apply similarly to Tamworth.*”

#### **5.0. Main Modification and Additional Modifications**

- 5.1. HE, Moto and RHA agree to suggest the following Main Modifications and Additional Modifications to reflect the above:

Statement of Common Ground between HE, Moto and RHA

Proposed Text

Main Modification	Chapter	Page	Policy / Supporting Text	Proposed Modification	Referenced
			LP40 (a)	<p><b>LP40 (a) – Reserved Motorway Service Area Site</b></p> <p><b>The following site is allocated as a reserved Motorway Service Area to be released when evidence demonstrates that the land forming Tamworth Services, the Motorway Service Area and associated facilities north-west of junction 10 of the M42 motorway is required for HS2 Phase 2b:</b></p> <p><b>RMSA1 Land north-east of J10 of the M42 opposite the existing MSA 12 ha</b></p>	<p><i>Agreed with Hodgetts Estates, Moto and RHA</i></p> <p><i>Reason: for soundness</i></p>

			<p><b>Reasoned Justification</b></p> <p><i>Additional Reserved Land for Motorway Service Area</i></p> <p><i>The route of HS2 Phase 2b crosses the site of Tamworth Services, the Motorway Service Area located north-west of J10 of the M42. HS2 Phase 2b is due to be complete and operational by late 2033, although construction works are due to commence in 2023. The HS2 safeguarding route, which is also safeguarded in the Local Plan under Policy LP27 and shown on the Proposals Map covers the whole of Tamworth Services, which would be demolished to make way for HS2. In order to take account of this and to allow an additional element of flexibility, a site is reserved to the north-east of J10 of the M42 to allow for provision of a new Motorway Service Area.</i></p> <p><i>The National Survey of Lorry Parking (DfT, 2018) and associated letter to Local Planning Authorities from the Department of Transport and Department of Housing Communities and Local Government point to a critical need for additional lorry parking at J10 of the M42, and the West Midlands in general. In order to address this critical need, RMSA1 is extended to account for additional lorry parking and associated circulation space.</i></p>	
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	2	9	2.11	<i>The Borough Council recognises that when HS2 takes place, it will impact on a number of properties. The Council will work with owners <u>and promoters of replacement facilities</u> to mitigate the loss of the properties wherever possible.</i>	...
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