

**NORTH WARWICKSHIRE BOROUGH COUNCIL
LOCAL PLAN EXAMINATION
Matters 6 Hearing - Additional Appeal Documentation (Re: INSP15)
For the Inspectors information**

The following Appeal references relate to sites within the current proposed Meaningful Gap. Information on these Appeals was requested at the hearings for the Inspector and to reflect references to the documents noted in Matters Statements and responses at the hearing.

The site addresses, planning applications and Appeal reference numbers are noted in full.

Also noted is the Council's online planning search facility, whereby access to the planning application and appeal documentation can be obtained, using the planning reference number. This webpage is available at -

<http://planning.northwarks.gov.uk/portal/servlets/ApplicationSearchServlet>

The list of appeals (and associated applications) is as follows ;

1) Two Applications at Land Adjacent to 78 Tamworth Road.

a) Refusal of a residential development in the Meaningful Gap, off Tamworth Road (B5000) between Polesworth and Tamworth. Original planning application was PAP/2015/0704

b) Planning Application PAP/2017/0010 – refused - Planning Appeal reference **Appendix 1 - APP/R3705/W/16/3150719. Appeal Dismissed**

2) Two Applications at site off Pooley Lane, Polesworth, for residential development. Following an Appeal the resubmission was granted.

a) Planning Application PAP/2016/0213 – refused. Planning Appeal Ref: **Appendix 2 - APP/R3705/W/17/3179922. Appeal Dismissed.**

b) Planning Application PAP/2018/0053 - Outline Planning Permission Granted Planning. Appeal Ref:

Appendix 3 - APP/R3705/W/18/3203467. Appeal allowed

3) St Modwens Employment site application at Junction 10 of M42 (25ha) - Planning Application PAP/2014/0648 – refused

Planning Appeal Ref:

Appendix 4 - APP/R3705/W/15/3136495. Appeal allowed

Hope information helpful,

Best Regards,

Mike Dittman

Forward planning team

North Warwickshire Borough Council

Appeal Decision

Site visit made on 30 August 2016

by **David Troy BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 September 2016

Appeal Ref: APP/R3705/W/16/3150719

78 Tamworth Road, Polesworth, Warwickshire B78 1HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by NP Holloway and Son against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0704, dated 17 November 2015, was refused by notice dated 15 January 2016.
 - The development proposed is an outline application (access only) for residential development of land adjacent 78 of Tamworth Road, Polesworth, B78 1HX.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline with all matters other than access reserved for future consideration. I have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance of the area

4. Policy NW2 of the North Warwickshire Core Strategy (2014) (CS) sets out a settlement hierarchy for the distribution of development within the Borough, with the aim of directing most development to the district's larger settlements and lesser amounts to lower tiers in the hierarchy, influenced by, amongst other things, their size, needs and range of services and facilities. The purpose of the policy is therefore to distribute development in a sustainable way, which achieves a balance between maintaining the vitality of communities and protecting the intrinsic character and beauty of the countryside. This is emphasised in Strategic Objective 1 of the CS, which aims to secure a sustainable pattern of development reflecting the rural character of the Borough. It also provides the basis for the delivery of the Borough's housing requirements, including site allocations, through the Council's emerging Draft Local Plan, which is still in the early stages of preparation.
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5. Polesworth is identified as a Category 1 settlement that will accommodate a minimum of 440 additional dwellings 'in or adjacent to' it over the plan period. However, the appeal site is not within Polesworth's development boundary nor does it appear to be adjacent to it. Indeed, the site would appear to fall within the open countryside for the purposes of local planning policy settlements, where development will be limited to that needed to support the rural economy and small scale affordable housing schemes, where there is a proven local need. There is no indication in the evidence before me that the proposed dwellings would fall into any of the specified categories of development that would be appropriate in this location. As such, on its face, the scheme conflicts with the locational requirements of adopted planning policy.
6. Policy NW19 of the CS advises that the planned growth for Polesworth and Dordon should be focused to the south and east of the settlement. Any development to the west of Polesworth & Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them. The meaningful gap is significant as it seeks to retain the open character of the area and restrict development apart from reasonable extensions to existing buildings. Indeed, it is not disputed that from an historical planning policy context a gap has existed in the landscape between Polesworth and Tamworth for many years.
7. The appeal site is an open parcel of land on the north side of Tamworth Road between the settlements of Polesworth to the west and Tamworth to the east. It lies about 300m west of the development boundary identified for Polesworth in the North Warwickshire Local Plan 2006 (Saved Policies) and about 200m east from the boundary with the M42. It lies adjacent to the residential property at No. 78 Tamworth Road that forms a small cluster of two pairs of semi-detached cottages that are separated from the main built area of Polesworth to the west by woodland and open fields. To the west and south is a wooded area and to the north is an open field. The proposed residential development for two dwellings would be accessed via a turning head at the end of the road.
8. The appellant considers that the proposal would be an appropriate addition to an existing cluster of dwellings and would have a negligible effect on the character of the area, due to the modest scale of the development and the limited views into and out of site. The appellant argues that the meaningful gap supports limited development in this location, based on the comments made by the Planning Inspector at the Examination in Public on the CS and the Council's meaningful gap assessment, which states such gaps are spatial planning tools designed to shape the pattern of development and not countryside protection or landscape designations.
9. This may be so. Nonetheless, I do not concur with the appellant that the development would form an appropriate addition to an existing cluster of dwellings in this context. Rather than the site having any close connection with adjacent dwellings, it reads strongly as an integral part of the surrounding countryside that would be separated by a clear gap from the main built area of Polesworth by the open fields and woodland. Whilst the development of two dwellings would be modest in scale they would nevertheless substantially urbanise the site.

10. I have noted the outline residential development granted for two dwellings at 32 Tamworth Road, Polesworth pointed out by the appellant. However, this development represents a form of infill development that is located immediately adjacent to the development boundary and the main built area of Polesworth. Thus, I do not consider it to be directly relevant to the case before me and, as such, I afford this limited weight as a comparable example.
11. Consequently, I conclude that the proposal would cause harm to the character and appearance of the area. It would, therefore, conflict with policy NW19 of the CS as set out above and the underlying principles relating to the meaningful gap. The proposed development would also conflict with Policy NW10 of the CS requiring that development should be targeted at using brownfield land in appropriate locations reflecting the settlement hierarchy and with Policy NW12 that requires development to positively improve the character, appearance and environmental quality of the area.

Other Matters

12. The appellant argues that the Council does not have a fully up to date Development Plan to direct and deliver the Borough's housing requirements, as the Council's emerging Draft Local Plan is in the early stage of preparation. I do not agree. Just because a plan is made in separate parts does not mean it is not up to date if it has yet to emerge in its totality. The CS identifies those areas to which development is to be directed and the appropriate scale of that development. It also sets out additional policies which, notably when used in conjunction with those setting out the overall development strategy, provide decision makers and applicants with a clear framework within which development proposals can be considered.
13. The appellant also states that the housing requirement is likely to be higher than identified in the CS based on recent information provided by the Council's on the overall housing position in the Borough and that this proposal would constitute a sustainable form of development that would boost the housing supply in line with the requirements of the National Planning Policy Framework (the Framework). This may be so, but there is no dispute that the Council is able to demonstrate a five year supply of deliverable housing sites against the extant development plan requirement.
14. The appellant considers that the proposal would form a sustainable form of development that would be in close proximity to the existing built up area of Polesworth, which is a market town with a full range of local services. However, two dwellings would make only a limited contribution to the vitality of this large community and more generally to the housing stock in the Council's area. There is no evidence before me to suggest that local services are at risk such that these dwellings would secure their retention and the Council can demonstrate a five year supply of deliverable sites. I therefore do not consider that these factors would outweigh the harm that I have found to the character and appearance of the area.
15. I have noted the housing development and planning appeals drawn to my attention by the appellant. However, the appeal decisions¹ at Anstrey have different locational characteristics and relate to a different scale of development. Consequently, I do not consider them to be directly relevant to

¹ APP/R3705/W/15/3016570 and APP/R3705/W/15/3019478

the case before me and, as such, I afford them limited weight as comparable cases.

16. My attention was drawn by the appellant to the judgment in *Suffolk Coastal District Council v Hopkins Homes Ref: [2016] EWCA Civ 168*. However, as that case is concerned with the weight to be given to policies relevant to the supply of housing where paragraph 14 of the Framework is 'engaged', which it is not here, it does not appear to be directly relevant to the proposal before me.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

David Troy

INSPECTOR



Appeal Decision

Site visit made on 6 November 2017

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th January 2018

Appeal Ref: APP/R3705/W/17/3179922

Land east Pooley Lane, Polesworth B78 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr K Holloway, N P Holloway and Son against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0213, dated 15 April 2016, was refused by notice dated 4 April 2017.
 - The development proposed is outline application (access only) for the residential development of up to 40 dwellings land east of Pooley Lane, Polesworth, B78 1JB.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development referred to in the header above has been taken from the planning application form. This forms the basis on which the appellant applied for the development proposed. I note that the local planning authority altered this description for its decision notice, however, in the absence of any evidence to demonstrate that the appellant agreed to this wording, I have used the description on the planning application form.
3. The application was submitted for outline planning permission with matters relating to layout, appearance, landscaping and scale reserved. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with the matter of access.

Main Issues

4. These are:
 - (i) whether appropriate provision is made for affordable housing; and,
 - (ii) the effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area.

Reasons

Affordable housing

5. Policy NW6 of the Core Strategy¹ seeks affordable housing, on site, for developments of 15 or more dwellings. There is no dispute between the parties that the appeal proposal should, and can, comply with this policy.
6. During the course of the appeal parties were in agreement to a planning condition to secure affordable housing. However, the Planning Practice Guidance (PPG) makes it clear that planning permission should not be granted subject to a condition that requires the applicant to enter into an obligation. Equally, a condition that leaves the method of securing affordable housing vague would not meet the tests set out in paragraph 205 of the National Planning Policy Framework (the Framework), not least because the condition would not be precise and, therefore, unenforceable.
7. For affordable housing to be provided effectively, arrangements must be made to, not least, transfer it to an affordable housing provider, ensure that appropriate occupancy criteria are defined and enforced, and ensure that the development remains affordable to first and subsequent occupiers. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. Prior to my determination of the appeal, I raised concerns about the use of a planning condition and gave parties the opportunity to provide a suitably robust planning obligation to address the above matters.
8. Consequently I received a signed and dated Unilateral Undertaking. However, this legal agreement is deficient in a number of details needed to secure affordable housing effectively, not least details on the distribution of affordable housing and a plan with regards to land transfer and measures required to secure a registered provider. The Unilateral Undertaking, therefore, would not make appropriate provision for affordable housing.
9. Given the above I must conclude that the development would not make an appropriate provision for affordable housing and as a result would be contrary to policy NW6 of the Core Strategy.

Character and appearance

10. The appeal site is not afforded the protection of any landscape designation such as those referred to within paragraph 115 of the National Planning Policy Framework (the Framework). However the site is within the Anker Valley Character Area, as set out in the North Warwickshire Landscape Character Assessment (2010). This character area is described as being a visually open and broad valley landscape, becoming steeper and more defined closer to the urban area of Polesworth.
11. The appeal site is an open grassed area, bound by an area of housing, (The Lynch, to the south), Pooley Lane to the west and woodland to the north and east. Combined with the mature landscaping on its boundaries, the site is largely obscured from view, albeit that a footpath which runs through and

¹ North Warwickshire Local Plan, Core Strategy, Adopted October 2014

- along the edge of the site provides public access into it. This context contributes to the wider verdant and rural character of the area, which is appreciated within immediate views, from surrounding roads and footpaths, and from longer distance views from Polesworth and its wider environs.
12. The visually open and broad valley landscape offers long distance views of the site, from positions beyond the urban area of Polesworth. The site forms a small part of a much larger panoramic composition; one of a broad valley tops, interspersed with verdant landscaping and housing. Within long distance views the development would be visible, most notably the rooftops of the houses which no degree of landscaping would obscure. However, the height of the rooftops would not exceed the line of the horizon or the height of the trees visible within long distance views, such that it could be considered an incongruous or dominant feature on the skyline. To the contrary, the development would be appreciated as an extension of The Lynch and, therefore, would not detract from the existing settlement pattern of small towns in a rural landscape.
 13. The Council refers to the area to the east of the site, which accommodates the canal, as being a natural barrier between Polesworth and the open countryside. Indeed, this area, covered with trees and on land that slopes steeply up to the appeal site, is a notable barrier between the settlement and open land further west. However, it was apparent from my site visit that the appeal site continues the steep gradient of this land, up to Pooley Lane, beyond which the land then falls away towards the motorway and Tamworth. Pooley Lane, therefore, serves as a more natural barrier between Polesworth and the open countryside beyond.
 14. In addition to this natural barrier, the appeal site is within an area which policy NW19 of the Core Strategy seeks development that respects the separate identities of Polesworth, Dordon and Tamworth and maintains a meaningful gap between them. The appeal site occupies an area between existing development, to the north and south, and would be set in from other areas of Polesworth that extend further west. Together with being east of Pooley Lane, as described above, the new housing would not encroach into the 'meaningful gap' or interject into the open countryside in a way that would undermine the separate identities of the settlements described or their separation from each other.
 15. I recognise the possibility that Tamworth's built envelope will be extended further east in the future. However, there is nothing within the evidence before me to suggest that the scale of this development would risk an amalgamation of Tamworth and Polesworth such that the retention of the appeal site in its current form becomes imperative.
 16. The natural barrier between settlements forms a backdrop to the Polesworth Conservation Area (PCA). The character and significance of the PCA derives, in part, from this 'green backdrop', defined by trees on higher ground. Interspersed amongst these trees are buildings, including those at The Lynch. The appeal site is outside the PCA and behind the natural barrier described and therefore does not contribute to the significance or character of the Polesworth Conservation Area (PCA) overall. Nevertheless, given the proximity of the

- development to the green backdrop, the development could impact on the setting of the PCA depending on the form of the development proposed.
17. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (the Framework) states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 137 of the Framework states that proposals that preserve elements of setting that makes a positive contribution to, or better reveal the significance of an asset, should be treated favourably. Equally, the Framework acknowledges that significance can be harmed or lost through development. The Council's policies on heritage within the Core Strategy, notably policies NW12 and NW14 support this approach, seeking development that sustains, conserves and enhances the historic environment.
 18. The new housing would not encroach physically onto the 'green backdrop' and nor, therefore, onto the setting of the PCA. A landscaped buffer along the eastern edge of the site would guarantee this. However, given the lie of the land, the houses would sit higher than the canal and behind existing trees. Being an application for outline consent, details of existing and proposed landscaping, to include heights and species of plants, are earmarked for the reserved matters stage of planning. Details of finished site and ground floor levels would also be for consideration at the reserved matters stage. The exact position of the houses in relation to the existing topography and trees, therefore, is unknown. Nevertheless, from my observations on site and the evidence before me, I consider that at worst, from within the PCA looking west, the housing would be seen on the skyline, against a foreground of trees and alongside existing built development, though in the winter time when the leaves have fallen from the trees, the development would be more noticeable.
 19. Taking the houses at The Lynch as a reference point, there is nothing before me to suggest that the development would exceed the height of these properties or existing trees to appear incongruous or overly dominant within the local landscape. Equally, given the presence of built form within local views, a more exposed view of the development in the winter would not have any greater visual effect.
 20. Nevertheless, this judgement is made on the assumption that the heights of the houses proposed would not be insensitive to the presence of existing built form and to local views from the PCA. This certainty will be borne out of details at the reserved matters stage concerning the heights of the houses in relation to site levels. The importance of this detail to the development proposed means that it would be reasonable to secure any planning permission with conditions to ensure the submission and approval of finished site and ground floor levels. It is on the basis of my findings and this condition proposed, together with the less than significant contribution the site makes to the PCA, that I conclude that the proposal would leave the character of the PCA and its setting unharmed, that is to say preserved. The proposal would not, therefore, be contrary to policies NW12 and NW14 of the Core Strategy, nor paragraphs 132 and 133 of the Framework.

21. Within shorter distance views, the development would be seen from Pooley Lane and surrounding footpaths. Pooley Lane has a semi-rural character, defined by built development along sections of the lane and noise from motorway traffic, complemented by verdant landscaping including hedges and trees. As an extension of The Lynch and with a landscaped buffer east and west of the site, the development would combine built form with landscaping to complement the semi-rural character of the area.
22. There is no doubt that developing the site would change its character to a more urban one, which would be most notable from Pooley Lane and the footpath along the eastern edge of the site. The layout plan shows that there would be space for an area of landscaping between the lane and the new housing so that the development would be congruent with the semi-rural character of the area.
23. Walkers would experience a material change in their surroundings. The impression of walking in the countryside would be undermined by the presence of houses. However, the illustrative layout plan before me shows that access along Pooley Lane and the footpath would be retained. This would comply with policy NW12 of the Core Strategy, which seeks to protect existing rights of way. Furthermore, the landscaped buffer proposed would create a pleasant walking environment and would ameliorate any adverse visual effects the development may have on walkers' experience of the local area.
24. Therefore, on the basis of my findings and a landscaping and levels condition, I find that the development would not be visually intrusive on the character and appearance of the PCA to cause harm, nor would the development be harmful to landscape character. The development would not, therefore, be contrary to policies NW12, NW14, NW19 or to policy NW13, which seeks development that protects and enhances the character of the natural environment.

Other matters

25. Based on the evidence before me I am unable to come to a definitive conclusion on whether the Council has a 5 year housing land supply. Nevertheless, even if I were to conclude that there is a shortfall in the five-year housing land supply and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impact of granting permission, being the substantial harm arising from a lack of appropriate means of securing affordable housing provision, would significantly and demonstrably outweigh the benefits of any additional market housing provided.
26. The Council states that the development would have a harmful effect on a Grade 2 listed building, Pooley Hall, but it doesn't substantiate its claim. There is nothing within the evidence before me, nor was it apparent from my observations on site, that there is a physical, visual or historical connection between the appeal site and the listed building. As such the development would not have a harmful effect on the setting of the listed building and as a result does not influence my decision on the appeal in this regard.

Conclusion

27. I have found that the development would not have an adverse impact on the character and appearance of the landscape or upon Polesworth Conservation Area. Nonetheless, these factors would be outweighed by the harm arising from the lack of appropriate provision for securing affordable housing. It is on

this basis that I find that the appeal proposal would fail to accord with the development plan when taken as a whole. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed

R Walmsley

INSPECTOR



Appeal Decision

Site visit made on 30 August 2018

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25th September 2018

Appeal Ref: APP/R3705/W/18/3203467

Land east of Pooley Lane, Polesworth B78 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr K Holloway against North Warwickshire Borough Council.
 - The application Ref PAP/2018/0053, is dated 23 January 2018.
 - The development proposed is residential development of up to 40 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 40 dwellings at Land east of Pooley Lane, Polesworth B78 1JB in accordance with the terms of the application, Ref PAP/2018/0053, dated 23 January 2018, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr K Holloway against North Warwickshire Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was submitted in outline form with all matters except access reserved for later consideration. I have determined the appeal on the same basis.
4. Since the appeal was lodged, the government have published a revised National Planning Policy Framework (the 'Framework'). Both parties have had the opportunity to comment on the implications of the new Framework on the proposal and I have taken their comments into account.

Main Issue

5. The main issue is whether it is necessary for the development to provide affordable housing and contributions towards healthcare facilities, public rights of way and community facilities, and if so whether an appropriate mechanism for securing these has been provided.

Reasons

6. The Council state that they have no objection to the proposal subject to appropriate planning conditions and contributions being secured comprising:

- The provision of not less than 40% of the dwellings to be affordable housing;
- £23,059 for the cost of providing health care services at The George Eliot Hospital NHS Trust;
- £2,048.15 for the cost of improving public highways, footpaths, bridleways or cycle routes within 3 miles of the site;
- £52,000 for on-site open space and enhancing the open space, built sports facilities and playing pitches at Abbey Green; and
- £876 towards improvements to public libraries within 3 miles of the site.

The appellant has submitted a unilateral undertaking which includes obligations which aims to secure all these contributions.

7. The affordable housing obligation includes the provision of 10 social rented units and 6 shared ownership dwellings which must be constructed before the occupation of half of the open market houses. I consider this obligation meets the tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and paragraph 56 of the Framework, and I am able to take it into account. The proposal in this respect would accord with policies NW6 and NW22 of the Core Strategy which seeks to secure appropriate levels of affordable housing in development.
8. With respect to the other obligations, I am satisfied that the contribution to the George Eliot Hospital NHS Trust is necessary, is directly related to the development and is reasonably related in kind and scale to the development. Regulation 123 states that, where a CIL charging schedule is not in place, only 5 contributions to each project can be collected. In this case, as the contribution would relate to the running costs of the Trust, not an infrastructure project, it is not limited by this pooling restriction.
9. The contribution for improvements to public footpaths locally is necessary, directly related to the development and the value and nature is reasonably related to the development. The Council have confirmed no other contributions have been made for such improvements. Likewise, I have evidence to demonstrate that mitigation would be required by the way of enhancements to the nearby Abbey Green park. The scale and nature of the intended contribution is reasonably related to the development and has been fairly calculated, but does not seem to account for any on-site open space provision. Nonetheless, I am able to take these obligations into account.
10. These obligations would accord with policy NW10 of the Core Strategy which aims to maintain local services, promote sustainable forms of transport and enhance recreation facilities, and policy NW22 of the Core Strategy which seeks to secure appropriate contributions to mitigate for the effect of development on this infrastructure.
11. With respect to the contribution to libraries however I have little information by which to assess if the £876 required is fairly related in scale to the development or if there is a library close to the site such that it could be considered directly related to the development. I cannot therefore take this obligation into account in my decision.

Other Matters

12. I understand there is a Grade II listed building north of the site at Pooley Hall. However due to the area of dense woodland around the north boundary of the site, there is no visual relationship between the site and this building such that its setting would be affected by the dwellings. Also I have no evidence of any historical connection. As such I consider the setting of this listed building would be preserved by the development.
13. Issues relating to a loss of privacy to, or outlook from, neighbouring properties can only be fully considered at the reserved matters stage when details of the layout and appearance of the houses would be given. The Inspector of the previous appeal¹ considered that the development would cause no harm to the character and appearance of the area, including the 'meaningful gap' and I have no grounds on which to arrive at a different view. I understand the Local Plan is still emerging, but as advised by the Planning Practice Guidance (PPG), prematurity is unlikely to justify a refusal of planning permission and I see no reason to depart from this guidance.

Conditions

14. I have considered the Council's suggested conditions against the advice in the PPG and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
15. I have imposed the standard conditions relating to the commencement of development, submission of reserved matters and specifying the relevant plan in order to provide certainty.
16. It is not necessary to limit the development to 40 dwellings, as that is inherent in the terms of the planning permission, nor the number of storeys, as that would be considered at the reserved matters stage. I also have not imposed the condition relating to the provision of an on-site play area as contributions are to be made for off-site provision, and there seems no justification for both.
17. As this planning permission includes matters of access, I have amended the Council's suggested conditions relating to the access onto Pooley Lane, in the interests of highway safety. Whilst it is necessary to require further details of its dimensions, particularly to ensure HGVs can access the site, and the visibility splays, its position is part of the proposal I have considered and it would be inappropriate to facilitate its possible relocation by a condition. The access from Pooley Lane to Tamworth Road is an established junction serving many houses and businesses and I see no reason why its ability to accommodate HGV movements needs to be demonstrated.
18. I have considered the condition relating to passing places. From my site visit I saw at least two passing places between the position of the proposed site access and Tamworth Road. I do not consider therefore that it is necessary for this to be secured by a planning condition.
19. I have not included the conditions relating to a Construction and Environmental Management Plan or Ecological Management Plan. This is because the layout and landscaping of the site are reserved matters and so the impact on biodiversity, and the biodiversity impact score of the development, cannot be

¹ APP/R3705/W/17/3179922

accurately calculated. The site is deemed to be of low ecological value, and I consider the effects on biodiversity would be more appropriately addressed within the landscaping details to be submitted at the reserved matters stage.

20. I have included conditions relating to the floor levels of the dwellings as this would be necessary in the interests of protecting the character and appearance of this sloping site.
21. Improvements to the right of way which crosses the site are necessary to encourage its use and in the interests of highway safety.
22. The conditions relating to the submission of a Construction Management Plan, a lighting strategy, archaeological investigation, surface and foul water drainage and fire hydrants are necessary to protect the living conditions of nearby residents, ecological protection, archaeological protection, minimising flood risk and fire safety, respectively.
23. Some conditions require compliance prior to the commencement of development so that the effects of the proposal are properly mitigated in order to make it acceptable.

Conclusion

24. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and planning permission granted.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan:9323.20 revision B, but only in respect of those matters not reserved for later approval.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 6) No development shall commence on site until such time as the dimensions of the access into the site and its appropriate vision splays have first been submitted to and approved in writing by the local planning authority. The details to be submitted shall be informed by a HGV vehicle swept path diagram and a speed survey in Pooley Lane that has first been undertaken and completed in accordance with a written brief that itself shall first have been agreed in writing by the local planning authority.
- 7) The development shall not be occupied until the public right of way AE16 has been improved so as to provide for surfacing in a bound material and street lighting for its length between the proposed development and the footway of the public highway of the B5000 Tamworth Road in accordance with a scheme that shall first have been approved in writing by the local planning authority.
- 8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) storage of plant and materials used in constructing the development;
 - iii) delivery, demolition and construction working hours;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust during construction;
 - vi) noise control during construction;
 - vii) site lighting details; and
 - viii) details of the contact for any local concerns with the construction activities on the site.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 9) Prior to the installation of any external lighting a 'lighting design strategy for bats' shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- i) identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance; and
 - ii) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the bats using the woodland habitats.

All external lighting shall be installed in accordance with the strategy, and these shall be maintained thereafter in accordance with the strategy.

- 10) No development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment and analysis;
 - iii) the provision to be made for publication and dissemination of the analysis;
 - iv) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - v) the submission of an Archaeological Mitigation Strategy to be submitted to and approved in writing by the local planning authority.

The Strategy shall then be implemented as approved.

- 11) Development shall not commence until detailed surface and foul water drainage schemes for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the local planning authority. The schemes shall be implemented in accordance with the approved details before the development is occupied.
- 12) The development hereby permitted shall not commence until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire fighting purposes at the site has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the scheme has been implemented as approved.

Appeal Decision

Inquiry held on 20-22 September 2022

Site visit made on 23 September 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2016

Appeal Ref: APP/R3705/W/15/3136495

Land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by St Modwen Developments Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2014/0648, dated 17 December 2014, was refused by notice dated 11 August 2015.
 - The development proposed is the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution), demolition and removal of existing structures and associated works. Details of access submitted for approval, all other matters reserved.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution) and demolition and removal of existing structures and associated works on land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY in accordance with the terms of the application, Ref PAP/2014/0648, dated 17 December 2014, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. The application was submitted in outline with all matters reserved except for access. I have therefore determined the appeal on the same basis, treating the layout, landscaping, scale and appearance of the scheme as indicative.
 3. After the deadline for submissions the appellant provided a Supplementary Proof of Evidence on behalf of Peter Leaver. Although this introduced new information it responded to the Council's *Addendum to the 2013 Employment Land Review* which had only become available in late July 2016. It was therefore not possible for the appellant to address its content any sooner. The addendum also represents the most up-to-date evidence concerning employment land in the area and is directly relevant to the appeal. For these reasons, and considering that the Proof responded to the issues in dispute, was made available to the Council prior to the Inquiry, and discussed throughout, taking it into account would not prejudice the interests of other parties.
-

4. The appellant also provided a copy of a Council Board Report concerning new commercial development under consideration at Hams Hall, Coleshill (Ref PAP/2016/0399). As the report was dated 5 September 2016 it was not possible to include this information either. The report is also a public document, raises issues relevant to the appeal proposal and was discussed at the Inquiry. I have therefore taken it into account in my decision.
5. In response to the appellant's late submissions the Council provided additional material of their own. As this evidence relates directly to the points raised by the appellant, in the interests of fairness I have considered it as part of the appeal. Furthermore, appeal decision APP/R3705/W/16/3150719 is dated 9 September 2016, and could not have been submitted any sooner.
6. On the final day of the Inquiry a signed and dated Section 106 Agreement and a signed and dated Unilateral Undertaking were submitted. Both documents had previously been provided in draft and did not introduce any substantive new information that had not already been available. On this basis, and because it would not prejudice the interests of any party, I have considered both documents in reaching my decision.
7. Finally, following the Inquiry the Council confirmed that it had reached a unanimous decision to support the approval of planning permission at Hams Hall subject to referral to the Secretary of State (Ref PAP/2016/0399). In the interests of fairness additional comments have been sought from the appellant in response to this latest position, which I have taken into account.

Background and Main Issues

8. The appeal site comprises an area of agricultural land located to the south-east of the M42 at Junction 10. Bisected by Trinity Road it extends to roughly 25.4ha and falls outside the settlement boundaries of Tamworth to the west and Polesworth and Dordon to the east. In such areas Policy NW2 of the *North Warwickshire Local Plan Core Strategy* states that development will be limited to proposals necessary for agriculture, forestry or other uses which require a countryside location.
9. The Council's reasons for refusing planning permission are twofold. Firstly, it is claimed that the proposal would harm the separate identity of Dordon and undermine the meaningful gap between Polesworth and Dordon and Tamworth. The second reason for refusal states that the need for additional employment land is not evidenced, and that the scheme would compromise the objectives of the development plan contrary to one of the Core Planning Principles of the National Planning Policy Framework ('the Framework') which advocates that planning should be genuinely plan-led.
10. However, on the first day of the Inquiry the Council accepted that there are not currently enough allocated sites, or sites with planning permission to meet employment needs and that more land is required¹. It was also confirmed that the proposal would not prejudice the local plan-making process. Instead, the second reason for refusal was presented on the grounds that allocations in the emerging *North Warwickshire Local Plan* would provide sufficient land to meet the identified need, and subsequently, the weight which can be attributed to this factor in the planning balance is reduced².

¹ ID10

² *Trusthouse Forte* (1987) 53 P&CR 293

11. Taking this into account, and after having heard the Council's case in full at the Inquiry, the main issues are:

- The effect of the proposal on the separate identity of Dordon, and whether or not it would maintain a meaningful gap between Polesworth and Dordon and Tamworth; and
- Whether or not there is a requirement for additional employment land in the area, having particular regard to the emerging *North Warwickshire Local Plan*.

Reasons

The Separate Identity of Dordon and the Maintenance of a Meaningful Gap

12. The development boundary for Dordon is identified on the policies map carried forward from the *North Warwickshire Local Plan*. It defines an urban area focused primarily to the north of the A5. Dordon is a broadly linear settlement and is separated from the M42 by open fields and Birchmoor. This swathe of countryside, which continues south to encompass the appeal site and Freasley, divides Dordon to the east, from Tamworth to the west.

13. The maintenance of a strategic gap between Polesworth and Dordon and Tamworth has been a longstanding planning policy objective for the Council, and is very important locally. This is undisputed and is referred to in Core Strategy Policy NW19. It states that proposals "*...to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them.*"

Separate Identity of Dordon

14. Dordon and Tamworth are two clearly separate towns. Tamworth is located predominantly to the west of the M42 and is a considerably larger urban area. Dordon is approximately 1–1.7km to the east and is situated on higher ground rising up from the motorway. It is physically and visually divorced from Tamworth. This relationship is particularly evident from the A5 looking north-east, and from the public open space off Kitwood Avenue facing west/south-west. From both locations the expanse of farmland between the M42 and the main body of the settlement north of the A5 differentiates each settlement. This area of open land would be unaffected by the appeal scheme.

15. The Council argues that the proposal would erode an area of undeveloped land to the south of the A5 which also contributes to the separation of the two settlements. Combined with new sites proposed and under construction around the Birch Coppice Business Park it is suggested that the appeal scheme would result in an almost continuous form of development that would dilute the separate identity of Dordon.

16. However, Dordon and Birch Coppice vary in their role, form, function, layout, scale and appearance. Dordon is a small town characterised by a mix of predominantly terraced and semi-detached housing focused to the north of the A5. In contrast, Birch Coppice is situated south of the dual-carriageway and comprises a large business park with substantial commercial buildings accessed from a series of roundabouts. The settlement of 'Dordon', the separate identity of which Policy NW19 seeks to protect, is therefore materially different to Birch

Coppice, and is not currently read in the same context as the industrial development to the south.

17. Furthermore, the indicative design does not seek to act as an extension of the existing employment area. On the contrary, to the east of the appeal site (and on land controlled by the current owners) would be a substantial area of planting around the easement of a gas pipeline. Combined with the siting of the former spoil heap this would provide a physical and visual separation between the nearest proposed buildings and Birch Coppice. The plans also illustrate how a substantial landscape buffer measuring roughly 20-50m would run along the site frontage. Whilst not intended to screen the proposal, this would nonetheless limit its visual impact from the A5 and provide some relief to the built form along this side of the road.
18. In summary therefore, I consider that by reason of the large area of farmland that would remain to the north of the A5, the location of Dordon on higher ground to the east, and its materially different character and appearance to Birch Coppice, subject to an appropriate final design the proposal would respect the separate identity of Dordon. As a result, there is no conflict with the first requirement of Core Strategy Policy NW19.

Maintenance of a 'Meaningful Gap'

19. At the Inquiry the Council confirmed that there is no definition of what constitutes a 'meaningful gap' within the Core Strategy, or any other adopted development plan document. Instead, it was put to me that a judgement is required based on the evidence available, which includes the Council's 2015 *Meaningful Gap Assessment* ('MGA').
20. The MGA identifies the appeal site within Area 9. It establishes that the area is part of a significant gap between Dordon and the M42, forms part of the rural gateway to the Borough and that significant development would effectively merge the settlements of Tamworth and Dordon from Wilnecote to Birch Coppice. The Council asserts that because it would no longer be possible to ascertain where Tamworth ends and Dordon begins, there would no longer be a meaningful gap between them.
21. However, in response to suggestions that the scheme would be a logical extension of Tamworth Mrs Barratt took a different view at the Inquiry, describing how it would be read as a free-standing, separate development due to the intervening motorway. Given the size of the M42, which runs through a tree-lined cutting in this location, I agree that it provides a definitive boundary and clear separation to Tamworth beyond. On this basis the tree-lined motorway would limit the perception of any harmful coalescence from Wilnecote to Birch Coppice.
22. Furthermore, although the MGA has been subject to consultation and is a material consideration used to support the emerging Local Plan, the starting point is the adopted Core Strategy. Policy NW19 is entitled "Polesworth and Dordon". It states that development must maintain a meaningful gap between Polesworth and Dordon on one side, and Tamworth on the other.

23. With the exception of a single row of houses on the southern side of the A5 Polesworth and Dordon are concentrated to the north of the dual-carriageway. This is illustrated on the Council's policies map. In contrast, Birch Coppice is a large free-standing employment allocation to the south. Although recent expansion has brought development close to the existing row of houses accessed from the pedestrian footbridge, for the purposes of the Core Strategy it does not form part of either settlement.
24. Thus, the relevant test is whether or not a meaningful gap would be maintained to the west of Polesworth and Dordon, excluding Birch Coppice. Without encroaching on the land north of the A5 there would continue to be a large, central area of open space separating the two towns. This area and the role that it plays in separating Dordon from Tamworth are evident on the aerial photographs provided by the Council³. The photographs demonstrate that in quantitative terms, a substantial gap would be maintained.
25. That being the case, given its size, scale and proximity to Birch Coppice I have also considered the qualitative effects of the proposal. As guidance⁴ referred to by Mr Williams' points out, relying solely on a 'scale rule' approach to maintaining separation between settlements should be avoided, and the character of a place, and the land in between needs to be taken into account.
26. The only landscape/visual assessment relied upon by the Council is the MGA. This uses a traffic-light scoring system and concludes that development of the appeal site and its immediate surroundings would undermine the gap. Although the traffic-light system is easy for members of the public to follow, there is no indication how the scores have been reached in a transparent and consistent manner. The MGA also relies on the 'geographic proximity/narrowness of the gap' in each sub-area without any detailed qualitative assessment of how the character of the area would change, or how it would be perceived from any locally important viewpoints.
27. On the other hand the appellant has provided a qualitative and quantitative assessment, in addition to the Landscape and Visual Impact Assessment (LVIA) submitted with the planning application. This evidence identifies that the appreciation of the gap between Dordon and Tamworth is not only based on cartographic geometry, but how it is perceived from the A5, surrounding public footpaths and from the respective settlements.
28. One of the main viewpoints of the site is from the A5 travelling east after leaving the roundabout at Junction 10. At present the open fields in front of the spoil heap are clearly visible to drivers and passengers. At the Inquiry it was argued that eroding this part of 'the gap' would change the approach into North Warwickshire and undermine the concept of leaving an urban area and travelling into a rural one, contrary to the spatial vision of the Core Strategy.
29. However, after a very short distance, and just beyond the 'Welcome to Warwickshire' sign referred to by the parties the fields north of the A5 come into view. Because the farmland drops down below the road before rising up, combined with its open character and proximity to the east-bound carriageway this area of countryside dominates the foreground. Dordon becomes visible at a higher level and there is an unequivocal gap in between. The undulating,

³ ID11

⁴ Planning on the Doorstep: The Big Issues – Green Belt

- open character of the farmland to the north of the A5 would therefore ensure that drivers entering the Borough and heading east would still be faced with a predominantly rural setting to Dordon. Based on the evidence provided the scheme would not conflict with the spatial vision of the Core Strategy.
30. Travelling further east the main public viewpoint from Dordon is taken from the sports pitch beyond Kitwood Avenue. From this elevated position views of Birch Coppice and the large commercial buildings beyond the M42 are possible. Due to the size and scale of the appeal proposal it would introduce a highly visible form of development into the swathe of countryside which follows the M42 to the south, especially at night from street lights, buildings and vehicles.
 31. Nevertheless, the expanse of farmland between the M42 and Dordon would extend beyond the sports pitch for some considerable distance down to the motorway. Due to the openness of this area, its lack of significant built form and the change in level, residents on the western edge of Dordon would continue to experience an unequivocal sense of separation from Tamworth.
 32. Elsewhere clear views of the appeal site are possible from the public right of way to the north of the A5. In this location the scheme would result in one of the greatest changes to the countryside separating Dordon and Tamworth. Although the scale of development would erode the open fields between the spoil heap and Trinity Road, members of the public looking towards the site would do so from open agricultural land, with Dordon above and Tamworth on the other side of the M42. Walkers would therefore still be able to easily ascertain that there was a large, clear gap between the two settlements.
 33. Similarly, from land south of the A5 there would be a demonstrable change to the local environment viewed from Trinity Road and/or public footpaths AE55 and AE52. Despite the foreground becoming dominated by development, when looking north-east from footpath AE52 views of the open land beyond the A5 would continue to be possible along the landscaped eastern site boundary with the majority of Birch Coppice screened behind the spoil heap. When passing through the site along footpath AE55 the open area of farmland north of the A5 would come into view and the appreciation of a strategic gap between Dordon and the motorway would remain.
 34. In reaching this view I have taken into account that other developments have been granted planning permission in the area, and that additional sites are proposed for allocation in the emerging Local Plan. Nevertheless, there is nothing to suggest that the open land north of the A5 would be eroded. Even in the event that proposed allocation DOR22 is completed, this area would continue to provide a clear separation between the two towns. As identified above, the indicative layout also illustrates that buildings would be set-back from the A5 behind a formal area of planting, in addition to a generous landscape buffer along the eastern site boundary. Combined with the partial screening of Birch Coppice afforded by the spoil heap from the south and west this would prevent the creation of a continuous line of built development along the road frontage.

Summary

35. Based on the evidence provided I therefore conclude that due to the open farmland to the north of the A5, combined with the location of Dordon on higher ground, it's different character and appearance to Birch Coppice and the

inclusion of a landscaped buffer along the eastern site boundary, the proposal would respect the separate identity of Dordon, and, maintain a meaningful gap between Polesworth and Dordon and Tamworth. As a result, there is no conflict with Core Strategy Policy NW19. Subject to a high quality design at the reserved matters stage the proposal would also accord with Core Strategy Policy NW12 which, amongst other things, requires developments to demonstrate a high quality design that positively improves the character, appearance and environmental quality of an area.

36. Draft Policy LP5 in the emerging *North Warwickshire Local Plan* includes a third criterion that all new development in the 'gap' should be small in scale, not intrude visually into the gap, or physically reduce its size. However, the plan is only at the draft stage and consultation is still on-going. Bearing in mind that they may be subject to change, I have not given Policies LP5 and LP2 any significant weight in reaching my decision.

The Need for Employment Land

37. The Core Strategy was adopted in 2014 and states that between 2011 and 2029 a minimum of 60ha of 'local employment land' will be provided. It also seeks to direct employment towards settlements appropriate to their size and position in the hierarchy.
38. The Inspector's Report into the Examination of the Core Strategy made clear that it only relates to 'local' employment land. Although the September 2013 Employment Land Review (ELR) identified a requirement for regional logistics sites, the Core Strategy does not seek to meet this need. The Inspector found insufficient evidence to set a requirement for North Warwickshire when sub-regional work was still on-going. Rather than increase the number of allocated sites it was therefore considered more appropriate to adopt the Core Strategy and include a mechanism for an early review.
39. Since adoption of the Core Strategy various studies concerning employment land have been published, both regionally and locally. Some of the most up-to-date include the *West Midlands Strategic Employment Sites Study* (WMSESS, September 2015) and the *Addendum to the 2013 Employment Land Review* (ELR Addendum, April 2016). Evidence relating to the scale of unmet housing and employment needs from neighbouring authorities has also emerged. Prompted by this change in circumstances the Council has committed to an early review of the Core Strategy and produced a new draft Local Plan reflecting the higher housing and employment land requirements.
40. The Council has not stood back and by committing to the preparation of a new local plan has clearly 'grasped the nettle' when it comes to positively planning for growth. It is accepted that there is a need for additional employment land and this is what the emerging Local Plan seeks to achieve⁵. A considerable amount of Inquiry time was therefore spent assessing the draft allocations in the emerging Local Plan against the requirement to provide up to 97ha of employment land. In summary, the Council identifies a supply of between roughly 88.38ha and 111.98ha, whereas the appellant suggests that around 63.58ha is more accurate⁶.

⁵ ID29

⁶ ID8

41. However, assessing proposed allocations in the emerging Local Plan is not a matter for me. With the exception of a letter⁷ received on the final day of the Inquiry from Hodgetts Estates the submitted evidence has been predominantly provided by the two main parties. Testing whether or not the allocation of particular sites is justified, effective and consistent with national policy is for the examination process to consider when all of the relevant factors, including representations from all relevant parties, can be taken into account.
42. Instead, paragraph 216 of the Framework advocates that the weight decision-takers should give to relevant policies in emerging plans depends on their stage of preparation and the extent to which there are unresolved objections. In this case the emerging Local Plan is only at draft stage and the consultation period is on-going. The plan may be subject to change, and assessment of the appeal scheme has already identified an increase in employment land arising from discrepancies in the methodology used. The weight which can be attributed to potential employment allocations is therefore only limited.
43. In reaching this view I have taken into account that the proposed allocations include land at Centurion Park (which has planning permission) and Birch Coppice (which is an established business park). Such sites have a greater degree of certainty than others given their existing/permitted uses. The Council has also identified an additional 24.8ha in reserve at 'MIRA'.
44. Nonetheless, some of the other proposed allocations include sites which are within the Green Belt, have not been considered before and involve the relocation of allotments. Although the Council supports the release of Green Belt land at Hams Hall, permission has not yet been granted. Discussions with allotment holders in respect of land adjacent to the A5 are also at a relatively early stage. There are also other factors which need to be resolved through the consultation and examination processes. For example, the figures in ID8 include roughly 8.5ha of land allocated at Centurion Park, yet this has been considered in the supply as an extant planning permission.

Tamworth's Needs

45. In addition to the Council's needs it is also necessary to consider the requirements for additional employment land arising from Tamworth. In January 2015 the Head of Planning and Regeneration confirmed that only roughly 18ha of employment land was available, leaving a shortfall of some 14ha to be met elsewhere. Representations confirmed that;

"...To date there has been no progression on preparing any joint work between the three local authorities, specifically with consideration of meeting the 14ha of unmet employment need arising from Tamworth. As there has been no wider, strategic work which considers a range of potential sites in North Warwickshire or Lichfield, this site currently presents the only option of meeting this need."
46. The position has moved-on since January 2015 and a draft Memorandum of Understanding (MoU)⁸ has been provided between Tamworth Borough Council, Lichfield District Council and North Warwickshire Borough Council. It confirms that North Warwickshire has identified 8.5ha to the south-west of Junction 10 (at Centurion Park) to deliver part of the 14ha which cannot be accommodated

⁷ ID24

⁸ ID12

in Tamworth. Correspondence from Lichfield District Council⁹ also states that it will 'investigate' providing the remaining 6.5ha¹⁰ through its local plan process.

47. However, whilst this confirms that the three Councils have been actively working together on a cooperative basis, the MoU has not been signed. Furthermore, a Statement of Common Ground between the appellant and Tamworth Borough Council was produced for the Examination of the *Tamworth Local Plan*. This was dated May 2015, after planning permission was granted at Centurion Park, and confirmed that:

"The planning permission for 8.5 hectares gross (5.3 hectares net) has been allocated by North Warwickshire Borough Council in its draft Site Allocations Plan (DOR24) and forms part of the employment supply to meet its own local employment needs, as justified by NWBC in its report of the application to Planning Committee."

48. There also remains approximately a further 5.5ha to find with no concrete commitment from Lichfield to provide this anytime soon. Given the appeal site's proximity to Tamworth, the proposal would therefore be ideally placed to satisfy this requirement.

Wider than Local Needs for Large Sites

49. Paragraph 7.48 of the emerging Local Plan confirms that since the preparation of the Core Strategy studies have identified a wider than local need for large sites. Despite this, because such sites coming forward elsewhere it is not an issue that the Local Plan seeks to address. The Council adopted a similar argument at the Inquiry, namely, that the emergence of Peddimore, Magna Park and the East Midlands Gateway, combined with extensions to Birch Coppice and the 20ha of land proposed at Hams Hall point to a healthy supply of strategic sites.
50. It is appreciated that there are other large sites across the region which *could* contribute to the need cited in paragraph 7.48 of the draft Plan. Nevertheless, no site specific assessment has been undertaken to consider where this need should be met, and the Council confirms that this work has not yet been commissioned.
51. On the other hand the WMSESS identifies 'functional market areas' throughout the West Midlands based on factors such as proximity to motorways and the workforce. When considering past annual take-up against immediately available floorspace it confirms that along the M42 corridor the supply of large sites is the tightest, amounting to only roughly 3.7 years. One of the reasons for this is due to the length of time sites such as Peddimore are likely to take coming forward.
52. It is appreciated that there is no policy requirement to provide 5 years' worth of employment land. This is reflected in the appeal decisions referred to by the Council¹¹. The assessment in the WMSESS is also based on annual take-up and "immediately" available supply, which is different to Footnote 11 of the Framework which the parties referred to throughout the Inquiry.

⁹ ID20

¹⁰ Inspector's Note: Notwithstanding 14ha – 8.5ha in North Warwickshire leaves only 5.5ha to find in Lichfield

¹¹ Appeal Refs APP/U2235/A/14/2224036 and APP/U2235/A/14/2229271

53. Nevertheless, the WMSESS represents one of the most up-to-date studies available and points to a demonstrable need for additional strategic sites in the area. I am also mindful that the Coventry and Warwickshire Chamber of Commerce advise¹² that a fundamental barrier to business expansion and growth in the sub-region is the shortage of premises for offices, industry and warehousing. Although the Chamber of Commerce has not assessed the different type of land requirements in the same way as the main parties, the current situation is described as *"...particularly acute and, if not addressed in the very near future, will mean that plans for growth, change and investment by SMEs and major employers will be severely hampered."*
54. Furthermore, the lack of available strategic sites was identified as one of the material considerations in the Council's decision to support the principle of development in the Green Belt at Hams Hall (Ref PAP/2016/0399). Whilst it was put to me that the 20ha proposed for allocation at Hams Hall would satisfy this requirement, the draft Local Plan makes it clear that it does not consider regional needs for large sites (paragraph 7.48).

Summary

55. New evidence has emerged which points to the need for additional employment land in North Warwickshire over and above the adopted Core Strategy. The Council's November 2016 Board Report concerning proposed development in the Green Belt at Hams Hall describes this evidence as up-to-date, relevant and carries 'significant weight'. Although the Council has sought to argue that this need would be met by allocations in the emerging Local Plan, this is only at a draft stage and may be subject to change. I also find no persuasive evidence that either Tamworth's requirements, or the need for strategic sites has been adequately met (or if it has, that additional land has been identified). In this context the contribution that the scheme would make towards the provision of employment land weighs heavily in its favour.

Other Material Planning Considerations

Heritage Assets

56. Situated approximately 40-150m to the south-west of the appeal site are four Grade II listed buildings and structures. They include Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House. In considering the proposal I have therefore had special regard to the desirability of preserving their setting.
57. The gardens and private curtilages of the properties are important attributes which form part of their setting. So does the wider settlement of Freasley and its surrounding fields and woodland, which contribute positively to their significance as designated heritage assets.
58. Although the proposal would result in the loss of agricultural land around Freasley, the indicative layout illustrates significant areas of parkland to the south-west corner of the site. Landscaped buffers measuring a minimum of 6m deep are also shown around the southern edge of the site, whilst wildflower grassland would retain the views of open fields from Freasley Hall. Combined with the degree of separation that would be maintained between Freasley and the nearest built development, I agree with the main parties that the setting of

¹² ID1

Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House would be preserved.

Traffic Generation and Highway Safety

59. On the final day of the Inquiry it was put to me that the data contained in the Highways Statement of Common Ground was flawed. It was also claimed that the data had not been made available, and that the scheme would significantly increase traffic on Trinity Road, the roundabout at Junction 10 and on the A5. At the planning application stage local residents identified similar issues with traffic volumes, congestion and highway safety on Trinity Road in particular.
60. In terms of the reliability and availability of data the planning application was accompanied by a Transport Assessment and Framework Travel Plan which formed part of the appellant's submission. In response to this the County Council Highways Officer and Highways England concluded that the scheme would be acceptable subject to certain mitigation measures. This is reflected in the submitted Highways Statement of Common Ground.
61. Whilst I empathise with local residents and appreciate the difficulties in assimilating large technical documents, no contradictory evidence or objective analysis has been submitted to suggest that these conclusions are incorrect. Consequently, there is no robust information before me to reach a different view. Although traffic would undoubtedly increase on Trinity Road, the A5 and around Junction 10, the parties agree that that this would not be hazardous to road safety, or significantly undermine network capacity.
62. Concerns have also been raised that the lay-by on the west-bound side of the A5 would become used as a drop-off point for potential future employees causing traffic to back-up to the detriment of safety, that the footpath on this stretch of the A5 is too narrow, and that there is no bus stop.
63. In terms of the lay-by and its relationship to the site entrance and/or public right of way this would be a matter for the final detailed design to consider. Given the space available I am satisfied that the internal layout and landscaping could be configured in a way that would prevent the lay-by becoming used as a popular drop-off area for employees. Aside from the upgrades to the A5 proposed as part of the scheme there is also no request from the relevant Highways Authority to make any further changes to the footpath on the A5. Based on the evidence provided and observations at my site visit I find no reasons to disagree.
64. With regard to public transport provision there is currently a bus-stop on the east-bound side of the A5. As set out in the Highways Statement of Common Ground, it has been agreed that the appellant would either provide a new bus-stop on the southern, west-bound side of the road, or, fund the diversion of a service into the site with a suitable bus-stop and turning area in the design. Both options are included in the signed Section 106 Agreement and would negate the need for potential future employees to cross the A5 in order to access public transport provision.
65. In summary therefore, I find no conflict with the Framework which advocates that development should only be refused on transport grounds where the residual cumulative impacts are severe.

Character and Appearance of Freasley

66. Freasley is a small hamlet accessed from Trinity Road to the south-west of the appeal site. Given the scale of development proposed the approach to the hamlet from the M42 would change. Upon leaving the roundabout at Junction 10 and travelling south-west residents would be faced with new industrial development on either side of Trinity Road, rather than open fields.
67. However, this would only be for a relatively short distance. The indicative layout illustrates new parkland adjacent to Trinity Road around the south-west corner of the site providing a landscaped buffer to the hamlet. Generous separation between built development and Freasley would therefore remain.
68. Furthermore, there is no vehicular access through Freasley to the appeal site or Birch Coppice. As such, it has a materially different character to Trinity Road. When driving through the hamlet the combination of traditional buildings, mature trees and open spaces create an attractive, rural feel to the area. Due to the degree of separation from the appeal site and the indicative use of landscaping proposed this would be unaffected. The distinction between the character and appearance of Freasley and the industrial and commercial development around Junction 10 would be maintained.
69. Although some local residents fear that allowing the appeal would set a precedent for more development around Freasley, which in turn would affect its character and setting, each proposal must be considered on its own merits. Further development to the south of the site would require planning permission, and the cumulative effects would therefore be considered as part of any potential future planning application process.

Living Conditions of Neighbouring Resident

70. Nos. 17 and 18 Watling Street are situated to the north-east of the appeal site. Despite being the nearest residential properties to the proposal they would be separated from the nearest development by the landscaped buffer along the eastern boundary and the easement for the gas pipeline. An even larger area of open space would separate the nearest houses in Freasley. Subject to an appropriate lighting strategy, consideration of the site layout and controls over finished floor levels, the intervening landscaped areas would ensure that no unacceptable harm would occur to residents' outlook, privacy or levels of available sunlight. For the same reasons no harmful disturbance would occur from the headlights of HGVs within the site. Bearing in mind the amount of traffic already using the A5 and the change in vehicle numbers that would be perceptible to residents, headlights from additional vehicles on the highway network would not give rise to a noticeable, harmful level of disturbance either.
71. With regard to noise and vibration the appellant has conducted surveys at various locations across the site, including to the north-east corner nearest the A5 and the south-west corner closest to houses in Freasley. In summary the report found that the predicted noise levels from activities on the site would be below a level likely to cause sleep disturbance. It also concluded that the effects on nearby properties from plant noise would be negligible, and that traffic increases would generate "*barely perceptible changes in noise level on the surrounding network...*" As this is the only site specific assessment that has been carried out, I find no reasons to reach a different conclusion.

Human Rights

72. Representations at the planning application stage claim that the rights of the occupiers of Hall End Cottages, under the Human Rights Act 1998 (Article 8), would be violated should planning permission be granted. The claims are made on the grounds that occupiers would be affected by disturbed coal seams, from radon and argon gases, air pollution and illumination from security lights, vehicles and street lighting.
73. For the reasons given above I have already concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring residential properties having regard to their outlook, privacy, available levels of sunlight, or from illumination, noise and vibration. Thus, the degree of interference would be insufficient to give rise to a violation of rights under Article 8.
74. With regard to coal seams the appellant has provided a Preliminary Geo-environmental Interpretative Report which confirms that the site is in a zone of influence from 6 seams at depths of between 170m and 320m, last worked in 1973. However, reference is made to confirmation from the Coal Authority that any ground movement from coal mining should have stopped, and that there is no record of gas emissions requiring action on site. The report also deals specifically with radon and confirms that protective measures are not considered necessary as the site is located in a lower-intermediate probability radon area. In addition, no evidence has been provided to indicate a harmful presence of argon, and given the degree of separation between the nearest buildings and residential properties, there is nothing to suggest that any structural damage would occur as a result of building works.
75. The potential for air pollution and dust has also been considered by the appellant. The submitted assessment establishes that air quality in the area is currently acceptable based on objectives in *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland* (DEFRA, 2007). Against this baseline consideration has been given to pollutants associated with traffic (nitrogen dioxide and fine particulate matter) and the construction process. In summary the report concludes that air quality at existing properties nearby would be affected, but that the changes would represent imperceptible increases in the concentrations of nitrogen dioxide and fine particulate matter. The impacts would therefore be negligible.
76. The Environmental Statement submitted with the planning application also recognises that construction works would have the potential to create dust. The local community may therefore experience occasional, short-term adverse impacts. Nevertheless, this could be mitigated by adhering to a management plan which would limit the short-term effects of construction. Such measures could be controlled and enforced through the use of a suitably worded planning condition.
77. Based on the information provided I therefore find no evidence to suggest that there would be any significant harm caused from structural damage, the presence of coal seams, gases or from air pollution. Consequently, the Human Rights of the occupiers of 15 and 17 Hall End Cottages would not be violated.

Biodiversity and Protected Species

78. The appeal site does not contain any statutory designated sites of nature conservation interest. The nearest is the Kettle Brook Local Nature Reserve (LNR), approximately 0.3km away.
79. As the LNR is on the opposite side of the motorway the proposal would have no direct impact on its wetland habitat, wild flower meadows and woodland. The use of measures to stop any petrochemical contamination of surface water from machinery or stored fuels could also be controlled and enforced by a suitably worded planning condition. This would prevent contaminated surface water discharging into Kettle Brook and reaching the LNR.
80. With regard to protected species the appellant's surveys found no evidence of bats or great crested newts (GCN) on the site. Although a GCN breeding pond was identified approximately 200m to the south-west it would be unaffected by the development. Based on the illustrative plans the nearest built development would also be roughly 550m from the pond, and the arable habitat of the site is only of very limited value to GCN in their terrestrial phase. Thus, no offence would be likely to occur.
81. In terms of other species three badger setts were recorded within the site boundary. Despite seeking to retain the setts, the Environmental Statement found that it would be necessary to temporarily close Sett 3 given its proximity to new buildings. Whilst the report does not suggest that such practices would be inappropriate, I am mindful that the application was submitted in outline. Given the size of the site there are no reasons to indicate that development could not come forward without damaging the sett. Subject to an appropriate landscaping scheme the proposal would provide enhanced foraging resources for Badgers and result in a net gain to their habitat.

Use of Agricultural Land

82. The appeal site comprises Grades 2 and 3a agricultural land, defined as 'the best and most versatile'. I have therefore borne in mind paragraph 112 of the Framework. It states that consideration must be given to the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, decision-makers should seek to use areas of poorer quality land in preference to that of a higher quality.
83. In reaching a balanced view this harm must be considered in the context of local area and the other benefits that the scheme would deliver. In this case the Council acknowledges that there is a need for additional employment, and the draft allocations in the emerging Local Plan include the use of agricultural, and even some Green Belt land. A substantial swathe of agricultural land would also be retained to the north of the site providing a meaningful gap between Dordon and Tamworth. Furthermore, no evidence has been provided to suggest that the scheme would have any adverse impact on the wider availability of the best and most versatile agricultural land in the area. The loss of the appeal site to agricultural uses must therefore be considered in this context, and the wider socio-economic benefits that it would provide.

Public Right of Way Network and Other Considerations

84. Public footpaths AE55 and AE52 cross the appeal site. Although the indicative layout shows the diversion of AE55, the County Council's Rights of Way Officer has not objected to the scheme. Based on the evidence provided I agree that an adequate route could be maintained through the appeal site which would not prejudice users of the local public right of way network.
85. Finally, I have also taken into account concerns that the proposal would devalue properties and lead to vandalism, crime and anti-social behaviour. However, no evidence has been provided to substantiate these comments. As a result, I have not given them any significant weight in reaching my decision.

Planning Obligations

86. The submitted Section 106 Agreement includes a commitment to either provide a new bus-stop on the A5, or, include a stop within the site and contribute to the diversion of the 766/767 services as required. A training and skills contribution of £60,000 is also included. Alongside this is a Unilateral Undertaking which makes provision for landscaping works to the east of the site, a commitment to comply with the Considerate Constructors Scheme, and to promote training for employees in the construction phase.
87. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.
88. Policy TPT3 of the *North Warwickshire Local Plan* states that development will not be permitted unless it maximises practicable opportunities for the use of sustainable modes of transport, including travel by bus. One of the Framework's Core Planning Principles also advocates that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. The provision of an additional bus stop on the A5, or contributions to divert existing services to a new stop within the site are therefore necessary to make the development acceptable in planning terms, and are directly related. They are also fairly and reasonably related in scale and kind to the size and scale of development proposed.
89. Core Strategy Policy NW22 also states that planning obligations will be used to secure four key priorities, one of which is the provision of training and up-skilling opportunities. The inclusion of a contribution in the Section 106 Agreement towards a programme of careers advice and engagement aimed at people not in education, employment or training is therefore necessary to make the development acceptable in planning terms. It is also directly related to the development proposed and is fairly and reasonably related in scale and kind.
90. In terms of the Unilateral Undertaking landscaping to the east is necessary to make the development acceptable in planning terms by maintaining separation to Birch Coppice. The promotion of localised training opportunities is also necessary in accordance with Core Strategy Policy NW22, and to mitigate the effects of building work on local residents' living conditions adhering to a considerate constructors' scheme is required. Moreover, all the provisions are directly related, and fairly and reasonably related in scale and kind.

91. In summary therefore, the provisions in both the Section 106 Agreement and Unilateral Undertaking meet the requirements of the CIL Regulations, and I have taken them into account in reaching my decision.

Conclusion and Balancing Exercise

92. The proposal conflicts with Core Strategy Policy NW2 which limits development outside Category 1-4 settlements. It is also contrary to Core Strategy Policy NW9 which directs employment uses to settlements appropriate to their size and position in the hierarchy, and would result in the loss of an area of best and most versatile agricultural land.

93. However, the Framework confirms that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case there are several material considerations which justify departing from Core Strategy Policies NW2 and NW19.

94. Firstly, new evidence has emerged since adoption of the Core Strategy which points to a need for additional employment land. Although it is suggested that there are other, more suitable sites available to meet this need, consultation on the draft allocations is still on-going. Moreover, the emerging plan does not intend to meet wider than local needs for large sites, and neighbouring Tamworth has a requirement of 14ha which it cannot provide. This was identified after planning permission was granted at Centurion Park and the MoU has not been signed, with Lichfield District Council only committing to investigate providing their 'share'.

95. In resolving to support the approval of planning permission for new development in the Green Belt at Hams Hall the Council described the latest evidence concerning employment land as up-to-date, relevant and carrying significant weight. This need exists now and is described by the local Chamber of Commerce as 'particularly acute'. Situated close to Tamworth and the Birmingham Intermodal Freight Terminal (BIFT) the appeal scheme would be ideally placed to make a significant contribution to meeting this need, and the indicative mix of building sizes would offer employment space for a range of local and regional operators.

96. Secondly, the principal reason why the appeal site has not been included as an option to help meet this need is due to its location within a strategic gap separating Polesworth and Dordon from Tamworth. However, in response to the Council's concerns the appellant has provided a qualitative and quantitative assessment on the effect of development within this gap, in addition to a LVIA submitted as part of an Environmental Statement.

97. Based on the evidence provided I agree that the retention of the farmland to the north of the A5 is critical, and by reason of its topography and open character this area of land would continue to provide a meaningful gap between Polesworth and Dordon and Tamworth. Because Dordon is a town characterised by twentieth century housing and is located on higher land predominantly to the north of the A5, subject to an appropriate design at the reserved matters stage its separate identity would also be respected. As a result, there is no conflict with Core Strategy Policy NW19, which is the only adopted development plan policy relating to the 'gap'.

98. Thirdly, paragraphs 18 and 19 of the Framework confirm that the Government is committed to securing economic growth in order to create jobs and prosperity, and ensuring that the planning system does everything it can to support sustainable economic growth. With this in mind the proposal would generate between roughly 1,170 and approximately 1,550 FTE jobs, with around 290 temporary roles provided in the construction process. These jobs would be created in an area where within 5km of the appeal site 9 Lower Super Output Areas are ranked in the lowest 20% nationally against the Index of Multiple Deprivation. Additional jobs would also be created as a result of the positive knock-on effect from the proposal, estimated to peak at around 1,650. In total the net impact on the local economy would be in the region of £70m-£90m, and the socio-economic benefits of the scheme would be substantial.
99. When considered against the Framework taken as a whole the proposal would therefore resonate with the principles of sustainable development. It would contribute towards building a strong, responsive and competitive economy whilst supporting growth and innovation in an area where demand is high. Although there would be some loss of countryside that separates Polesworth and Dordon from Tamworth, the evidence provided demonstrates how the scheme has taken account of the different roles and character of the different areas, and would maintain a meaningful gap between the two towns. In environmental terms it would also be consistent with one of the Framework's Core Planning Principles which seeks to ensure that planning actively manages patterns of growth to make the fullest possible use of public transport, walking and cycling, and focuses significant development in locations which are or can be made sustainable.
100. When taking all these factors into account I consider that the other material considerations are of such significance that they warrant a decision not in accordance with Core Strategy Policies NW2 and NW9. The proposal would represent a sustainable form of development as defined by the Framework, and combined the benefits of allowing the appeal would be substantial. Based on the evidence provided in this particular case these factors justify granting planning permission.

Overall Conclusion and Conditions

101. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
102. In order to define the permission, and because the application was submitted in outline it is necessary to list the reserved matters for which approval must be sought, and define any relevant phases. Considering the scale of the development, and the fact that the design of individual plots may progress at different rates, I agree that it is necessary to require submission of the first reserved matters within 2 years, and all reserved matters within 5 years. A condition is also required to ensure that development takes place within 3 years of the approval of the final reserved matters.
103. To ensure that the development is carried out as approved it is necessary to list the relevant plans. However, this is only necessary in relation to the access as the remaining details are indicative. In the interests of highway safety, and because there are other openings along Trinity Road a condition is also required to specify that access for motor vehicle must only be taken from the locations identified on plan Ref 1148-12/H.

104. In the interests of highway safety and the efficient operation of the highway network conditions are necessary to restrict the total amount of floorspace permitted as part of the final design, and the amount of floorspace in Use Classes B1(c) and B2 (industrial processes). To define the permission it is also necessary to refer to the parameters plan for subsequent reserved matters submissions to follow.
105. The interests of preserving any potential archaeological remains necessitate a condition requiring the submission, approval and implementation of a written scheme of investigation (WSI), and any fieldwork as necessary. As discussed at the Inquiry, in order to be precise I have amended the proposed wording to require the WSI to be submitted and approved in writing prior to the commencement of development. To avoid any uncertainty it is also necessary to refer to fieldwork 'as required', and specify that the written report is submitted in accordance with the agreed programme.
106. The same reasons also necessitate a condition requiring the approval of a mitigation strategy as required. Given the nature of buried remains the written scheme of investigation and mitigation strategy would both be required prior to the commencement of development. Ensuring that the investigations and mitigation strategies are adequately completed, along with any post-excavation analysis also necessitates the imposition of condition no.11.
107. Although the parties suggest that a condition is required to restrict work starting until details of landscaping, boundary treatments and drainage along the M42 and A5 frontages are approved, landscaping is a reserved matter. Issues relating to drainage are also addressed by proposed condition no.26.
108. To protect the living conditions of neighbouring residents and in the interests of highway safety a construction management plan is required. However, as discussed at the Inquiry protecting features of 'ecological interest' is unclear and is unnecessary given the need to adhere to mitigation measures referred to in Condition 16. Defining 'extraneous material' is also imprecise and I have therefore reworded the condition to require the construction management plan to include wheel washing facilities. This is more precise and allows the local planning authority to ensure that appropriate practices are still put in place.
109. In the in interests of the character and appearance of the site and surrounding area a condition is required relating to the approval of site levels. To be more precise I have reworded the suggested condition by referring to the finished floor levels of the proposed buildings, and not just 'ground levels'. For the same reasons a condition relating to the approval of external lighting is also necessary. Given that site levels and lighting are directly related to the construction of buildings, roads and public areas their approval is required before any development starts on site.
110. The interests of protecting biodiversity and ecology require the approval and implementation of a Habitat Creation, Enhancement and Management Plan and Programme. In order to provide adequate drainage and reduce the risk of flooding the approval of details relating to foul and surface water management are also necessary, along with their implementation. Because both requirements relate to the construction of the development their approval is necessary prior to the commencement of development.

111. For reasons of highway safety and providing adequate access it is necessary to ensure that the proposed signalised junction, Non-Motorised User Link connection, pedestrian and cycle paths, and means of accessing individual plots are provided prior to the occupation of the development. The interests of promoting more sustainable modes of transport also require approval of a travel plan. However, in the absence of any details relating to the current 'Highway Authority specifications' I have reworded proposed condition no.12 to require the details to be first submitted to and approved in writing by the local planning authority. This is more precise and still allows for relevant standards to be met. I have also reworded proposed condition no.20 to remove the ability to amend the proposed link through submission of subsequent designs, which would not have been subject to the same consultation as the details accompanying the appeal scheme.
112. In the interests of the living conditions of neighbouring residents it is necessary to restrict the use of external sound amplification equipment unless the details have been first submitted to and approved in writing by the local planning authority.
113. In the interests of the character and appearance of the site and surrounding area it is necessary to ensure that all landscaped areas are appropriately managed. For the same reasons a condition is required to ensure that any trees or plants which, within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority. This flexibility allows for other suitable alternative species to be used in the event that one fails.
114. Condition no.26 is necessary in the interests preventing the spread of unexpected contamination during construction. In order to be more effective, precise and enforceable I have reworded the suggested condition by requiring the suspension of development on the part of the site affected, and, specifying that remediation and verification schemes are carried out before the development or relevant phase of development is resumed or continued.
115. Finally, in the interests of safety a condition is required to ensure that adequate facilities for fire fighting are made available, although I find no reasons why the details should be provided prior to the commencement of development. I have therefore reworded the suggested condition by requiring water supplies and fire hydrants for fire fighting purposes to be in place for each phase prior to first occupation.

Matthew Birkinshaw

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Isabella Tafur of Counsel
She called

Dorothy Barratt BA(Hons), DUPI, MRTPI
Forward Planning & Economic Strategy Manager,
North Warwickshire Borough Council

FOR THE APPELLANT:

Paul G Tucker of
Queen's Counsel
He called

Andrew Williams BA(Hons), DipLA, DipUD, CMLI
Director, Define
Peter Leaver BA MRICS
Director, JLL
Robert Barnes MA BA(Hons) MRTPI
Director, Planning Prospects Ltd.

INTERESTED PERSONS:

Mr Pritchard

Local Resident

INQUIRY DOCUMENTS

- ID1 Representation from Coventry and Warwickshire Chamber of Commerce
- ID2 Plan of Manor Park, Coleshill, Warwickshire
- ID3 Representation to planning application PAP/2016/0399 on behalf of St Modwen Developments Ltd
- ID4 Plan Ref CT-06-133 – Proposed HS2 route at Coleshill Manor Office Campus
- ID5 Plan Title – Coleshill Manor Consent – Impact by HS2
- ID6 Plan Title – Additional Area owned by IM and unaffected by HS2
- ID7 GL Hearn's Rebuttal Note to 'Note on GL Hearn Addendum Report to 2013 ELR' by Regeneris, September 2016
- ID8 Statement of Common Ground concerning Figures for Employment Land Need and Supply
- ID9 Opening Submissions on behalf of the Appellant
- ID10 Opening Statement on behalf of North Warwickshire Borough Council
- ID11 Aerial Photographs of the M42 Junction 10 and area around Dordon
- ID12 Unsigned Memorandum of Understanding relating to the delivery of housing and and Employment arising from Tamworth Borough Council
- ID13 Unsigned Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
- ID14 Letter from Jeff Brown regarding Rush Lane, Dosthill, dated 19 March 2013
- ID15 Undated email from Nick Ireland, GL Hearn
- ID16 Site Visit Itinerary
- ID17 Response to Rebuttal Note, Regeneris

- ID18 Media Release
- ID19 Signed Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
- ID20 Email from Patrick Jervis, Lichfield District Council
- ID21 Letter from Brandon Lewis MP, dated 18 March 2015
- ID22 Allotment disposal guidance: Safeguards and alternatives, DCLG, January 2014
- ID23 Meeting Minutes and email correspondence between Tamworth Borough Council, North Warwickshire Borough Council and Lichfield District Council
- ID24 Letter and enclosures on behalf of Hodgetts Estates, dated 21 September 2016
- ID25 Composite plan showing land in IM ownership around Coleshill Manor
- ID26 Email from Peter Leaver to Dorothy Barratt concerning the supply of employment land
- ID27 Signed and dated Section 106 Agreement
- ID28 Signed and dated Unilateral Undertaking
- ID29 Closing Submissions on behalf of North Warwickshire Borough Council
- ID30 List of Abbreviations
- ID31 Closing Submissions on behalf of the Appellant

Conditions Schedule

General Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) If the development hereby permitted is to be constructed in more than one phase, details of the proposed phases of construction shall be submitted to the local planning authority for approval prior to, or at the same time as the first application for approval of the reserved matters. Development shall be carried out in accordance with the approved phasing details, or such other phasing details as shall subsequently be submitted to and approved in writing by the local planning authority.
- 3) The first application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission. All applications for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 3 years from the date of approval of the last of the reserved matters to be approved.
- 5) Insofar as it relates to the access, the development hereby permitted shall be carried out in accordance with the following approved plans: Ref DE128A/007, 1148-12/H and 1148-13/A.
- 6) Access for motor vehicles to the development hereby permitted from the public highway on Trinity Road shall not be made other than at the positions identified on approved drawing Ref 1148-12/H.
- 7) The development hereby permitted shall provide no more than 80,000m² of floorspace (GIA) for use within Use Class B1(c), Use Class B2 or Use Class B8 of the Town and Country Planning (Use Classes) Order (as amended).
- 8) No more than 20,000m² of floorspace (GIA) within the development hereby permitted shall be used for uses falling within Use Class B1 (c) or Use Class B2 of the Town and Country Planning (Use Classes) Order (as amended).
- 9) The reserved matters shall be designed within the parameters contained in plan Ref DE128A_006.

Pre-Commencement Conditions

- 10) No development shall take place until a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work across the site, including phasing where appropriate, has been submitted to and approved in writing by the local planning authority. The programme of archaeological evaluative work and any associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be carried out as required in accordance with a programme specified in the WSI. A written report with details of the

results of the fieldwork undertaken shall also be submitted to the local planning authority in accordance with the agreed programme. The findings from the archaeological evaluative work shall inform each reserved matters submission.

- 11) Where necessary, and as informed by the archaeological evaluative work undertaken in the WSI, no development shall take place until an Archaeological Mitigation Strategy (AMS) has been submitted to and approved in writing by the local planning authority. This shall detail the strategy devised, including phasing where appropriate, to mitigate the archaeological impact of the proposed development; either through further archaeological fieldwork, for which a further WSI may be required, and/or through the preservation in situ of any archaeological deposits. The AMS shall inform each reserved matters submission.
- 12) No development within any phase shall take place until the fieldwork relevant to that phase detailed in the WSI and AMS has been completed in accordance with the programme(s) specified therein. Any post-excavation analysis, publication of results and archive deposition shall be undertaken in accordance with the approved WSI and AMS.
- 13) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by the local planning authority for the relevant phase. The Plan shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) the routing for vehicles accessing the site associated with the construction of the development and signage to identify the route;
 - iii) the manoeuvring of vehicles within the site;
 - iv) loading and unloading of plant and materials used in constructing the development, including top soil;
 - v) the location of site compounds;
 - vi) storage of plant and materials;
 - vii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) wheel washing facilities;
 - ix) measures to control the emission of dust and dirt during construction;
 - x) measures to control and mitigate disturbance from noise;
 - xi) a scheme for recycling/disposing of waste resulting from construction works;
 - xii) any on-site lighting as required during construction; and
 - xiii) measures to protect existing trees and hedgerows proposed for retention;
 - xiv) delivery, demolition and construction working hours; and
 - xv) means by which the terms will be monitored, details of a contact person and the procedure for reporting and resolving complaints.

The approved Plan shall be adhered to throughout the construction period of the development.

- 14) No development within any phase shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 15) No development within any phase shall take place until details of all external lighting relevant to that phase has been submitted to and approved in writing by the local planning authority. The lighting shall be installed, operated and maintained in accordance with the approved details.
- 16) No development within any phase shall take place until a Habitat Creation, Enhancement and Management Plan and Programme for that phase has been submitted to and approved in writing by the local planning authority. This should be informed by the mitigation measures set out in Chapter 9 ("Ecology and Nature Conservation") of the Environmental Statement (Ref 23809/A5/ES2014, dated December 2014) submitted with the planning application. The approved Plan shall be implemented in full in accordance with the approved Programme.
- 17) No development within any phase shall take place until drainage plans for the disposal of surface water and foul sewage for that phase have been submitted to and approved in writing by the local planning authority. The plans shall incorporate principles of Sustainable Urban Drainage Systems (SUDS) and include details of surface water run-off attenuation measures and management. The plans shall be implemented as approved before the relevant phase of development is first brought into use.

Pre-Occupation Conditions

- 18) No phase of the development hereby permitted shall be occupied until the proposed signalised junction shown on plan Ref 1148-12/H has been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 19) No phase of the development hereby permitted to the east of Trinity Road shall be occupied until the proposed Non-Motorised User Link connection from the site to the A5 trunk road has been constructed in accordance with details first submitted to and approved in writing by the local planning authority in consultation with the highway authority for the strategic road network. The detailed design shall be based on submitted plan Ref 1148-20 Revision C. Thereafter it shall be retained in its approved form.
- 20) No phase of the development hereby permitted shall be occupied until the pedestrian and cycleway works shown on plan Ref 1148-13/A and 1148-12/H have been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 21) No phase of the development hereby permitted shall be occupied until the roads serving that phase, including footways, private drives, means of accessing plots, car parking and manoeuvring areas have been laid out and substantially constructed in accordance with details first submitted to and approved in writing by the local planning authority. Areas for the parking and manoeuvring of vehicles shall be retained for their intended use at all times thereafter.

- 22) None of the buildings hereby permitted shall be occupied until a Sustainable Travel Plan (STP) relevant to the occupier of that building has been submitted to and approved in writing by the local planning authority. The STP shall be based on the Framework Travel Plan (Phil Jones Associates, Project Code 1148, dated December 2014). The STP shall then be implemented as approved.
- 23) No external sound amplification equipment shall be installed as part of the development hereby permitted unless in accordance with details first submitted to and approved in writing by the local planning authority.
- 24) No phase of the development hereby permitted shall be occupied until a Landscape and Open Space Management Plan for that phase, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped and open space areas, has been submitted to and approved in writing by the local planning authority. The Plan shall include details of the mechanisms to secure its implementation and shall be carried out as approved.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with a programme first submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority.
- 26) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.
- 27) No phase of the development hereby permitted shall be occupied until adequate water supplies and fire hydrants necessary for fire fighting purposes relevant to each phase have been provided in accordance with details first submitted to and approved in writing by the local planning authority.